

The War Injuries (Compensation Insurance) Act, 1943

(ACT NO. XXIII OF 1943)

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.^{1♣}

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 as follows:-

**Short title,
extent and
commencement**

1. (1) This Act may be called the War Injuries (Compensation Insurance) Act, 1943.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

Definitions

2. 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;

(b) “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;

(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;

(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 the First Schedule shall be deemed to result in permanent partial disablement;

(f) “prescribed” means prescribed by rules made under section 20;

²[(ff) “termination of hostilities” means the date declared under clause (3) of section 2 of the War Injuries Ordinance, 1941, to be the date of termination of hostilities;]

(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 the First Schedule or from any combination of injuries specified in items 2 to 9 of 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, 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.

Compensation payable under the Act by whom and how payable

3. (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, 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 of sub section (1) of section 9 or of sub section (2) of section 12 the employer is not required to insure, the 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.

Limitation on right to receive compensation otherwise than under this Act and Ordinance VII of 1941

4. Where any person has a right apart from the provisions of this Act and of the War Injuries Ordinance, 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.

Amount of compensation

5. (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, reduced by seven hundred and twenty Taka, and

(ii) in the case of a minor two hundred Taka;

(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, reduced by one thousand and eight Taka, 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, 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 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 the First Schedule the percentage of such compensation specified in the First Schedule for a disablement held by a competent medical authority acting under the Scheme made under the War Injuries Ordinance, 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, reduced in each case for so long as he receives any payment under the Scheme made under the War Injuries Ordinance, 1941, by seven Taka, and

(ii) in the case of a minor the half monthly payments payable in a like case under the Workmen's Compensation Act, 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 Taka, 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 Taka.

Workmen to whom the Act applies

6. The workmen to whom this Act applies are-

(a) workmen employed in any employment or class of employment to which the ³[* * *] Essential Services (Maintenance) Act, 1952, has been declared under section 3 thereof 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 ⁴[Factories Act, 1965];

(c) workmen employed in any mine within the meaning of the Mines Act, 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 Government by notification in the official Gazette.

War Injuries Compensation Insurance Scheme

7. (1) The Government shall, by notification in the official Gazette, put into operation a scheme to be called the War Injuries Compensation Insurance