



THE WORKMEN'S COMPENSATION ACT, 1923



CONTENTS

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II WORKMAN'S COMPENSATION

3. Employer's liability for compensation.
4. Amount of compensation.
5. Method of calculating wages.
6. Review.
7. Commutation of half-monthly payments.
8. Distribution of compensation.
9. Compensation not to be assigned, attached or charged.
10. Notice and claim.
- 10A. Power to require from employers statements regarding fatal accidents.
- 10B. Reports of fatal accidents.
- 10C. Officers authorised may refer cases for payment of compensation.
- 10D. Fixation of abstracts of the act or rules at the entrance of the premises
11. Medical examination.
12. Contracting.
13. Remedies of employer against stranger.
14. Insolvency of employer.
15. Special provisions relating to masters and seamen.
16. Returns as to compensation.

- 17. Contracting out.
- 18. Proof of age.
- 18A. Penalties.

CHAPTER III COMMISSIONERS

- 19. Reference to Commissioners.
- 20. Appointment of Commissioners.
- 21. Venue of proceedings and transfer.
- 22. Form of application.
- 22A. Power of Commissioner to require further deposit in cases of fatal accident.
- 23. Powers and procedure of Commissioners.
- 24. Appearance of parties.
- 25. Method of recording evidence.
- 26. Costs.
- 27. Power to submit cases.
- 28. Registration of agreements.
- 29. Effect of failure to register agreement.
- 30. Appeals.
- 30A. Withholding of certain payments pending decision of appeal.
- 31. Recovery.

CHAPTER IV RULES

- 32. Power of the Provincial Government to make rules
- 33. *[Repealed.]*
- 34. Publication of rules.
- 35. Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.

THE WORKMEN'S COMPENSATION ACT, 1923

¹ACT No. VIII OF 1923

[5th March, 1923]

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

WHEREAS it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident; it is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the Workmen's Compensation Act, 1923.

²[(2) It extends to the whole of Pakistan].

(3) It shall come into force on the first day of July, 1924.

2. Definitions.— (1) In this Act, unless there is anything repugnant in the subject or context,—

- (a) “adult” and “minor” mean respectively a person who is not and a person who is under the age of fifteen years ;
- (b) “Commissioner” means a Commissioner for Workmen's Compensation appointed under section 20;
- (c) “compensation” means compensation as provided for by this Act ;

³[(d) “dependent” means any of the following relatives of a deceased workman, namely:—

¹For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p. 313; and for Report of Joint Committee, see *ibid.*, 1923, Pt. V, p. 37. See also the Work men's Compensation (Amdt.) Act, 1939 (13 of 1939), s. 3.

It has been—

(i) extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950) (w.e.f. 15-8-1947); as amended by the Baluchistan States Union (Federal Laws) (Extension) (Second Amendment) Order, 1953 (G.G.O. 19 of 1953) (w.e.f. 26-8-1953);

(ii) applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499;

(iii) extended to the Baluchistan States Union, see the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G.G.O. 4 of 1953) (w.e.f. 15-4-1953);

(iv) extended to the State of Bahawalpur, see the Bahawalpur (Extension of Federal Laws) Order, 1953 (G.G.O. 11 of 1953) (w.e.f. 20-4-1953) as amended by the Bahawalpur (Extension of Federal Laws) (Amdt.) Order, 1953 (G.G.O. 21 of 1953) (w.e.f. 3-11-1953);

(v) extended to the Khairpur State, see the Khairpur (Federal Laws) (Extension) Order, 1953 (G.G.O. 5 of 1953) (w.e.f. 16-4-1953) as amended by (G.G.O. 24 of 1953) (w.e.f. 22-12-1953);

(vi) applied to the Railway Servants employed within the Area of the Khyber Agency, see Gazette of India, 1936, Pt. I, p. 1403;

(vii) The Act has been applied to the Provincially Administered Tribal Areas or to the parts of those areas to which it does not already apply, see Regulation No. I of 1972, s. 2 and Sch.

(viii) The Act has been and shall be deemed to have been brought into force in Gwadar with effect from the 8th September, 1958 by the Gwadar (Application of Central Laws) Ordinance, 1960, (37 of 1960).s. 2.

² The original sub-section (2) as amended by A.O., 1949 (w.e.f. 28-3-1949) and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8 (w.e.f. 10-5-1951) has been subs. by the Central Laws (Statue Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (w.e.f. 14-10-1955).

³Subs. by the workmen's Compensation (Amdt.) Act, 1933 (15 of 1933), section 2, for the original clause (d).

- (i) a ¹[widow], 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 ²[widower], a parent other than a widowed mother, a minor illegitimate son, an unmarried 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, ³[a minor child of a deceased daughter where no parent of the child is alive,] or, where no parent of the workman is alive, a paternal grandparent;]
- (e) “employer” includes anybody of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him ;
- (f) “managing agent” means any person appointed or acting as the representative of another person for the purpose of carrying on such other person’s trade or business, but does not include an individual manager subordinate to an employer ;
- (g) “partial disablement” means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement;

- (h) “prescribed” means prescribed by rules made under this Act ;
- (i) “qualified medical practitioner” means any person registered ⁴* * * under any Act of ⁵[the ⁶[Federal] Legislature or any Provincial Legislature] providing for the maintenance of a register of medical practitioners (21 & 22 Vict., c.1990), or, in any area where no such last-mentioned Act is in force, any person declared by the ⁷[Provincial Government], by notification in the

¹Subs. by the Work men’s Compensation (Amdt.) Act, 1938 (9 of 1938), section 2 (w.e.f. 5-4-1938), for “wife”.

²Subs. by Act 15 of 1933, s. 2, for “husband”.

³Ins. *ibid.*

⁴Certain words omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3. and Sch., II.

⁵Subs. by A.O., 1949 (w.e.f.28-3-1949), for “any Legislature in British India”.

⁶Subs. by A.O., 1975, Art. 2 and Table, for “Central” (w.e.f. 14-8-1973).

⁷Subs. by A.O., 1937 (w.e.f. 1-4-1937) for “L.G.”.

¹[official Gazette], to be a qualified medical practitioner for the purposes of this Act ;

²* * * * *

- (k) “seaman” means any person forming part of the crew of any ³* ship, but does not include the master of ⁴[the] ship ;
- (l) “total disablement” means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred per cent ;

- ⁵[(ll) “Tribunal” has the same meaning as in the Industrial Relations Ordinance, 1969 (XXIII of 1969);]
- (m) “wages” includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment ;
- (n) “workman” means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—
- (i) a railway servant as defined in section 3 of the Railways Act, 1890 (IX of 1890), not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

¹Subs. by A.O. 1937 (w.e.f 01-04-1937) for “local official Gazette”.

²Cl. (j) was omitted by the Work men’s Compensation (Amdt.) Act, 1933 (15 of 1933), s. 2.

³The word “registered” omitted, *ibid.*

⁴Subs. *ibid.*, for “any such”.

⁵Cl. (ll) ins. by the Labour Laws (Amdt.) Act, 1975 (11 of 1975), section 2 and Sch. (w.e.f. 25-1-1975).

- (ii) employed ¹***²***, in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of ³*** naval, military or air forces ⁴***; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

(2) The exercise and performance of the powers and duties of a local authority or of any department ⁵[acting on behalf of the Government] shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

⁶[(3) The ⁷[Provincial Government], after giving, by notification⁸ in the ⁹[Official Gazette], not less than three months' notice of ¹⁰[its] intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which ¹¹[it] is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply ¹²[within the Province] to such classes of persons:

Provided that in making such addition the ⁷[Provincial Government] may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only.]

CHAPTER II WORKMEN'S COMPENSATION

3. Employer's liability for compensation.—(1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable—

- (a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding ¹³[four] days ;
- (b) in respect of any ¹⁴[injury, not resulting in death, caused by] an accident which is directly attributable to—
- (i) the workman having been at the time thereof under the influence of drink or drugs, or
- (ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or

¹ The words "either by way of manual labour or" omitted by the Work men's Compensation (Amdt.) Act, 1933 (15 of 1933),s. 2.

²Omitted by Act IV of 2007, s. 2 (w.e.f. 1-7-2007).

³The words "His Majesty's omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II.

⁴The words " or of the Royal Indian Marine Service" omitted by A.O., 1937 (w.e.f. 1-4-1937).

⁵The original words "of the Govt." were first subs. by A.O., 1937 and then amended by A.O., 1961, Art. 2 (w.e.f. 23-3-1956), to read as above.

⁶ Subs. by Act 15 of 1933, s. 2, for the original sub-section (3).

⁷ Subs. by A.O., 1937, for "G.G. in C."

⁸ For such a notification, see Gazette of India, 1935, Pt. I, p. 745

⁹Subs. by A.O., 1937, for "Gazette of India".

¹⁰Subs. ibid., for "his".

¹¹Subs. ibid., for "he". ¹²Ins. ibid

¹³ Subs. by the Work men's Compensation (Amdt.) Act, 1957 (11 of 1957), s. 3 (w.e.f.15-3-1957), for "seven" which had been subs. by the Work men's Compensation (Amdt.) Act, 1933 (15 of 1933),s. 3, for "ten".

¹⁴ Subs. by Act 15 of 1933, s. 3, for injury of workman resulting from.

- (iii) the willful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen,^{1*}

2* * * * *

(2)³[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], or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in ⁴[Part B of] Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

Explanation.—For the purposes of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer ⁵[in the same kind of employment].

(3) The ⁶[Provincial Government], after giving, by notification in the ⁷[official Gazette] not less than three months' notice of ⁸[its] intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which ⁹[within the Province] shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall thereupon apply ⁹[within the Province] as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is ^{10*} directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person ; and no suit for damages shall be maintainable by a workman in any court of law in respect of any injury—

- (a) if he has instituted a claim to compensation in respect of the injury before a Commissioner ; or

¹ The word “or” was omitted by the Work men’s Compensation (Amdt.) Act, 1929 (5 of 1929), s. 2 (w.e.f. 29-3-1929).

² Cl.(c) was omitted, *ibid.*

³ The original words beginning “If a workman” and ending “disease of anthrax” were first amended by the Work men’s Compensation (Amdt.) Act, 1926 (29 of 1926), s. 2, and then by the Work men’s Compensation (Amdt.) Act, 1938 (9 of 1938), s. 3 (w.e.f.5-4-1938), to read as above.

⁴ Ins. by Act 9 of 1938, s. 3.

⁵ Added *ibid.*

⁶ Subs. by A.O., 1937 (w.e.f.1-4-1937), for “G.G. in C.”.

⁷ Subs. *ibid.*, for “Gazette of India”.

⁸ Subs. *ibid.*, for “his”.

⁹ Ins. *ibid.*

¹⁰ The words “solely and” omitted by the Work man’s Compensation (Amdt.) Act, 1933 (15 of 1933), s. 3.

- (b) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

4. Amount of Compensation.—¹[(1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely :

- ²[A. Where death results from the injury to a workman 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.]
- ³[B. Where permanent total disablement results from injury to a workman in receipt of monthly wages falling within the limits shown in the first column of Schedule IV the amount shown against such limits in the third column thereof.]
- 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 ⁴[four] 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 ³[a workman] 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

³
* * *

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 the workman has received from the employer by way of compensation during

¹Subs. by Workmen's Compensation Act, 1933 (15 of 1933), s. 4, for the original sub-section (1).

²Subs. by Act XI of 1994, s. Sch.

³Subs. & Omitted by Act XI of 1994, Sch.

⁴Subs. by Act 11 of 1957, s. 4, for "seven".

the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be ¹[except payments made to the worker during the period of his convalescence towards medical treatment ²[and the half -monthly payments made for the first four months of disablement] ; ^{3*}

- (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 ⁴[;and]
- ⁵[(c) the amount of half-monthly payments to which a workman is entitled shall in no case be less than the amount of half monthly payments to which a workman drawing lesser monthly wages than such workman is entitled.]

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

⁶[5. Method of calculating wages.—^{7*}] ⁸[In this Act and for the purposes thereof the expression “monthly wages” means the amount of wages deemed to be payable for a month’s service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated] as follows, namely:

- (a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;
- ⁹[(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 ^{10*} * * 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;]

¹ Ins. by the Work man’s Compensation (Amdt.) Act, 1957 (11 of 1957), s. 4 (w.e.f. 15-3-1957).

² Added by the Work man’s Compensation (Amdt.) Act, 1973 (14 of 1973), s. 3 (w.e.f. 7-2-1973)

³ The word “and” omitted by the Labour Laws (Amdt.) Ordinance, 1972 (9 of 1972), s. 2 and 1st Sch. (w.e.f. 13-4-1972)

⁴ Subs. *ibid.*, for full stop.

⁵ Cl. added *ibid.*

⁶ The original section 5 was re-numbered as sub-section (1) of that section by the Work man’s Compensation (Amdt.) Act, 1929 (5 of 1929), s. 3 (w.e.f. 29-3-1929).

⁷ The brackets and figure “(1)” omitted by the Work man’s Compensation (Amdt.) Act, 1938 (9 of 1938), s. 4 (w. e.f. 5-4-1938).

⁸ Subs. by the Work man’s Compensation (Amdt.) Act, 1939 (13 of 1939), s.2 (w.e.f. 30-6-1934), for “For the purposes of [this Act] the monthly wages of a workman shall be calculated”. The words in crotchets were subs. by the Work man’s Compensation (Amdt.) Act, 1933 (15 of 1933), s. 5, for “section 4”.

⁹ Cl. (b)ins. by Act 15 of 1933, s. 5.

¹⁰ The words “deemed to be” omitted by the Work men’s Compensation (Amdt.) Act, 1939 (13 of 1939), s. 2 (w.e.f. 30-6-1939).

¹[(c)] in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

2* * * * *

Explanation.— A period of service shall, for the purposes of ³[this section] be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

4* * * * *

6. Review.—(1) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner, on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

7. Commutation of half-monthly payments.— Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

8. Distribution of Compensation.—⁵[(1). No payment of compensation in respect of a workman whole injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

⁶[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.]

¹The original cl. (b) was re-lettered as cl. (c) by the Work men's Compensation (Amdt.) Act, 1933 (15 of 1933), s. 5.

²The proviso omitted, *ibid*.

³The original words "this section" were subs. first by the Work men's Compensation (Amdt.) Act, 1929 (5 of 1929), s. 3 (w.e.f. 29-3-1929) and then by the Work men's Compensation (Amdt.) Act, 1938 (9 of 1938) (w.e.f. 5-4-1938) to read as above.

⁴Sub-section (2) which had been ins. by Act 5 of 1929, was omitted by Act 15 of 1933, s. 5.

⁵Subs. by the Work men's Compensation (Amdt.) Act, 1929 (5 of 1929), s.4 (w.e.f. 29-3-1929), for the original sub-section (1) to (3).

⁶Subs. by the Work men's Compensation (Amdt.) Act, 1933 (15 of 1933), s. 6, for the original proviso.

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

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

(4) On the deposit of any money under sub-section (1) ¹[as compensation in respect of a deceased workman] the Commissioner ²[shall deduct] therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding ³[twenty-five rupees] and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall ⁴[not less than two years after the date of deposit, transfer the balance of the money to such fund or funds for the benefit of workmen as the Provincial Government may by notification in the official Gazette specify or establish]. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

⁵[(5) Compensation deposited in respect of a deceased workman shall, subject to any deduction made ⁶[under the proviso to sub-section (1) or] under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman.]

⁷[(8)] Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

¹ Ins. by Act 5 of 1929, s. 4.

² Subs. by Act 15 of 1933, s. 6, for "may deduct".

³ Subs. *ibid.*, 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 in crochets were ins. by Act 5 of 1929, s. 4.

⁴ Subs. by the Work men's Compensation (Amdt.) Act, 1957 (11 of 1957), s. 5 (w.e.f. 15-3-1957), for "repay the balance of the money to the employer by whom it was repaid".

⁵ Sub-section (5) to (7) were subs. by Act 5 of 1929, s. 4, for the original sub-section (5).

⁶ Ins. by Act 11 of 1957, s. 5.

⁷ Sub-section (6) re-numbered as sub-section (8) by the Work men's Compensation (Amdt.) Act, 1929 (5 of 1929), s. 4 (w.e.f. 29-3-1929).

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

¹[(9) Where the Commissioner varies any order under subsection (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 31.]

9. Compensation not to be assigned, attached or charged.—Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

10. Notice and claim.—(1) ²[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 ³[three years] of the occurrence of the accident or, in case of death, within ³[three years] from the date of death]:

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease:

⁴[Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the ⁵[entertainment of a claim]

- (a) if the claim is ⁶[preferred] 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 ⁷[or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed] had knowledge of the accident from any other source at or about the time when it occurred :]

¹ Sub-section (9) added, by Act 5 of 1929, s.4.

² Subs. by the Work men's Compensation (Amdt.) Act, 1938 (9 of 1938), section 5 (w.e.f. 5-4-1938), for certain words.

³ Subs. by the Work men's Compensation (Amdt.) Act, 1973 (14 of 1973), section 4 (w.e.f. 7-2-1973), for "one year".

⁴ Proviso ins. by the Work men's Compensation (Amdt.) Act, 1933 (15 of 1933), s. 7.

⁵ Subs. by Act 9 of 1938, s. 5, for "maintenance of proceeding".

⁶ Subs. *ibid.*, for "made".

⁷ Ins. by Act No. 9 of 1938.

Provided, further, that the Commissioner may ¹[entertain] and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been ²[preferred], in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or ³[prefer] the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon ⁴[any one of] several employers, or upon any person ^{5*} responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

⁶[(3) The ⁷[Provincial 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[10A. Power to require from employers statements regarding fatal accidents.—(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 enquiry 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. Reports of fatal accidents.—(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:

¹ Subs. *ibid.*, for “admit”.

² Subs. *ibid.*, for “instituted”.

³ Subs. *ibid.*, for “institute”.

⁴ Subs. by the Repealing and Amending Act, 1924 (7 of 1924), s. 2 and Sch. I (w.e.f. 15-3-1924), for “any one or”.

⁵ The word “directly” omitted by the Work men’s Compensation (Amdt.) Act, 1938 (9 of 1938), s. 5 (w.e.f. 5-4-1938).

⁶ Subs. by the Work men’s Compensation (Amdt.) Act, 1933 (15 of 1933), s. 7, for the original sub-section (3).

⁷ Subs. by A.O., 1937 (w.e.f. 1-4-1937), for “L.G.”.

⁸ Ss. 10A and 10B were ins. by Act 15 of 1933, s. 8.

Provided that where the ¹[Provincial 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 ¹[Provincial Government] may, by notification in the ²[official Gazette], extend the provisions of sub-section (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.]

³[10C. Officers authorized may refer cases for payment of compensation.]—A Labour Commissioner, an Inspector of Factories or any other officer authorized by the Provincial Government for this purpose may refer, in the prescribed manner, to the Commissioner cases of workmen who have not been paid due compensation by employers under the provisions of this Act.

10D. Fixation of abstracts of the Act or rules at the entrance of the premises.—There shall be affixed in some conspicuous place near the main entrance of every place where workmen are employed, in English and in the language of the majority of the workmen, such abstracts of this Act and of the rules made thereunder as may be prescribed.]

11. Medical Examination.—⁴[(1) Where a workman has given notice of an accident, the employer shall, before the expiry of three days from the time at which service of the notice has been effected, have the workman examined free of charge by a qualified medical practitioner, and the workman shall submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Act, shall if so required, submit himself for such examination from time to time:

Provided that a workman not examined free of charge as aforesaid may get himself examined by a qualified medical practitioner and the expenses of such medical examination shall be reimbursed to the workman by the employer:

Provided further that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.]

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

¹ Subs. by A.O., 1937 (w.e.f. 1-4-1937), for "L.G.".

² Subs. *ibid.*, for "local official Gazette".

³ Ins. by the Work men's Compensation (Amdt.) Act, 1957 (11 of 1957), section 6 (w.e.f. 15-3-1957).

⁴ Subs. *ibid.*, s. 7, for the original sub-section (1).

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

(5) Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured-workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then,¹[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] in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner²[whose instructions he had followed], and compensation, if any, shall be payable accordingly.

12. Contracting. —(1) Where any person (hereinafter 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 (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him ; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor,³[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] and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

¹Subs. by the Workmen's Compensation (Amdt.) Act, 1938 (9 of 1938), s. 6 (w.e.f. 5-4-1938), for "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".

²Ins. *ibid.*

³Ins. by the Workmen's Compensation (Amdt.) Act, 1933 (15 of 1933), section 9.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

13. Remedies of employer against stranger.—Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

14. Insolvency of employer.— (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

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

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(4) There shall be deemed to be included among the debts which under section 49 of the ¹[Insolvency (Karachi Division) Act]. (XXVII of 1981)], or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920), or under section 230 of the Companies Act, 1913 (VII of 1913), are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability where for accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made

¹Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II, for "Insolvency (Karachi Division and Dacca) Act", which was previously amended by various enactments.

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

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

15. Special provisions relating to masters and seamen.— This Act shall apply in the case of workmen who are masters of ¹* ships or seamen subject to the following modifications, namely:

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seamen to give any notice of the accident.

(2) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(3) Where an injured master or seaman is discharged or left behind ²* * * in a foreign country, any depositions taken ²* * * by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the ³[Federal Government] or any ⁴[Provincial Government] shall, in any proceedings for enforcing the claim, be admissible in evidence—

- (a) if the deposition is authenticated by the signature of the ⁵* * * Consular Officer before whom it is made ;
- (b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness ; and
- (c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused ;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

¹The word “registered” omitted by the Work men’s Compensation (Amdt.) Act, 1933 (15 of 1933), s. 10.

²Certain words omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II.

³Subs. by A.O., 1975, Art. 2 and Table for “Central Government” (*w.e.f.* 14-8-73), which had been subs. by A.O., 1937 (*w.e.f.* 1-4-1937) for “G.G. in C.”

⁴Subs. by A.O., 1937, for “L.G.”.

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²[(4) No ³[half-monthly payment] shall 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 ⁴[Pakistan] relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

⁵[(5) No compensation shall be payable under this Act in respect of any injury in respect of which provision is made for payment of a gratuity, allowance or pension under the War Pensions and Detention Allowances (Mercantile Marine, etc.) Scheme, 1939 (2 & 3 Geo 6.c.83.), or the War Pensions and Detention Allowances (Indian Seamen, etc.) Scheme, 1941, made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939, or under the War Pensions and Detention Allowances (Indian Seamen) Scheme, 1942, made by the ⁶[Federal Government].

(6) Failure to give a notice or make a claim or commence proceedings within the time required by this Act shall not be a bar to the maintenance of proceedings under this Act in respect of any personal injury, if

- (a) an application has been made for payment in respect of that injury under any of the schemes referred to in the preceding clause, and
- (b) the Provincial Government certifies that the said application was made in the reasonable belief that the injury was one in respect of which the scheme under which the application was made, makes provision for payments, and that the application was rejected or that payments made in pursuance of the application were discontinued on the ground that the injury was not such an injury, and
- (c) the proceedings under this Act are commenced within one month from the date on which the said certificate of the Provincial Government was furnished to the person commencing the proceedings.]

16. Returns as to compensation.—The ⁷[Provincial Government] may, by notification in the ⁸[official Gazette], direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the ⁷[Provincial Government] may direct.

¹The Original cl. (4) omitted by the Workmen's Compensation (Amdt.) Act, 1938 (9 of 1938), s. 7 (*w.e.f.* 5-4-1938).

²Cl. (5) renumbered and cl. (4), *ibid.*

³Subs. by the Repealing and Amending Act, 1924 (7 of 1924), s. 2 and Sch. I (*w.e.f.* 15-3-1924), for "monthly payment".

⁴Subs. and shall be deemed to have been so subs. on the fourteenth day of October, 1955, by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and Second Sch., for the words "the Provinces and the Capital of the Federation" which were subs. by A.O., 1949 (*w.e.f.* 28-3-1949) for "British India".

⁵Subs. by the Workmen's Compensation (Amdt.) Act, 1942 (1 of 1942), section 2 (*w.e.f.* 3-9-1939), for cl. (5) which was ins. by the Workmen's Compensation (Second Amdt.) Act, 1939 (42 of 1939), s. 2 (*w.e.f.* 3-9-1939).

⁶Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government" (*w.e.f.* 14-8-1973).

⁷Subs. by A.O., 1937 (*w.e.f.* 1-4-1937), for "G.G. in C.".

⁸Subs. *ibid.*, for "Gazette of India"

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

18. Proof of age.— Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, ¹[a valid certificate granted in respect of such person under section 12 or section 52 of the Factories Act, 1934 (XXV of 1934)], before the occurrence of the injury shall be conclusive proof of the age of such person.

²[18A. Penalties.— (1) Whoever—

- (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; ³[or]
- ⁴[(e) fails to affix the abstracts of this Act and of the rules as required by section 10D,] shall be punishable with fine which may extend to one hundred rupees.

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(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.]

CHAPTER III COMMISSIONERS

19. Reference to Commissioners.—(1) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by ⁶[a Commissioner].

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

¹Subs. by the Workmen's Compensation (Amdt.) Act, 1938 (9 of 1938), section 7 (w.e.f. 5-4-1938), for "a certificate granted in respect of such person under section 7 or section 8 of the Indian Factories Act, 1911".

²S. 18A ins. by the Workmen's Compensation (Amdt.) Act, 1933 (15 of 1933), s. 11.

³Added by the Workmen's Compensation (Amdt.) Act, 1957 (11 of 1957), s. 11, section 8 (w.e.f. 15-3-1957).

⁴Ins. *ibid.*

⁵Sub-section (1A) ins. by the Labour Laws (Amdt.) Ordinance, 1972 (9 of 1972), s. 2 and 1st Sch. (w.e.f. 13-4-1972), omitted by the Workmen's Compensation (Amdt.) Act, 1973 (14 of 1973), s. 5 (w.e.f. 7-2-1973).

⁶Subs. by Act 15 of 1933, s. 12, for "the Commissioner".

20. Appointment of Commissioners.—(1) The ¹[Provincial Government] may, by notification in the ²[official Gazette], appoint any person to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

³[(2) Where more than one Commissioner has been appointed for any local area, the ¹[Provincial Government] may, by general or special order, regulate the distribution of business between them.]

³[(3) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

³[(4) Every Commissioner shall be deemed to be a public servant within the meaning of the Pakistan Penal Code (Act XLV of 1860).

21. Venue of Proceedings and transfer.—(1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before ⁴[a Commissioner] for the local area in which the accident took place which resulted in the injury:

Provided that, where the workman is the master of a ⁵* ship or a seaman, any such matter may be done by or before ⁴[a Commissioner] for the local area in which the owner or agent of the ship resides or carries on business.

(2) If a Commissioner is satisfied ⁶[that any matter arising out of any proceedings pending before him] can be more conveniently dealt with by any other Commissioner, whether in the same Province or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

⁷[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 :]

Provided ⁸[further] that no matter other than a matter relating to the actual payment to a workman or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Commissioner in the same Province save with the previous sanction of the ¹[Provincial Government] or to a Commissioner in another Province save with the previous sanction of ⁹[the Provincial Government of that Province], unless all the parties to the proceedings agree to the transfer.

¹Subs. by A.O., 1937 (w.e.f.1-4-1937), for "L.G.".

²Subs. *ibid.*, for "local official Gazette".

³A new sub-section (2) was ins. and the old sub-section (2) and (3) were re-numbered as (3) and (4), by the Workmen's Compensation (Amdt.) Act, 1933 (15 of 1933), s. 13.

⁴Subs. *ibid.*, s. 14, for "the Commissioner".

⁵The word "registered" omitted, *ibid.*

⁶Subs. by the Workmen's Compensation (Amdt.) Act, 1938 (9 of 1938), s. 9 (w.e.f. 5-4-1938), for "by any party to any proceedings under this Act pending before him that such matter".

⁷Proviso ins. *ibid.*

⁸Ins. by the Workmen's Compensation (Amdt.) Act, 1938 (9 of 1938), section 9 (w.e.f. 5-4-1938)

⁹Subs. *ibid.*, for "the G.G. in C.".

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire thereinto and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

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

¹[(5) The ²[Provincial Government] may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it.]

22. Form of application.—(1) No application for the settlement of any matter by a Commissioner, ³[other than an application by a dependant or dependants for compensation] shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) ⁴[An application to a Commissioner] may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely: —

- (a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims ;
- (b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission ;
- (c) the names and addresses of the parties ; and
- (d) ⁵[except in the case of an application by dependants for compensation] a concise statement of the matters on which agreement has and ⁶[of] those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

⁷[22A Power of Commissioner to require further deposit in cases of fatal accident.]—(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

¹ Subs. by A.o., 1937 (w.e.f 1-4-1937), for “L.G”.

² Sub-section (5) ins. by the Work men’s Compensation (Amdt.) Act, 1933 (15 of 1933), s. 14.

³ Ins. *ibid.*, s. 15.

⁴ Subs. *ibid.*, for “Where any such question has arisen, the application.”

⁵ Ins. by the Workmen’s Compensation (Amdt.) Act, 1933 (15 of 1933), section 15.

⁶ Subs. by the Repealing and Amending Act, 1925 (37 of 1925), s. 2 and Sch. I (w.e.f. 23-9-1925), for “on”.

⁷ S. 22A ins. by Act 15 of 1933, s. 16.

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.]

23. Powers and procedure of Commissioners.—The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, ¹[and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898 (Act of 1898).]

24. Appearance of parties. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or ²[by an official of an Insurance Company or registered Trade Union authorized in writing by such person or, with the permission of the Commissioner, by any other person so authorized].

25. Method of recording evidence. The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record:

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

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

26. Costs. All costs, incidental to any proceedings before a Commissioner, shall, subject to rules made under this Act, be in the discretion of the Commissioner.

27. Power to submit cases. A Commissioner may, if he thinks fit, submit any question of law for the decision of the ³[Tribunal] and, if he does so, shall decide the question in conformity with such decision.

28. Registration of agreements.—(1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being

¹ Ins. by the Workmen's Compensation (Amdt.) Act, 1929 (5 of 1929), section, 5 (w.e.f. 29-3-1929).

² Subs. by the Workmen's Compensation (Amdt.) Act, 1938 (9 of 1938), section 10 (w.e.f. 5-4-1938), for "other person authorized in writing by such person".

³ Subs. by the Labour Laws (Amdt.) Act, 1975 (11 of 1975), s. 2 and Sch. (w.e.f. 25-1-1975), for "High Court".

payable ¹[to a woman or a person under a legal disability] ²* * * a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:

Provided that

- (a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;
- 3* * * *
- (c) the Commissioner may at any time rectify the register;
- (d) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable ²[to a woman or a person under a legal disability] ⁴* * * ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement ⁵[and may make such order] including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Contract Act, 1872 (IX of 1872), or in any other law for the time being in force.

29. Effect of failure to register agreement.—Where a memorandum of any agreement the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

30. Appeals.—(1) An appeal shall lie to the ⁶[Tribunal] from the following orders of a commission namely.—

- (a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum ;
- (b) an order refusing to allow redemption of a half monthly payment;
- (c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claims of a person alleging himself to be such dependant ;
- (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of Subsection (2) of section 12 ; or

¹ Subs. by the Workmen's Compensation (Amdt.) Act, 1929 (5 of 1929), section 6 (w.e.f. 29-3-1929), for "to a person under a legal disability".

² The words "or to a dependent" omitted by the Repealing and Amending Act, 1924 (7 of 1924), s. 3 and Sch. II (w.e.f. 15-3-1924).

³ Cl. (b) omitted by Act 5 of 1929, s. 6.

⁴ The words "or to any dependent" omitted by Act 7 of 1924, s. 3 and Sch. II.

⁵ Subs. *ibid.*, s. 2 and Sch. I, for "or may make such order".

⁶ Subs. by the Labour Laws (Amdt.) Act, 1975 (11 of 1975), s. 2 and Sch. (w.e.f. 25-1-1975), for "High Court".

- (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties:

¹[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.]

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of the Limitation Act, 1908 (IX of 1908), shall be applicable to appeals under this section.

²[(4) All appeals under this section, and all questions under section 27, pending before any High Court immediately before the commencement of the Labour Laws (Amendment) Act, 1975, shall, on such commencement, stand transferred to, and be disposed of by, the Tribunal within whose jurisdiction the cause of action to which the appeal relates or, as the case may be, the question arose.]

³[**30A. Withholding of certain payments pending decision of appeal.**—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 ⁴[Tribunal] shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.]

⁵[**31. Recovery.**—(1)] The Commissioner may recover as an arrear of land revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890 (I of 1890).

⁶[(2) Without prejudice to the provisions of sub-section (1), the Commissioner may recover in the prescribed manner any amount referred to therein by distress and sale of the moveable property belonging to the person by whom the amount is payable, or by attachment and sale of the immoveable property belonging to such person.]

CHAPTER IV RULES

32. Power of the Provincial Government to make rules.—(1) The ⁷[Provincial Government] may make rules⁸ to carry out the purposes of this Act.

¹The proviso ins. by the Work men's Compensation (Amdt.) Act, 1933 (15 of 1933), s. 17.

²Sub-section (4) added by the Labour Laws (Amdt.) Act, 1975 (11 of 1975), s. 2 and Sch. (w.e.f. 25-1-1975).

³S. 30A ins. by the Work men's Compensation (Amdt.) Act, 1933 (15 of 1933), s. 18.

⁴Subs. by Act 11 of 1975, s. 2 and Sch., for "High Court".

⁵S. 31 re-numbered as sub-section (1) of that section by the Labour Laws (Amdt.) Act, 1976 (11 of 1976), s. 2 and Sch. (w.e.f. 12-4-1976).

⁶Sub-section (2) added *ibid.*

⁷Subs. by A.O., 1937 (w.e.f. 1-4-1937), for "G.G. in C.".

⁸For the Workmen's Compensation Rules, 1924, see Gen. R. & O.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate ;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11 ;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases ;
- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another ;
- ¹[(ee) for prescribing the manner in which any balance of money may under sub-section (4) of section 8 be transferred to a fund or funds for the benefit of workmen and for the establishment and administration of such fund or funds ;]
- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance ;
- (g) for prescribing the form and manner in which memorandum of agreements shall be presented and registered ;
- (h) for the withholding by Commissioners, whether in whole or in part of half-monthly payments pending decision on applications for review of the same ; ²*

2* * * * * *

- ²[(i) for regulating the scales of costs which may be allowed in proceedings under this Act ;
- (j) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act;
- (k) for the maintenance by Commissioners of registers and records of proceedings before them ;
- (l) 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 ;
- (m) for prescribing the form of statement to be submitted by employers under section 10A ; ³*

¹Ins. by the Workmen's Compensation (Amdt.) Act, 1957 (11 of 1957), section 9 (w.e.f. 15-3-1957).

²The word "and" at the end of cl. (h) and the original cl. (i) were omitted and the new cls. (i) to (n), which were the same as cls. (a) to (f) of section 33 were ins. by A.O., 1937 (w.e.f. 1-4-1937).

³The word "and" omitted by Act 11 of 1957, s. 9

(n) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner] ¹[;] ²[and

²[(o) for prescribing the abstracts of this Act and of the rules required by section 10D.]

33. [Power of Local Government to make rules.] Rep. by A. O., 1937.

34. Publication of Rules.—(1) The power to make rules conferred by ³[section 32] shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897, (X of 1897) as that after which a draft of rules proposed to be made under section 32 ⁴* * * will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Rules so made shall be published in ⁵* * * the ⁶[official Gazette] ⁷* * * and, on such publication, shall have effect as if enacted in this Act.

⁸[35. Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.-⁹(1)] The ¹⁰[Federal Government] may, by notification in the ¹¹[official Gazette] make rules for the transfer ¹²[to any Acceding State, or] to any part of His Majesty's Dominions or to any other country of money ¹¹[deposited with] a Commissioner under this Act ¹⁴[which has been awarded to, or may be due to,] any person residing or about to reside in such ¹²[State], part or country and for the receipt ¹⁵[distribution] and administration in ¹⁶[Pakistan] of any money ¹⁷[deposited] under the law relating to workmen's compensation ¹²[in any Acceding State, or] in any part of His Majesty's Dominions or in any other country, ¹⁸[which has been awarded to, or may be due to,] any person residing or about to reside in ¹⁶[Pakistan]:]

¹⁹[Provided that no sum deposited under this Act in respect of fatal accidents shall be so transferred without the consent of the employer concerned until the Commissioner receiving the sum has passed orders determining its distribution and apportionment under the provisions of sub-sections (4) and (5) of section 8.]

¹ Subs. *ibid.*, for full-stop.

² The word "and" and cl. (o) added, *ibid.*

³ Subs. by A.O., 1937, for "section 32 and 33".

⁴ The words and figures "or section 33" omitted, *ibid.*

⁵ The words "the Gazette of India or" omitted by A.O., 1937 (*w.e.f.* 1-4-1937).

⁶ Subs. *ibid.*, for "local official Gazette".

⁷ The words "as the case may be" omitted, *ibid.*

⁸ S. 35 ins. by the Workmen's Compensation (Amdt.) Act, 1933 (15 of 1933), s. 20.

⁹ The original s. 35 was re-numbered as sub-section (1) of that section by the Workmen's Compensation (Amdt.) Act, 1937 (7 of 1937), s. 2 (*w.e.f.* 4-3-1937).

¹⁰ Subs. by the Labour Laws (Amdt.) Act, 1975 (11 of 1975), s. 2 and Sch. (*w.e.f.* 25-1-1975), for "Central Government" which had been subs. by A.O., 1937, for "G.G. in C.".

¹¹ Subs. by A.O., 1937, for "Gazette of India".

¹² Ins. by A.O., 1949 (*w.e.f.* 28-3-1949).

¹³ Subs. by Act 7 of 1937, s. 2, for "paid to".

¹⁴ Subs. *ibid.*, for "for the benefit of".

¹⁵ Ins. *ibid.*

¹⁶ Subs. and shall be deemed to have been so subs. on the fourteen day of October, 1955, by the Central Laws (Statue Reform) Ordinance, 1960 (21 of 1960), s.3 and Second Sch., for the words "the Provinces and the Capital of the Federation" which were sub., by A.O., 1949, for "British India".

¹⁷ Subs. by Act 7 of 1937, s. 2., for "awarded".

¹⁸ Subs. *ibid.*, for "and applicable for the benefit of".

¹⁹ The proviso and sub-section (2) added, *ibid.*

(2) Where money deposited with a Commissioner has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Act regarding distribution by the Commissioner of compensation deposited with him shall cease to apply in respect of any such money.]

¹**[SCHEDULE-I**

²[See section 2 (1) and (4)]

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL DISABLEMENT.

Sr. No.	Description of injuries	Percentage of loss of earning capacity.
1.	Loss of both hands or amputation at higher sites ..	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot ..	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye-sight is essential.	100
5.	Very sever facial disfigurement	100
6.	Absolute deafness	100

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

Amputation cases-Upper limbs (either arm)

1.	Amputation through shoulder joint	90
2.	Amputation below shoulder with stump less than 8 from tip of acromion	80
3.	Amputation from 8 from tip of acromion to less than 4-1/2" below tip of olecranon	70
4.	Loss of a hand or of the thumb and four fingers of one hand or amputation from 4-1/2" below tip of olecranon	60
5.	Loss of thumb	30
6.	Loss of thumb and its metacarpal bone	40
7.	Loss of four fingers of one hand	50
8.	Loss of three fingers of one hand	30
9.	Loss of two fingers of one hand	20
10.	Loss of terminal phalanx of thumb	20

¹Subs. by the Labour Laws (Amdt.) Ordinance, 1972 (9 of 1972), s. 2 and 1st Sch. (w.e.f. 13-4-1972,) for the existing Shc. I.

² Subs. by the Labour Laws (Amdt.) Act, 1972 (5 of 1972), s. 2 and Sch. (w.e.f. 7-9-1972), for "section 2(1) and 4".

Amputation cases-Lower limbs

11.	Amputation of both feet resulting in end-bearing stumps	90
12.	Amputation through both feet proximal to the metatarsophalangeal joint	80
13.	Loss of all toes of both feet through the metatarsophalangeal joint ..	40
14.	Loss of all toes of both feet proximal to the proximal interphalangeal joint	30
15.	Loss of all toes of both feet distal to the proximal inter phalangeal joint	20
16.	Amputation at hip	90
17.	Amputation below hip with stump not exceeding 5" in length measures from tip of great trochanter	80
18.	Amputation below hip with stump exceeding 5" in length measured from tip of great trochanter but not beyond middle high.	70

SCHEDULE

Sr. No.	Description of injuries	Percentage of loss of earning capacity.
19.	Amputation below middle thigh to 3-1/2" below knee	60
20.	Amputation below knee with stump exceeding 3-1/2in. but not exceeding 5in	50
21.	Amputation below knee with stump exceeding 5in. ..	40
22.	Amputation of one foot resulting in end-bearing ..	30
23.	Amputation through one foot proximal to the metatarso- phalangeal joint	30
24.	Loss of all toes of one foot through the metatarso-phalangeal joint	20

Other Injuries

25.	Loss of one eye, without complications, the other being normal	40
26.	Loss of vision of one eye without complication or disfigurement of eyeball, the other being normal	30

Fingers of right/left hand index finger

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

Middle finger

31.	Whole	12
32.	Two phalanges	9
33.	One phalanx	7
34.	Guillotine amputation of tip without loss of bone	4

Ring or little finger

35.	Whole	7
36.	Two phalanxes	6
37.	One phalanx	5
38.	Guillotine amputation of tip without loss of bone	2

Toes of right or left foot great toe

39.	Through metatarsophalangeal joint	14
40.	Part, with some loss of bone	3

Any other toe

41.	Through metatarsophalangeal joint	3
42.	Part, with some loss of bone	1

Two toes of one foot, excluding great toe

43.	Through metatarso-phalangeal joint	5
44.	Part, with some loss of bone	2

Three toes of one foot, excluding great toe

45.	Through metatarso-phalangeal joint	6
-----	---	---

46.	Part, with some loss of bone	3
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Four toes of one foot, excluding great toe

47.	Through metatarso-phalangeal joint	9
48.	Part, with some loss of bore	3

SCHEDULE-II

[See section 2(1) (n)]

List of persons who, subject to the provisions of section 2(1) (n), are included in the definition of workmen

The following persons are workmen within the meaning of section 2(1) (n) and subject to the provisions of that section, that is to say, any person who is

¹[(i) employed, otherwise than ²* * * on a railway, in connection with the operation or maintenance of ³[a lift or a vehicle propelled by steam or other mechanical power or by electricity]; or

(ii) employed ⁴* * * 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 ⁵[clause (g) of section 2 of the Factories Act, 1934 (XXV of 1934)], 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 ⁶* * *; or

(iii) employed ⁷[in any place to which section 5 of the Factories Act, 1934, (XXV of 1934) has been applied or] 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 Mines Act, 1923, (IV of 1923) in any mining operation, or in any kind of work, ⁸* * * incidental to connected with any mining operation or with the mineral obtained, or in kind or work whatsoever below ground:

¹ These clauses and the *Explanation* were subs. by the Workmen's Compensation (Amdt.) Act, 1933 (15 of 1933), s. 21, for the original clauses.

² The words "in a clerical capacity or" omitted by the Workmen's Compensation (Amdt.) Act, 1973 (14 of 1973), s. 6 (w.e.f. 7-2-1973).

³ Subs. by the Work men's Compensation (Amdt.) Act, 1938 (9 of 1938), section 11 (w.e.f. 5-4-1938), for "mechanically propelled vehicles".

⁴ The words "otherwise than in a clerical capacity" omitted by the Workmen's Compensation (Amdt.) Act, 1957 (11 of 1957), s. 10 (w.e.f. 15-3-1957).

⁵ Subs. by Act 9 of 1938, s. 11, for "clause (4) of section 2 of the Indian Factories Act, 1911".

⁶ The words "but not persons employed solely in a clerical capacity in any room or place where no manufacturing process is being carried on" omitted by Act 14 of 1973, s. 6, which had been ins. by Act 11 of 1957, s. 10.

⁷ Ins. by Act 11 of 1957, s. 10.

⁸ The words "other than clerical work" omitted by the Work men's Compensation (Amdt.) Act, 1973 (14 of 1973), s. 6. (w.e.f. 7-2-1973).

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 ¹[master, seaman, sailor or otherwise on]-
 - (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 ship not included in sub-clause (a) of ²[twenty-five] 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 Ports Act, 1908, (XV of 1908) of goods which have been discharged from or are to be loaded into any vessel ; or
- ³[(viii) employed in loading and unloading of goods in the mechanically propelled vehicles in the ⁴[Karachi Division].]
- (viii) employed in the construction, repair or demolition of
 - ⁵[(a) any building or structure; 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 overhead electric line or cable or post or standard for the same ; or

¹ Subs. by the Workmen's Compensation (Amdt.) Act, 1957 (11 of 1957), s. 10 (w.e.f. 15-3-1957), for "master or as a seaman of".

² Subs. *ibid.*, for "fifty".

³ Ins. by the Ministry of Health and Social Welfare Notification No. LC. 21(73)/58, dated the 30th March, 1959, see Gaz. of P., 1959, Pt. I, pp. 162-163.

⁴ Subs. by A.O., 1964, Art. 2 and Sch. (w.e.f. 28-5-1964), for "Federal Territory of Karachi" which had been subs. by the Repealing and Amending Ordinance, 1961 (1 of 1961), s. 3 and Second Sch. (w.e.f. 24-1-1961), for "Federal Capital".

⁵ Subs. by Act 11 of 1957 s. 10, for the original sub-clause (a).

- (x) employed, ¹* * * 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 (1) of section 148 of the Railways Act, 1890, (IX of 1890) either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration ; or
- (xiii) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service, or employed in any occupation ordinarily involving out-door work in the ²* Posts and Telegraphs Department ; or
- ³[(xiiia) employed as treasurer clerks performing out-door duties in the Pakistan Posts and Telegraphs Department in Baluchistan and the ⁴[Karachi Division] ;]
- (xiv) employed, ¹* * * in connection with operations for winning natural petroleum or natural gas ; or
- (xv) employed in any occupation involving blasting operations ; or
- (xvi) employed in the making of any excavation in which on any one day of the preceding twelve months more than ⁵[twenty-five] 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, ¹* * *, 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, ¹* * * in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas ; or

¹ The words "otherwise than in clerical capacity", omitted by the Work men's Compensation (Amdt.) Act, 1973 (14 of 1973), s. 6 (w.e.f. 7-2-1973).

² The word "Indian" omitted by A.O., 1949 (w.e.f. 28-3-1949).

³ Added by the Ministry of Law and Labour (Labour Division) Notification No. L.C. 21(2)/49, dated the 20th October, 1949, see Gaz. of P., 1949, Pt. I, p. 498.

⁴ Subs. by A.O., 1964, Art. 2 and Sch. (w.e.f. 28-5-1964), for "Federal Territory of Karachi" which had been subs. by Repealing and Amending Ordinance, 1961 (1 of 1961), s. 3 and Second Sch. (w.e.f. 24-1-1961), for "Capital of the Federation".

⁵ Subs. by the Work men's Compensation (Amdt.) Act, 1957 (11 of 1957), section 10 (w.e.f. 15-3-1957), for "fifty".

(xx) employed in a lighthouse as defined in clause (d) of section 2 of the Lighthouse Act, 1927 (XVII of 1927); or,

(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

¹[(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]

²[(xxv)] employed as a diver ; ³[or

⁴(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 of 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 radio-active substances.]

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.]

THE PAKISTAN CODE

¹ Cls. (xxiii) and (xxiv) ins. by the Workmen’s Compensation (Amdt.) Act, 1938 (9 of 1938), s. 11 (w.e.f. 5-4-1938).

² The existing cl. (xxiii) re-numbered as cl. (xxv), *ibid.*

³ The word “or” and cls. (xxvi) and (xxvii) ins., *ibid.*

SCHEDULE-III
(See section 3)
List of occupational diseases

Occupational disease	Employment
	¹ [PART A
Anthrax	Any employment-
	(a) involving the handling of wool, hair, bristles or animal carcasses or parts of such carcasses, 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 sequelae.	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.
	² PART B]
Lead poisoning or its sequelae ³ (excluding poisoning by lead tetra-ethyl).	Any process involving the use of lead ⁴ [or any of its preparations or compounds except lead tetra-ethyl].
Phosphorus poisoning or its sequelae.	Any process involving the use of phosphorus or its preparations or compounds.
⁵ [Mercury poisoning or its sequelae.	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelae 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 sequelae	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations.
⁶ [Arsenical poisoning or its sequelae.	Any process involving the production, liberation or utilization of arsenic or its compounds.
Pathological manifestations due to-	Any process involving exposure to the action of radium, radio-active, substances, or X-rays.
(a) radium and other radioactive substances ;	
(b) 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.]

¹ Ins. by the Workmen's Compensation (Amdt.) Act, 1938 (9 of 1938), section 12 (w.e.f. 5-4-1938).

² This part has been amended in its application to the Federal Capital by S.R.O. 581, dated the 3rd December, 1959, see Gaz. of P., 1959, Pt. I, p. 552.

³ Added by Act 9 of 1938, s. 12.

⁴ Subs. *ibid.*, for "or its preparations or compounds".

⁵ These entries were ins. by the Work men's Compensation (Amdt.) Act, 1933 (15 of 1933), s. 22.

⁶ Subs. by Act 9 of 1938, s. 12, for the entry which was added by Act 15 of 1933, s. 22.

¹SCHEDULE-IV

(See section 4)

COMPENSATION PAYABLE IN CERTAIN CASES.

² * * *	Amount of compensation for		Half-monthly payment as compensation for temporary disablement
	Death	Permanent Total disablement	
1	2	3	4
² * * *			
	Rs.	Rs.	
	³ [2,00,000]	³ [2,00,000]	1/2 of the monthly wages during the period of disablement or a period of one year, reckoned from the date of injury, which ever is less and thereafter only in cases of chronic lung diseases 1/3 of the monthly wages during the period of disablement or for a period of 5 years, reckoned from the date of injury, whichever is less.

¹ Subs. by Act XI of 1994 & Sch.

² First Column Omitted by Act IV of 2007, s. 2 (w.e.f. 1-7-2007).

³ Subs. by ord. 53 of 2001, s. 2, Sch. (w.e.f. 1-7-2001).