

THE PERSONAL INJURIES (COMPENSATION INSURANCE) ACT, 1963

ACT NO. 37 OF 1963

[8th October, 1963.]

An Act to impose on employers a liability to pay compensation to workmen sustaining personal injuries and to provide for the insurance of employers against such liability.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:--

CHAPTER I

PRELIMINARY

1.

Short title extent and commencement.

1. Short title extent and commencement.- (1) This Act may be called the Personal Injuries (Compensation Insurance) Act, 1963.

(2) It extends to the whole of India.

(3) It shall come into force on such date¹* as the Central Government may by notification appoint.

2.

Definitions.

2. Definitions.- In this Act, unless the context otherwise requires,--

(a) "employer" includes any body 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;

(b) the "Fund" means the Personal Injuries (Compensation Insurance) Fund constituted under section 13;

(c) "gainfully occupied person" and "personal injury" have the meanings respectively assigned to those expressions in the Personal Injuries (Emergency Provisions) Act, 1962 (59 of 1962);

(d) "notification" means a notification published in the Official Gazette;

(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

1. 1-11-1965: Vide notifiin No. S.O. 3382, dt. 18-10-1965, Gazette of India, Pt. II, sec. 3 (ii) p. 3570.

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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 permanent partial disablement shall be deemed to result from every injury, or from any combination of injuries, specified in the Schedule, where the percentage, or the aggregate percentage, of disability as specified in the Schedule against such injury, or combination of injuries amounts to less than one hundred per cent;

1*[(f) "period of emergency" means, in relation to the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution,--

(i) on the 26th day of October, 1962, the period beginning with the 26th day of October, 1962, and ending with the 10th day of January, 1968, that is to say, the date on which the said Emergency was declared, by notification of the Government of India in the Ministry of Home Affairs, No. G.S.R. 93, dated the 10th January, 1968, to have come to an end;

(ii) on the 3rd day of December, 1971, the period beginning with the 3rd day of December, 1971, and ending with such date as the Central Government may, by notification in the Official Gazette, declare to be the

date on which the said emergency shall come to an end;]

(g) "prescribed" means prescribed by rules made under section 22;

(h) "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 every injury, or from any combination of injuries, specified in the Schedule, where the percentage, or the aggregate percentage, of disability as specified in the Schedule against such injury, or combination of injuries, amounts to one hundred per cent. or more;

(i) the "Scheme" means the Personal Injuries (Compensation Insurance) Scheme referred to in sub-section (1) of section 8;

1. Subs. by Act 75 of 1971, s. 2, for the original cl.

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(j) "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;

(k) "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 employed in any of the employments specified in section 3.

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COMPENSATION PAYABLE UNDER THE ACT

CHAPTER II

COMPENSATION PAYABLE UNDER THE ACT

3.

Workmen to whom the Act applies.

3. Workmen to whom the Act applies.- The workmen to whom this act applies are--

- (a) workmen employed in any employment or class of employment which is, or has been declared to be, an essential service under rule 126AA of the 1*[Defence of India Rules, 1962, or under rule 119 of the Defence of India Rules, 1971];
- (b) the workmen employed in any factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);
- (c) workmen employed in any mine within the meaning of the Mines Act, 1952 (35 of 1952);
- (d) workmen employed in any major port;
- (e) workmen employed in any plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951);
- (f) workmen employed in any employment specified in this behalf by the Central Government by notification.

4.

Compensation payable under the Act, by whom and how payable.

4. 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 personal 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 Personal Injuries (Emergency Provisions) Act, 1962 (59 of 1962.), of the amount and kind provided by section 7:

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

1. Subs. by Act 75 of 1971, s. 3, for "Defence of India Rules 1962".

way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme or where by the provisions of sub-section (1) of section 9 or of sub-section (2) of section 10 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 in the Scheme.

(3) This section shall be binding on the Government.

5.

Limitation on right to receive compensation otherwise than under this Act and Act 59 of 1962.

5. Limitation on right to receive compensation otherwise than under this Act and Act 59 of 1962.- Where any person has a right apart from the provisions of this Act and of the Personal Injuries (Emergency Provisions) Act, 1962, to receive compensation (whether in the form of gratuity, pension, compassionate payment or otherwise) or damages from an employer in respect of a personal 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.

6.

Special provisions in relation to employees of Government.

6. Special provisions in relation to employees of Government.- Where any person in the employ of Government has under the rules regulating the conditions of his service a right apart from the provisions of this Act or of the Personal Injuries (Emergency Provisions) Act, 1962 (59 of 1962), to receive any sum, whether as

extraordinary pension, gratuity, compassionate payment or damages,
from the Government in respect of a personal injury in respect of which compensation is payable under this Act, then, notwithstanding anything contained in this Act or the Personal Injuries (Emergency Provisions) Act, 1962, that person shall have the right to receive the sum admissible under those rules and if the sum so admissible is less than the amount payable as compensation under this Act and the Personal Injuries (Emergency Provisions) Act, 1962, then, he shall have a further right to receive an amount equal to the difference between the sum admissible under those rules and the amount of compensation payable under this Act.

7.

Amount of compensation.

7. Amount of compensation.- (1) The compensation payable under this Act shall be as follows:--

(a) where death results from the injury, the amount payable in a like case under the Workmen's Compensation Act, 1923 (8 of 1923), reduced by the value in lump sum of the amount payable under the Personal Injuries (Emergency Provisions) Act, 1962 (59 of 1962);

(b) where permanent total disablement results from the injury, the amount payable in a like case under the Workmen's Com-

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pensation Act, 1923 (8 of 1923), reduced by the value in lump sum of the amount payable under the Personal Injuries (Emergency Provisions) Act, 1962 (59 of 1962);

(c) where permanent partial disablement results from the injury--

(i) in the case of an injury specified in the 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 the Schedule--the percentage of such compensation specified in the Schedule for disablement held by a competent medical authority acting under the Scheme made under the Personal Injuries (Emergency Provisions) Act, 1962 (59 of 1962), 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, the half-monthly payments payable in a like case under the Workmen's Compensation Act, 1923 (8 of 1923), reduced in each case, so long as he receives any payment under the Scheme made under the Personal Injuries (Emergency Provisions) Act, 1962 (59 of 1962), by the amount payable under the said Scheme.

(2) Where the monthly wages of a workman are more than five 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 four hundred rupees.

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PERSONAL INJURIES (COMPENSATION INSURANCE) SCHEME

m CHAPTER III

PERSONAL INJURIES (COMPENSATION INSURANCE) SCHEME

8.

Personal Injuries (Compensation Insurance) Scheme.

8. Personal Injuries (Compensation Insurance) Scheme.- (1) The Central Government shall, by notification, put into operation a Scheme

to be called the Personal 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 under-

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takes, 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:

1*[Provided that different Schemes shall be put into operation in relation to different periods of emergency.]

(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 provisions for punishment by fine not exceeding two 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) make provisions for determining the value in lump sum of the amount payable under the Personal Injuries (Emergency Provisions) Act, 1962 (59 of 1962);
- (d) 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;

- (e) 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 Personal Injuries (Emergency Provisions) Act, 1962 (59 of 1962), is withheld, cancelled, reduced or reviewed;

1. Ins. by Act 75 of 1971, s. 4.

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- (f) 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;
- (g) provide for the final assessment of the total premium due on a policy of insurance under the Scheme 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

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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 expiry of the period of the emergency, and for the assessment of the total premium due on a policy which has ceased to be in force before the expiry of the period of the emergency owing to the employer having gone out of business;

- (h) 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 premium as finally assessed against the total of such periodic payments:

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 further that the first of such periodic payments

shall subject to the aforesaid minimum of eight rupees,
be at such rate as the Central Government may specify
in this behalf:

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, subject to the aforesaid minimum of
eight rupees, be such as the Central Government may,
after considering its liabilities under this Act, fix
from time to time, and the Central Government may,
where the total amount in the Fund so requires, either
waive or postpone any periodic payment.

9.

Compulsory insurance.

9. Compulsory insurance.- (1) Every employer of workmen to
whom
this Act applies or is subsequently made applicable, 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 expiry of the period of the
emergency
or until the date, if any, prior to the expiry of the period of the

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emergency 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 two
thousand
rupees and shall also be punishable with a further fine which may
extend to one thousand rupees for every day after having been so

convicted on which the contravention or failure continues.

(3) This section shall not bind the Government.

10.

Principals and contractors.

10. 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 11 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 two thousand rupees for the contravention of any requirement of the Scheme.

11.

Employment of agents by the Central Government.

11. Employment of agents by the Central Government.- The Central Government may by notification employ or authorise the employment of any person to act as its agent for any of the purposes of this Act and to pay to the person so employed such remuneration as it may think fit.

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12.

Prohibition of certain insurance business.

12. 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 India 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.

13.

Personal Injuries (Compensation Insurance) Fund.

13. Personal Injuries (Compensation Insurance) Fund.- (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, transfer in each financial year to a fund to be

called the Personal Injuries (Compensation Insurance) Fund (hereinafter referred to as the "Fund") such sums, as may be considered necessary, not exceeding the 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 18 or by way of expenses or compensation awarded by a court under section 545 of the Code of Criminal Procedure, 1898 (5 of 1898), out of any fine imposed in any prosecution under this Act or by way of penalties imposed under the Scheme.

(2) There shall be paid from out of the Fund 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 cost 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.

(3) If at any time when a payment is to be made out of the Fund, the sum standing to the credit of the Fund is less than the sum required for the making of that payment, an amount equal to the deficiency shall, after due appropriation made by Parliament by law, be paid into the Fund as an advance out of the Consolidated Fund of India.

(4) If at any time the amount standing to the credit of the Fund exceeds the sum which, in the opinion of the Central Government,

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is likely to be required for the making of payments out of the Fund, the excess shall be disposed of in such manner as the Central Government may think fit.

(5) The Central Government shall prepare in such form and manner

as may be prescribed and shall publish either annually or at such shorter intervals as may be specified therein, an account of all sums received into and paid out of the Fund.

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MISCELLANEOUS

CHAPTER IV

MISCELLANEOUS

14.

Power of Central Government to obtain information.

14. 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.

15.

Recovery of premium unpaid.

15. 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 payable 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.

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(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.

16.

Payment of compensation where an employer has failed to insure.

16. Payment of compensation where an 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.

17.

Limitation of prosecutions.

17. 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.

18.

Composition of offences.

18. Composition of offences.- Any offence punishable under subsection (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.

19.

Power of magistrate to impose any sentence.

19. Power of magistrate to impose any sentence.- Where any offence against this Act is tried by a Presidency Magistrate or a magistrate of the first class, then, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), the magistrate trying the offence may pass any sentence authorised by this Act.

20.

Bar of legal proceedings.

20. 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 11 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.

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21.

Power to exempt employers.

21. 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.

22.

Power to make rules.

22. Power to make rules.- (1) The Central Government may by notification 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 8 ;

(c) the period referred to in clause (g) of sub-section (5) of section 8 ;

- (d) the date and the period referred to in sub-section (1) of section 9 ;
- (e) the form of and the manner of preparing and publishing the account referred to in sub-section (5) of section 13 ;
- (f) the periods referred to in sub-section (3) of section 15;
- (g) any other matter which has to be or may be prescribed.

23.

Power to remove difficulties.

23. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act, and in particular, if any doubt arises as to whether any compensation is payable under this Act or as to the amount thereof the Central Government may, by order, make such provision or give such direction, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the doubt or difficulty ; and the decision of the Central Government, in such cases, shall be final.

24.

Scheme to be laid before both Houses of Parliament.

24. Scheme to be laid before both Houses of Parliament.- Every Scheme and every rule made 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 session or in two or more successive sessions,

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and if before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or the rule or both Houses agree that the Scheme or the rule should not be made, the Scheme or 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 Scheme or the rule.