

The War Injuries (Compensation Insurance) Act, 1943

UNION OF INDIA

India

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An Act to impose on employers a liability to pay compensation to workmen sustaining war injuries and to provide for the insurance of employers against such liability. WHEREAS it is expedient to impose on employers a liability to pay compensation to workmen sustaining war injuries and to provide for the insurance of employers against such liability; It is hereby enacted as follows:-

1. Short title, extent and commencement.-

(1) This Act may be called the War Injuries (Compensation Insurance) Act, 1943. (2) It extends to the whole of India except 2 [the territories which immediately before the 1st November, 1956, were comprised in Part B States]. (3) It shall come into force on such 3 date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.-

In this Act, unless there is anything repugnant in the subject or context,- (a) "adult" and "minor" have the meanings assigned to those expressions in the Workmen's Compensation Act, 1923 (8 of 1923); (b) "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 the latter person while the workman is working for that other person; (c) "the Fund" means the War Injuries Compensation Insurance Fund constituted under section 11; (d) "gainfully occupied person" and "war injury" have the meanings assigned to those expressions in the War Injuries Ordinance, 1941 (7 of 1941); (e) "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 the injury was sustained, and where the disablement is of a permanent nature, such disablement as reduces his earning capacity in any employment which he was capable of undertaking at that time: Provided that every injury specified in items 2 to 9 of 4 [the First Schedule]

shall be deemed to result in permanent partial disablement;(f)"prescribed" means prescribed by rules made under section 20;

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[(ff) "termination of the present hostilities" means such date as the Central Government may, by notification in the Official Gazette, declare to be the date on which the said hostilities terminated;](g)"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 the injury was sustained: Provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from an injury specified in item 1 of 2[the First Schedule] or from any combination of injuries specified in items 2 to 9 of 2[the First Schedule] where the aggregate percentage of disability as specified in that Schedule against those injuries amounts to one hundred per cent;(h)the "Scheme" means the War Injuries Compensation Insurance Scheme referred to in sub-section (1) of section 7;(i)"wages" means wages as defined in the Workmen's Compensation Act, 1923 (8 of 1923), and "monthly wages" has the meaning assigned to that expression by section 5 of the Workmen's Compensation Act, 1923, and shall be calculated for the purposes of this Act in the manner laid down in that section;(j)"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 employers' trade or business) who is employed in any of the employments specified in section 6.

3. Compensation payable under the Act by whom and how payable.-

(1)There shall, subject to such conditions as may be specified in the Scheme, be payable by an employer, in respect of a war injury sustained by a gainfully occupied person who is a workman to whom this Act applies, compensation, in addition to any relief provided under the War Injuries Ordinance, 1941 (7 of 1941), of the amount and kind provided by section 5: Provided that where an employer has taken out a policy of insurance as required by sub-section (1) of section 9 and has made all payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme, or where by the provisions 3[of sub-section (1) of section 9 or] of sub-section (2) of section 12 the employer is not required to insure, the Central Government shall assume and discharge on behalf of the employer the employer's liability to pay compensation under this sub-section.(2)The compensation payable under this Act shall be payable in accordance with the provisions made in this behalf contained in the Scheme.(3)This section shall be binding on the Government.

4. Limitation on right to receive compensation otherwise than under this Act and Ordinance 7 of 1941.-

Where any person has a right apart from the provisions of this Act and of the War Injuries Ordinance, 1941 (7 of 1941), to receive compensation (whether in the form of gratuity, pension, compassionate payment or otherwise) or damages from an employer in respect of a war injury in

respect of which compensation is payable under this Act, the right shall extend only to so much of such compensation or damages as exceeds the amount of compensation payable under this Act.

5. Amount of compensation.-

(1)The compensation payable under this Act shall be as follows, namely: -(a)where death results from the injury-(i)in the case of an adult-the amount payable in a like case under the Workmen's Compensation Act, 1923 (8 of 1923), reduced by seven hundred and twenty rupees, and(ii)in the case of a minor-two hundred rupees;(b)where permanent total disablement results from the injury-(i)in the case of an adult-the amount payable in a like case under the Workmen's Compensation Act, 1923 (8 of 1923), reduced by one thousand and eight rupees, and(ii)in the case of a minor-the monthly payment payable in a like case to an adult under the Scheme made under the War Injuries Ordinance, 1941 (7 of 1941), for so long as he remains a minor, and thereafter as in the foregoing sub-clause;(c)where permanent partial disablement results from the injury-(i)in the case of an injury specified in 1[the First Schedule]-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 disablement;(ii)in the case of an injury not specified in 1[the First Schedule]-the percentage of such compensation specified in 1[the First Schedule] for a disablement held by a competent medical authority acting under the Scheme made under the War Injuries Ordinance, 1941 (7 of 1941), to be of corresponding degree;(iii)where more injuries than one are sustained-the aggregate of the compensation payable in respect of those injuries, so however as not to exceed in any case the compensation which would have been payable if permanent total disability had resulted from the injuries;(d)where temporary disablement, whether total or partial, results from the injury-(i)in the case of an adult-the half-monthly payments payable in a like case under the Workmen's Compensation Act, 1923 (8 of 1923), reduced in each case for so long as he receives any payment under the Scheme made under the War Injuries Ordinance, 1941 (7 of 1941), by seven rupees, and(ii)in the case of a minor-the half-monthly payments payable in a like case under the Workmen's Compensation Act, 1923 (8 of 1923), for so long as he remains a minor, and thereafter as in the foregoing sub-clause.(2)Where the monthly wages of a workman are more than three hundred rupees, the compensation payable under this Act shall be the amount payable under the provisions of sub-section (1) in the case of a workman whose monthly wages are more than two hundred rupees.

6. Workmen to whom the Act applies.-

The workmen to whom this Act applies are-(a)workmen employed in any employment or class of employment to which the Essential Services (Maintenance) Ordinance, 1941 (11 of 1941), has been declared under section 3 of that Ordinance to apply, whether such declaration is or is not subsequently revoked;(b)workmen employed in any factory as defined in clause (j) of section 2 of the 2the Factories Act, 1934 (25 of 1934);(c)workmen employed in any mine within the meaning of 3the Indian Mines Act, 1923 (4 of 1923);(d)workmen employed in any major port;(e)workmen employed 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 employed as workmen;(f)workmen employed in any employment specified in this behalf by the

Central Government by notification in the Official Gazette.

7. War Injuries Compensation Insurance Scheme.-

(1)The Central Government shall, by notification in the Official Gazette, put into operation a scheme to be called the War Injuries Compensation Insurance Scheme whereby provision is made for all matters necessary to give effect to the purposes of this Act and whereby the Central Government undertakes, in relation to employers of workmen to whom this Act applies, the liabilities of insuring such employers against liabilities incurred by them to workmen under this Act and the Scheme.(2)The Scheme shall secure that any liability of the Central Government as insurer under the Scheme is determined by a policy of insurance issued in the prescribed form by a person acting on behalf of the Central Government.(3)The Scheme may provide that it shall come into operation or shall be deemed to have come into operation on such date as may be specified therein.(4)The Scheme may be amended at any time by the Central Government.(5)Without prejudice to the generality of the provisions of sub-section (1), the Scheme may-(a)make provisions regulating the payment of the compensation payable under this Act and the Scheme, including provision for punishment by fine not exceeding one thousand rupees for the contravention of any requirement of the Scheme;(b)make provisions specifying the persons to whom and the proportions and manner in which payments under this Act shall be made;(c)specify conditions or circumstances which will disentitle a workman to the compensation payable under this Act, and make it an express or implied condition of any policy of insurance issued under the Scheme that the payment of compensation in defiance of such specification is not covered by the policy;(d)specify the conditions or circumstances under which the compensation payable to a workman may be withheld, cancelled, reduced or reviewed if the award made under the Scheme made under the War Injuries Ordinance, 1941 (7 of 1941), is withheld, cancelled, reduced or reviewed;(e)provide for cases in which an employer has of his own accord undertaken a part or the whole of the liability imposed by this Act;(f)provide for the final assessment of the total premium due on a policy of insurance under the Scheme 1[either as the equivalent of all advance payments of premium already made by an employer, or as a percentage of the total wages bills of an employer for the periods with reference to which the amount of any advance payments made by him was fixed or] as a percentage of the total wages bill of an employer for a period of not less than twelve or more than fifteen months immediately preceding the termination of the present hostilities, and for the assessment of the total premium due on a policy which has ceased to be in force before the termination of the present hostilities owing to the employer having gone out of business;(g)provide for the recovery from an employer of the total premium due on a policy of insurance including provision for its recovery by periodic advance payments of an amount based on a percentage of his total wages bill for any prescribed period, the separate funding of the payments so made by each employer, and the eventual adjustment of the total pre-mium as finally assessed against the total of such periodic payments: 1[Provided that, where the amount of the periodic payment based on the total wages bill of the prescribed period is less than eight rupees, it shall be increased to eight rupees:]Provided 1[further] that the first of such periodic payments shall 1[subject to the aforesaid minimum of eight rupee] be an amount representing not more than four annas per hundred rupees of the wages bill for the period by reference to which the amount of the payment is fixed: Provided further that such periodic payments shall not be more frequent than once in each quarter of a year: Provided further that the

rate of any periodic payment after the first shall 1[subject to the aforesaid minimum of eight rupees] not be higher than the rate estimated to raise the amount in the Fund after repayment of the advances, if any, paid into the Fund by the Central Government under sub-section (2) of section 11, to a sum of rupees fifteen lakhs.

8. Employment of agents by the Central Government. -

The Central Government may employ or authorise the employment of any person or firm to act as its agents for any of the purposes of this Act, and may pay to persons or firms so employed such remuneration as the Central Government thinks fit.

9. Compulsory insurance.-

(1)Every employer of workmen to whom this Act applies or is subsequently made applicable 2[except an employer whose total wages bill for any quarter after the commencement of this Act has never exceeded fifteen hundred rupees] shall, before such date as may be prescribed, or before the expiry of such period ,as may be prescribed, after his having first become such an employer, take out a policy of insurance issued in accordance with the Scheme, whereby he is insured until the termination of the present hostilities or until the date, if any, prior to the termination of the present hostilities at which he ceases to be an employer to whom this section applies, against all liabilities imposed on him by this Act.(2)Whoever contravenes the provisions of sub-section (1) or, having taken out a policy of insurance as required by that sub-section, fails to make any payment by way of premium thereon which is subsequently due from him in accordance with the provisions of the Scheme shall be punishable with fine which may extend to one thousand rupees and shall also be punishable with a further fine which may extend to five hundred rupees for every day after having been so convicted on which the contravention or failure continues.(3)This section shall not bind the Government nor, unless the Central Government by notification in the Official Gazette otherwise orders, any 3[Railway Administration].

10. Prohibition of certain insurance business.-

(1)After the date on which the Scheme is put into operation no person shall, except as a person authorised by the Central Government as its agent to issue policies in pursuance of the Scheme, carry on the business of insuring employers in 4[the territories to which this Act extends] against the liabilities for insurance against which the Scheme provides.(2)Nothing in sub-section (1) applies to any policy of insurance entered into before the date on which the Scheme is put into operation and current after that date or to any policy of insurance covering liabilities undertaken in excess of the liabilities imposed by this Act.(3)Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first on which the contravention continues.

11. War Injuries Compensation Insurance Fund.-

(1)The Central Government shall establish a fund for the purposes of this Act to be called the War Injuries Compensation Insurance Fund into which shall be paid all sums received by the Central Government by way of insurance premiums under the Scheme or by way of payments made on composition of offences under section 17 1[or any provision of law corresponding thereto in force in 2[any part of India to which this Act does not extend] or in the territories (hereinafter referred to as Administered Areas) set out in the Second Schedule] or by way of expenses or compensation awarded by a Court under section 545 of the Code of Criminal Procedure, 18983 (5 of 1898), out of any fine imposed under this Act, or by way of penalties imposed under the Scheme, and out of which shall be paid all sums required for the discharge by the Central Government of any of its liabilities under this Act or the Scheme, or for the payment by the Central Government of the remuneration and expenses of agents employed for the purposes of the Scheme, or for the payment by the Central Government of the costs of administering the Scheme : Provided that no payment from the Fund shall be made in discharge of any liability of the Government to pay compensation to workmen employed by it.(2)If at any time the sum standing to the credit of the Fund is less than the sum for the time being necessary for the adequate discharge of the purposes of the Fund, the Central Government shall pay into the Fund as an advance out of general revenues such amount as the Central Government considers necessary.(3)If when all payments which have to be made out of the Fund have been defrayed, any balance remains in the Fund, the balance shall be constituted into a Fund to be utilised and administered by the Central Government for the benefit of workmen.(4)The Central Government shall prepare in such form and manner as may be prescribed and shall publish every six months an account of all sums received into and paid out of the Fund.

12. Principals and contractors.-

(1)Where a person (in this section referred to as the principal) uses, in the course of or for the purposes of his trade or business, the services of workmen temporarily lent or let on hire to him by arrangement with another person with whom the workmen have entered into contracts of service or apprenticeship, or in the course of or for the purposes of his trade or business, contracts with any other person for the execution by or under such other person of the whole or any part of any work which is ordinarily part of the trade or business of the principal (either such other person being in this section referred to as the contractor) the principal shall obtain from the contractor the name of the agent of the Central Government acting under section 8 with whom he intends to insure, and shall report to that agent the existence of his arrangement or contract with the contractor.(2)Notwithstanding anything elsewhere contained in this Act, in any such case as is referred to in sub-section (1), it shall not be necessary for the contractor to insure against the liabilities imposed on him by this Act in respect of workmen employed by him whose services are lent or let on hire on such an arrangement or used in the execution of work on such a contract as is referred to in sub-section (1), where the arrangement or contract is for a term of less than one month.(3)The Scheme may make provision for the supply by a contractor to a principal of any information necessary to enable the purposes of this section to be carried out including provision for punishment by fine not exceeding one thousand rupees for the contravention of any requirement of the Scheme.

13. Power of Central Government to obtain information.-

(1) Any person authorised in this behalf by the Central Government may, for the purpose of ascertaining whether the requirements of this Act and of the Scheme have been complied with, require any employer to submit to him such accounts, books or other documents or to furnish to him such information or to give such certificates as he may reasonably think necessary. (2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without reasonable excuse to comply with any request made thereunder shall, in respect of each occasion on which any such obstruction or failure takes place, be punishable with fine which may extend to one thousand rupees. (3) Whoever in purporting to comply with his obligations under this section knowingly or recklessly makes a statement false in a material particular shall be punishable with fine which may extend to one thousand rupees.

14. Recovery of premium unpaid.-

(1) Without prejudice to the provisions of sub-section (2) of section 9, where any person has failed to insure as or to the full amount required by this Act and the Scheme and has thereby evaded the payment by way of premium of any money which he would have had to pay in accordance with the provisions of the Scheme but for such failure, an officer authorised in this behalf by the Central Government may determine the amount payment of which has been so evaded, and the amount so determined shall be payable by such person and shall be recoverable from him as provided in sub-section (2). (2) Any sum payable in accordance with the provisions of the Scheme by way of premium on a policy of insurance issued under the Scheme and any amount determined as payable under sub-section (1) shall be recoverable as an arrear of land-revenue. (3) Any person against whom a determination is made under sub-section (1) may, within the prescribed period, appeal against such determination to the Central Government whose decision shall be final.

15. Payment of compensation where employer has failed to insure.-

Where an employer has failed to take out a policy of insurance as required by sub-section (1) of section 9, or having taken out a policy of insurance as required by that sub-section has failed to make the payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme, payment of any compensation for the payment of which he is liable under this Act may be made out of the Fund, and the sum so paid together with a penalty of such amount not exceeding the sum so paid as may be determined by an officer authorised in this behalf by the Central Government shall be recoverable from the employer as an arrear of land revenue for payment into the Fund.

16. Limitation of prosecutions.-

No prosecution for any offence punishable under this Act shall be instituted against any person except by or with the consent of the Central Government or an authority authorised in this behalf by the Central Government.

17. Composition of offences.-

Any offence punishable under sub-section (2) of section 9 may, either before or after the institution of the prosecution, be compounded by the Central Government or by any authority authorised in this behalf by the Central Government on payment for credit to the Fund of such sum as the Central Government or such authority, as the case may be, thinks fit.

18. Bar of legal proceedings.-

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. (2) No suit shall be maintainable in any Civil Court against the Central Government or a person acting as its agent under section 8 for the refund of any money paid or purporting to have been paid by way of premium on a policy of insurance taken out or purporting to have been taken out under this Act.

19. Power to exempt employers.-

The Central Government shall exempt any employer from the provisions of this Act on the employer's request, if satisfied that he has before the commencement of this Act entered into a contract with insurers substantially covering the liabilities imposed on him by this Act, for so long as that contract continues.

20. Power to make rules.-

(1) The Central Government may, by notification in the Official Gazette, make rules to carry into effect the provisions of this Act. (2) Without prejudice to the generality of the foregoing power such rules may prescribe—(a) the principles to be followed in ascertaining the total wages bill of an employer, including provision for the exclusion therefrom of certain categories of wages or of certain elements included in the definition of wages; (b) the form of the policies of insurance referred to in sub-section (2) of section 7; (c) the period referred to in clause (g) of sub-section (5) of section 7;

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* * * * (e) the date and the period referred to in sub-section (1) of section 9; (f) the form of and the manner of preparing and publishing the account referred to in sub-section (4) of section 11; (g) the periods referred to in sub-section (3) of section 14.

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[(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one sessions, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both

Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

21. Applications of the Scheme to certain parts of India.-

(1) If the Central Government is satisfied that by the law of 2[any part of India to which this Act does not extend] 3[or of the Administered Areas] provision has been made substantially corresponding to the provision made by this Act imposing liabilities upon employers and requiring them to take out policies of insurance covering such liabilities, the Central Government may, by notification in the Official Gazette, declare that this section shall apply 4[to the territory 5[of such part of India] or comprising the Administered Areas]. (2) On the application of this section 6[to any such territory] the Scheme made under this Act shall extend to the undertaking by the Central Government in respect of employers 7 [in that territory] of the same liabilities in the same manner, to the same extent and subject to the same conditions as if such employers were in 5[the territories to which this Act extends]. (3) On the application of this section 6[to any such territory] the provisions of section 10 shall be deemed to prohibit any person except a person authorised by the Central Government as its agent to issue policies in pursuance of the Scheme from carrying on after the date of the notification by which this section is applied the business of insuring employers 7[in that territory] against liabilities insurance against which is provided under the Scheme. The First Schedule][See Sections 2 and 5(1).]

| Item No. | Injury | Percentage of disability |
|----------|---|--------------------------|
| 1. | Loss of two or more limbs. Lunacy. Jacksonian epilepsy. Very severe facial disfigurement. | 100 |
| 2. | Loss of right arm above or at the elbow. Severe facial disfigurement. Total loss of speech. | 90 |
| 3. | Loss of left arm above or at the elbow. Loss of right arm below the elbow. Loss of leg at or above the knee. Loss of left arm below the elbow. | 70 |
| 4. | Loss of leg below the knee. Permanent total loss of hearing. | 60 |
| 5. | Loss of one eye. Loss of right thumb or four fingers of right hand. Loss of all toes of both feet above knuckle. | 50 |
| 6. | | 40 |

| | | |
|----|--|----|
| | Loss of left thumb or four fingers of left hand or three fingers of right hand. | |
| 7. | Loss of all toes of one foot above knuckle. | 30 |
| | Loss of all toes of both feet at or below knuckle. | |
| | Limited restriction of movement of joints through injury without penetration, limited function of limb through fracture. | |
| 8. | Loss of two fingers of either hand. | 20 |
| | Compound fracture of thumb or two or more fingers of either hand with impaired function. | |
| | Loss of one phalanx of thumb. | |
| 9. | Loss of index finger. | 10 |
| | Loss of great toe. | |

The Second Schedule[See Section 11(1)]

1. The Cantonment of Baroda.

2. The Administered Areas in the Western India States Agency specified in the Western India States Administered Areas (Application of Laws) Order, 1937.

3. The Administered Areas in the Central India Agency specified in the Central India Administered Areas (Application of Laws) Order, 1937.

4. The Gwalior Residency Area.

5. The District of Abu.

6. The Administered Areas in the Hyderabad State specified in the Hyderabad Administered Areas (Application of Laws) Order, 1937.

7. The Civil and Military Station of Bangalore.

8. The Kolhapur Residency Area and the Wadi Jaghir

9. The railway lands in the Western India States Agency specified in the notifications of the Political Department Nos. 189-I. B. and 190-I. B., dated the 8th September, 1937.

10. The Rajputana and Central India Railway Lands specified in the Rajputana and Central India Railway Lands (Application of Laws) Order, 1937.

11. The Punjab States Railway Lands specified in the Punjab States Railway Lands (Application of Laws) Order, 1939.

12. The Thana Circles in the Rewa-Kantha Agency in the Gujarat States Agency and the Dangs.

13. The British Reserve in Manipur.

14. The Shillong Administered Areas.]