

Workmen's Compensation (Amendment) Bill

Bill No. 50/2007.

Read the first time on 12th November 2007.

A BILL

i n t i t u l e d

An Act to amend the Workmen's Compensation Act (Chapter 354 of the 1998 Revised Edition) and to make consequential amendments to certain other written laws.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Workmen's Compensation (Amendment) Act 2007 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **Amendment of long title**

2. The long title to the Workmen's Compensation Act (referred to in this Act as the principal Act) is amended by deleting the word "workmen" and substituting the word "employees".

Amendment of section 1

10 3. Section 1 of the principal Act is amended by deleting the word "Workmen's" and substituting the words "Work Injury".

Amendment of section 2

4. Section 2 of the principal Act is amended —

15 (a) by deleting the word "declared" in the definition of "approved hospital" in subsection (1) and substituting the word "prescribed";

(b) by inserting, immediately after the definition of "approved hospital" in subsection (1), the following definition:

20 " "Assistant Commissioner" means any person appointed as an Assistant Commissioner (Work Injury Compensation) under section 2A;";

25 (c) by deleting the words ", and includes any officer to whom the Commissioner has delegated all or any of the powers conferred or duties imposed upon the Commissioner by this Act" in the definition of "Commissioner" in subsection (1);

(d) by deleting the definition of "domestic servant" in subsection (1);

(e) by deleting the words "in cash" in the definition of "earnings" in subsection (1);

30 (f) by inserting, immediately after the definition of "earnings" in subsection (1), the following definition:

““employee” means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether —

(a) by way of manual labour or otherwise;

5 (b) the contract is express or implied or is oral or in writing; and

(c) the remuneration is calculated by time or by work done,

10 but does not include any class of persons specified in the Fourth Schedule;”;

(g) by inserting, immediately after the definition of “injury” in subsection (1), the following definition:

““investigation officer” means any person appointed as an investigation officer under section 2A;”;

15 (h) by deleting the definition of “outworker” in subsection (1);

(i) by inserting, immediately after the definition of “total incapacity” in subsection (1), the following definition:

20 ““workplace” means any premises where a person is at work or is to work, for the time being works, or customarily works.”;

(j) by deleting the definition of “workman” in subsection (1); and

(k) by inserting, immediately after subsection (4), the following subsection:

25 “(4A) This Act shall apply to an accident happening, on or after the date of commencement of this subsection to any seaman onboard any Singapore ship within the meaning of the Merchant Shipping Act (Cap. 179), whether the ship was within or outside Singapore at the time of the accident.”.

New sections 2A and 2B

30 **5.** The principal Act is amended by inserting, immediately after section 2, the following sections:

“Appointment of Assistant Commissioners, investigation officers and authorised persons

5 **2A.**—(1) The Commissioner may appoint such number of public officers as Assistant Commissioners (Work Injury Compensation) and investigation officers and such persons as authorised persons, as may be necessary to assist the Commissioner in the administration of this Act.

10 (2) The Commissioner may delegate the exercise of all or any of the powers conferred or duties imposed upon him by this Act (except the power of delegation conferred by this subsection) to any Assistant Commissioner, investigation officer or authorised person, subject to such conditions or limitations as the Commissioner may specify.

Commissioner, Assistant Commissioner and investigation officer to be public servants

15 **2B.** The Commissioner and every Assistant Commissioner and investigation officer shall be deemed to be public servants within the meaning of the Penal Code (Cap. 224).”.

Insertion of Division heading to Part II

20 **6.** Part II of the principal Act is amended by inserting, immediately before section 3, the following Division heading:

“Division 1 — Entitlement and liability for compensation”.

Amendment of section 3

7. Section 3 of the principal Act is amended —

25 (a) by deleting the words “unless the injury results in the death or permanent incapacity causing a loss of not less than 50% of the earning capacity of the workman” in subsection (5)(a);

(b) by inserting, immediately after subsection (5), the following subsection:

“(5A) In this section, “drug” means —

30 (a) a controlled drug within the meaning of the Misuse of Drugs Act (Cap. 185); or

(b) a prescription only drug specified for the purposes of section 29 of the Medicines Act (Cap. 176) that is not prescribed by a medical practitioner for the employee's consumption or use.”; and

5 (c) by deleting the words “a workman's” in subsection (6) and substituting the words “an employee's”.

Amendment of section 4

8. Section 4 of the principal Act is amended —

10 (a) by deleting subsection (1) and substituting the following subsection:

“(1) If —

15 (a) an employee who is employed in any occupation specified in the second column of the Second Schedule contracts an occupational disease specified in the first column of that Schedule opposite that occupation; or

20 (b) an employee who has been employed in that occupation contracts that disease within the period specified in the third column of that Schedule opposite that occupation after ceasing to be so employed,

25 and the incapacity or death of the employee results from that disease, compensation shall be payable as if the disease were a personal injury by accident arising out of and in the course of that employment, and all the other provisions of this Act shall apply accordingly, subject to this section.”;

(b) by deleting subsection (3) and substituting the following subsection:

30 “(3) No compensation shall be payable by an employer under this section in respect of the incapacity or death of an employee resulting from the employee contracting an occupational disease if the employee's incapacity commences or his death happens more than the period specified in the third column of the Second Schedule opposite the disease after the
35 employee ceases to be in his employment.”;

- (c) by inserting, immediately before the word “disease” in subsections (4), (5) and (6), the word “occupational”;
- (d) by inserting, immediately after the words “For all other purposes of this Act,” in subsection (5), the words “in a claim for compensation under this section,”; and
- (e) by deleting the words “a disease” in subsection (7) and substituting the words “an occupational disease”.

Amendment of section 6

9. Section 6 of the principal Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) Compensation under this Act shall be payable to or for the benefit of the employee or, where death results from the injury, to the deceased employee’s estate or to or for the benefit of his dependants as provided by this Act.”.

Repeal and re-enactment of sections 7 and 8

10. Sections 7 and 8 of the principal Act are repealed and the following Division heading and sections substituted therefor:

“Division 2 — Computation of compensation

Amount of compensation

7. The amount of compensation under this Act in respect of any personal injury of an employee caused by accident arising out of and in the course of his employment shall be computed in accordance with the Third Schedule.

Method of calculating earnings

8.—(1) For the purposes of this Act, the earnings of an employee shall be computed in such manner as is best calculated to give his true monthly earnings at the date of the accident, subject to the following provisions:

- (a) where the employee has been employed by the employer for whom he was working at the time of the accident for a continuous period which is more than a month immediately preceding the accident, his monthly earnings shall be the

average amount of his earnings during the continuous period of not more than 12 months immediately preceding the accident;

- 5 (b) where the employee has been employed by the employer for whom he was working at the time of the accident for a continuous period which is a month immediately preceding the accident or shorter, his monthly earnings shall be the actual earnings he would have received for the whole month immediately preceding the accident; and
- 10 (c) where reliable evidence of the earnings of the relevant employee under paragraph (a) or (b) does not exist or cannot be adduced without undue delay or expense, regard may be had to evidence of the earnings of employees employed on similar work in the same locality at or about the date of the
- 15 accident.

(2) Where an employee is employed under contracts of service with 2 or more employers under which he worked at one time for one such employer and at another time for another such employer, his monthly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was

20 working at the time of the accident, except contracts of service that the last-mentioned employer does not know.”.

Amendment of section 9

11. Section 9 of the principal Act is amended —

- 25 (a) by deleting paragraph (a) of subsection (1A) and substituting the following paragraph:

“(a) in respect of injury which has resulted in the death or permanent incapacity of the employee, authorise payment of compensation to be made directly to —

- 30 (i) an employee who is not less than 18 years of age;
- (ii) one or more of the dependants of the deceased employee and in such proportion as the Commissioner thinks fit, except that where a will has been produced, such payment may instead be
- 35 made directly to the estate of the deceased employee; or

(iii) any committee or committees of the employee and estate of the employee appointed under the Mental Disorders and Treatment Act (Cap. 178) where the employee has become mentally incapacitated;”;

(b) by deleting subsection (4) and substituting the following subsections:

“(4) Compensation deposited in respect of an accident resulting in the death of an employee may be apportioned among one or more of the dependants of the deceased employee and in such proportion as the Commissioner thinks fit, except that where a will has been produced, such compensation may instead be paid to the estate of the deceased employee.

(4A) Compensation deposited in respect of an accident resulting in the permanent incapacity of an employee who, before the payment of such compensation is made, becomes mentally incapacitated may be payable to —

(a) any one or more of the dependants of the employee;
or

(b) any committee or committees of the employee and estate of the employee appointed under the Mental Disorders and Treatment Act (Cap. 178).”;

(c) by deleting the words “a monthly payment” in subsection (5A) and substituting the words “any periodical payment of compensation for temporary incapacity”.

Amendment of section 10

12. Section 10 of the principal Act is amended by deleting the words “lump sum or monthly payment” and substituting the words “payment of compensation”.

Amendment of section 11

13. Section 11(1) of the principal Act is amended —

(a) by deleting the word “and” at the end of paragraph (a); and

(b) by deleting the full-stop at the end of paragraph (b) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(c) the claim has been made in such form and manner as the Commissioner may determine.”.

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Amendment of section 12

14. Section 12 of the principal Act is amended by deleting subsections (1) and (2) and substituting the following subsection:

“(1) Every employer shall give notice to —

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(a) the Commissioner in such form and manner as the Commissioner may determine; and

(b) his insurer in writing,

of the occurrence of every prescribed event that may give rise to a claim for compensation under this Act within the time prescribed for that event.”.

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New section 12A

15. The principal Act is amended by inserting, immediately after section 12, the following section:

“Change of address

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12A.—(1) Where any claim for compensation has been made under this Act by an employee or by a person acting on behalf of an employee who is dead or mentally incapacitated, and the Commissioner has reason to believe that there is a change during the currency of the claim in the address used by the employee or the person for the purposes of the claim, the Commissioner may serve a notice on the employee or the person, as the case may be, requesting for particulars of any change in address.

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(2) Subject to subsection (3), the employee or the person acting on behalf of an employee who is dead or mentally incapacitated, as the case may be, on whom the Commissioner has served a notice under subsection (1) shall, within a period of 14 days after the service of the notice, inform the employee’s employer and the Commissioner, in writing or in person, of any change in address.

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(3) Subsection (2) shall not apply if the compensation has been fully paid in accordance with this Act.

(4) Notwithstanding section 13(4), if an employee or the person acting on behalf of an employee who is dead or mentally incapacitated fails, without reasonable cause, to notify the Commissioner of any change in the address as is required by subsection (2), the employee's right to compensation shall be suspended from the 15th day after the Commissioner has served a notice under subsection (1) on the employee or the person, as the case may be.

(5) Any suspension under subsection (4) shall cease upon the employee or the person acting on behalf of an employee who is dead or mentally incapacitated, as the case may be, providing the particulars of any change in the address used by the employee or the person for the purposes of the claim.

(6) If at the end of 3 months after the Commissioner has served a notice referred to in subsection (1), the employee or the person acting on behalf of an employee who is dead or mentally incapacitated, as the case may be, still fails to provide the particulars of any change in the address to the Commissioner as requested by that notice, then notwithstanding section 13(4), no compensation under this Act shall be payable in respect of the claim to which the notice relates unless the Commissioner is satisfied that there was reasonable cause for the failure.”.

Amendment of section 13

16. Section 13 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) When notice of an accident has been given to an employer by an employee or on the employee's behalf, the employer shall, before the expiry of the 5th day after the giving of the notice, offer to have the employee examined free of charge by a medical practitioner, and the employee shall submit himself for such medical examination.”;

(b) by deleting the words “Any workman” in subsection (1A) and substituting the words “Any employee”;

- (c) by deleting the words “a monthly payment” in subsection (1A) and substituting the words “any periodical payment of compensation for temporary incapacity”;
- (d) by deleting the words “A workman” in subsection (1B) and substituting the words “An employee”;
- (e) by deleting subsection (2);
- (f) by deleting the words “6 months” in the 5th line of subsection (3) and substituting the words “3 months”;
- (g) by inserting, immediately after the word “dependants” in subsection (5), the words “or the estate”;
- (h) by deleting the words “monthly payments” in the 1st line of subsection (7)(a) and substituting the words “any periodical payment of compensation for temporary incapacity”; and
- (i) by deleting the word “monthly” in the 3rd and 8th lines of subsection (7)(a).

Amendment of section 14

17. Section 14 of the principal Act is amended —

- (a) by deleting the words “by notification in the *Gazette* declare” in subsection (1) and substituting the word “prescribe”;
- (b) by deleting subsections (2), (3) and (4) and substituting the following subsections:
 - “(2) Where personal injury by accident arising out of and in the course of employment is caused to —
 - (a) an employee and the injured employee receives medical treatment by a medical practitioner or at an approved hospital for his injury, being medical treatment that is certified by any attending medical practitioner to be necessary; or
 - (b) an employee referred to in section 2(4) or (4A) and the injured employee receives medical treatment —
 - (i) outside Singapore for the accident which occurs outside Singapore; and

(ii) which, in the view of the Commissioner, requires immediate medical treatment due to the nature of injury suffered by the employee,

the employer of the employee shall be liable to pay compensation in accordance with paragraph 5 of the Third Schedule for the medical treatment received by the employee.

(3) Any compensation under subsection (2) for medical treatment received by an employee at an approved hospital for personal injury by any accident arising out of and in the course of the employment shall be paid directly to the proprietor of the approved hospital, after deducting any amount previously paid by the employee in relation to the medical treatment; and the proprietor of an approved hospital shall be entitled to recover such compensation (less those deductions) directly from the employer.

(4) Where an employee has paid for the cost of any medical treatment which an employer is liable to pay under subsection (2), the employee shall be entitled to recover such cost from the employer.”; and

(c) by deleting the section heading and substituting the following section heading:

“Compensation for medical treatment”.

New section 14A

18. The principal Act is amended by inserting, immediately after section 14, the following section:

“Payment of compensation for temporary incapacity

14A.—(1) Where any injury by accident arising out of and in the course of employment results in the temporary incapacity of an employee, the compensation the employer shall pay to the employee shall be a periodical payment of the amount prescribed in paragraph 4 of the Third Schedule.

(2) Such compensation in respect of injury resulting in temporary incapacity of an employee shall be in accordance with paragraph 4 of the Third Schedule, and shall be payable not later than the same day

as earnings would have been payable to the employee under the contract of service or apprenticeship under which he was employed at the time of the accident (except that the interval between periodical payments shall in no case exceed one month) even though —

5 (a) no claim for compensation in respect of that injury is made under this Act; or

 (b) a claim for compensation in respect of that injury has not been assessed or determined by the Commissioner.

10 (3) Notwithstanding any other provision of this Act, the Commissioner may order the employee to refund to the employer any payment made by the employer under subsection (1) if —

 (a) the employee fails to make any claim for compensation within the time limited by and in accordance with section 11;

15 (b) the employee withdraws his claim for compensation;

 (c) the Commissioner has determined that no compensation be paid to the employee; or

 (d) it has come to the attention of the Commissioner that the employee has made a false claim.”.

20 **Amendment of section 17**

19. Section 17 of the principal Act is amended —

 (a) by deleting the word “contractor” wherever it appears in subsection (1) and substituting in each case the word “employer”;

25 (b) by inserting, immediately after subsection (1), the following subsection:

 “(1A) For the purposes of this section, the Commissioner shall, in his discretion and notwithstanding any claim by the employee, determine that a claim for compensation be made, or a recovery of compensation be obtained, against the principal or the employer.”;

30 (c) by inserting, immediately after the words “Where a claim has been” in subsection (2), the words “determined by the Commissioner to be”;

- (d) by deleting subsection (4) and substituting the following subsection:

“(4) Nothing in this section shall be construed as preventing the Commissioner from ordering the compensation under this Act to be recovered from the employer instead of the principal, and a claim so determined by the Commissioner to be made against a principal or an employer, as the case may be, shall not bar subsequent proceedings under this Act against the other to recover so much of the compensation as may remain unpaid.”; and

- (e) by deleting the section heading and substituting the following section heading:

“Liability of principals”.

Amendment of section 18

- 15 **20.** Section 18 of the principal Act is amended —

- (a) by inserting, immediately after the words “some person other than the employer”, the words “(referred to in this section as the third party)”;
- (b) by deleting the word “workman” in paragraphs (a) and (b) and substituting in each case the word “employee”;
- (c) by deleting the words “that person” in paragraph (a) and substituting the words “the third party”;
- (d) by deleting the words “by the person” in paragraph (b) and substituting the words “by the third party”; and
- (e) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“**(2)** Where any injury is caused to an employee by accident arising out of and in the course of his employment under circumstances which give a right to recover reduced damages in respect thereof from a third party by virtue of any wilful act or negligence of the employer or employee, any right conferred by subsection (1) on —

- (a) the person by whom any compensation under this Act was paid; and

(b) any person who has been called upon to pay an indemnity under section 17(3),

to be indemnified by the third party shall be limited to a right to be indemnified in respect of such part only of the total compensation paid or payable in such proportion as the court may determine as is appropriate to the degree to which the injury was attributable to the act, default or negligence of the third party.”.

Repeal and re-enactment of section 22

21. Section 22 of the principal Act is repealed and the following section substituted therefor:

“Commissioner may receive and pay to dependants, etc., money due to dead or mentally incapacitated employee from employer

22.—(1) Notwithstanding anything in any written law relating to the administration or distribution of estates of deceased persons for the time being in force in Singapore, where it appears to the Commissioner that compensation or interest is payable to an employee under this Act and the employee has died before such payment is made, it shall be lawful for the Commissioner to receive and pay the compensation or interest, without production of a grant of representation, to any one or more of the dependants of the deceased employee or to the estate of the deceased employee.

(2) Where it appears to the Commissioner that compensation or interest is payable to an employee under this Act and the employee is mentally incapacitated before such payment is made, it shall be lawful for the Commissioner to receive and pay the compensation or interest to any one or more of the dependants of the employee for the benefit of the employee without the appointment of any committee or committees of the employee and estate of the employee required under the Mental Disorders and Treatment Act (Cap. 178).”.

Repeal and re-enactment of section 23

22. Section 23 of the principal Act is repealed and the following section substituted therefor:

“Compulsory insurance against employer’s liability

23.—(1) Every employer shall insure and maintain insurance under one or more approved policies with an insurer within the meaning of the Insurance Act (Cap. 142) against all liabilities which he may incur under the provisions of this Act in respect of any employee employed by him unless the Minister, by notification in the *Gazette*, waives the requirement of such insurance in relation to any employer.

(2) The Minister may, from time to time, prescribe the minimum amounts for which an employer shall insure himself in respect of any of his liabilities under this Act.

(3) For the avoidance of doubt, an employer shall be liable to pay any liability that he may incur under this Act in excess of the insurance limits that the Minister may prescribe under subsection (2).

(4) In this section, “approved policy” means a policy of insurance not subject to any conditions or exceptions prohibited by regulations made under this Act.

(5) Any conditions or exceptions imposed in a policy of insurance by any insurer which are prohibited by regulations made under this Act shall not absolve the insurer’s liability under the policy.”.

Amendment of section 24

23. Section 24 of the principal Act is amended —

(a) by deleting subsection (2) and substituting the following subsection:

“(2) The Commissioner shall cause to be served on the employer and the person claiming compensation for any injury resulting from an accident —

(a) a notice of assessment of compensation stating the amount of the compensation payable in accordance with the assessment made by the Commissioner under subsection (1); or

(b) a notice of assessment of compensation stating that no compensation is payable if the Commissioner is of the view that the injury to which the claim relates did not arise out of or in the course of the person’s

employment or that the person was not an employee within the meaning of this Act.”;

- (b) by deleting subsection (3) and substituting the following subsections:

5 “(3) A notice of assessment of compensation referred to in subsection (2)(a) that is served under subsection (2) on an employer and the person claiming compensation shall be deemed to have been agreed upon by the employer and the person claiming compensation, and shall have the effect of an order under section 25D on —

- 10 (a) the 15th day after the notice is served where no objection is received by the Commissioner within a period of 14 days after the service of the notice; or
- 15 (b) the 29th day after the notice is served where all objections so received by the Commissioner are withdrawn within a period of 28 days after the service of the notice.

20 (3A) Any notice of assessment of compensation referred to in subsection (2)(b) that is served under subsection (2) on an employer and the person claiming compensation shall have the effect of an order under section 25D on the 15th day after the notice of assessment is served if no objection is received by the Commissioner within a period of 14 days after the service of the notice.

25 (3B) No appeal shall lie against any order under subsection (3) or (3A).”;

- (c) by deleting subsection (4) and substituting the following subsection:

30 “(4) The employer shall pay the amount of compensation determined to the Commissioner or such person claiming compensation as the Commissioner may direct —

- 35 (a) within a period of 21 days after the service of a notice of assessment of compensation on the employer if no objection is received by the Commissioner within the time limited under subsection (3)(a); or

- 5 (b) within a period of 35 days after the service of a notice of assessment of compensation on the employer if all objections so received by the Commissioner are withdrawn within the time limited under subsection (3)(b).”;
- (d) by deleting subsection (5);
- (e) by deleting the words “silicosis or asbestosis” in subsection (6) and substituting the words “any prescribed occupational disease specified in the Second Schedule”;
- 10 (f) by inserting, immediately before the word “disease” in subsection (6), the word “occupational”; and
- (g) by deleting subsections (9) and (10).

Repeal and re-enactment of section 25

15 **24.** Section 25 of the principal Act is repealed and the following section substituted therefor:

“Objection to notice of assessment

20 **25.—**(1) If any employer or person claiming compensation objects to any notice of assessment of compensation issued by the Commissioner under section 24(2), he shall, within a period of 14 days after the service of the notice of assessment (or such longer period as the Commissioner may, in his discretion, allow in any particular case), give notice of his objection in the prescribed form and manner to the Commissioner stating precisely the grounds of his objection.

25 (2) The Commissioner shall disregard any ground of objection that is contained in any notice of objection given outside of the period allowed for objections under subsection (1).”.

New sections 25A to 25D

30 **25.** The principal Act is amended by inserting, immediately after section 25, the following sections:

“Power to make orders and give directions for determination of claim

5 **25A.**—(1) Notwithstanding anything in this Act, the Commissioner may, at any time after a claim for compensation has been made under section 11, make such order or give such direction as he thinks fit, including the direction for any person in relation to the claim to appear before him, for the determination of the claim.

10 (2) Where any party fails to comply with any order made or direction given by the Commissioner under subsection (1), the Commissioner may dismiss the claim or make such other order as he thinks fit.

 (3) The Commissioner may, in exercising his powers under subsection (1), make such order as to costs as he thinks fit.

15 (4) Any order or direction made or given against any person who does not appear before the Commissioner when directed to do so under subsection (1) may be set aside or varied by the Commissioner on such terms as he thinks just.

Pre-hearing conferences to be held when directed by Commissioner

20 **25B.**—(1) Without prejudice to the generality of section 25A(1), at any time after a claim for compensation has been made under section 11, the Commissioner may direct parties to attend a pre-hearing conference by serving a notice to the parties.

25 (2) At the pre-hearing conference, the Commissioner may consider any matter including the possibility of settlement of all or any of the issues for the hearing and require the parties to furnish the Commissioner with any such information and document as he thinks fit, and may also give all such directions as appear to be necessary or desirable for the determination of any issue for hearing.

30 (3) If any party defaults in complying with any such directions as may be given by the Commissioner under subsection (2), the Commissioner may, either in his own discretion or upon the application of any party, make a decision concerning the claim and in pursuance of that decision, make such order for payment of
35 compensation as he thinks just.

(4) Any order made under subsection (3) may be set aside or varied by the Commissioner, on the application of any party, on such terms, if any, as he thinks just.

(5) At any time during the pre-hearing conference where the parties are agreeable to a settlement of some or all of the matters for hearing, the Commissioner may record that settlement and make an order to give effect to the settlement.

Failure to appear of one or more parties

25C.—(1) If, at the time appointed for the pre-hearing conference, one or more of the parties to the action or proceedings fail to attend, the Commissioner may make a decision concerning the claim and make such order as to compensation or costs as he thinks just.

(2) An order made by the Commissioner in the absence of a party concerned or affected by the order may be set aside or varied by the Commissioner, on the application of that party, on such terms as he thinks just.

(3) Without prejudice to the generality of subsection (1), where one or more of the parties to the action or proceedings fail to attend the pre-hearing conference, the Commissioner may, if he thinks fit, adjourn the pre-hearing conference.

Power of Commissioner to conduct hearing

25D. The Commissioner may, after a claim for compensation has been made under section 11 —

(a) conduct a hearing of the case and hand down a decision accordingly; and

(b) make any order for the payment of compensation as he thinks just at or after the hearing.”.

Amendment of section 26

26. The principal Act is amended by renumbering section 26 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) Where any medical board or panel has been established under this Act to assist the Commissioner to determine the extent of injury suffered by an employee in an accident, any determination by the

medical board or panel as to the extent of the injury shall be treated as being conclusive by the Commissioner when assessing or determining the amount of compensation payable to the employee.”.

Amendment of section 27

5 **27.** Section 27(1) of the principal Act is amended by inserting, immediately after paragraph (b), the following paragraphs:

10 “(ba) where the person is mentally incapacitated — with the leave of the Commissioner, by any of his dependants or any committee or committees appointed under the Mental Disorders and Treatment Act (Cap. 178) to manage his property;

15 (bb) where the person is dead — with the leave of the Commissioner, by any of his dependants or his estate, whether or not the estate has obtained a grant of representation;”.

Amendment of section 28

28. Section 28 of the principal Act is amended —

20 (a) by deleting the words “by the Commissioner under section 25” in subsection (1) and substituting the words “or deemed to be made under section 9(5A) or (7), 13(7), 14A(3), 24, 25A, 25B, 25C or 25D”; and

 (b) by inserting, immediately after subsection (1), the following subsection:

25 “(1A) Where an order for compensation has been made under section 25B, 25C or 25D, the employer shall, within a period of 21 days after the order is made, pay the Commissioner or such other person as the Commissioner may direct, the amount of compensation so ordered.”.

New section 28A

30 **29.** The principal Act is amended by inserting, immediately after section 28, the following section:

“Payment of interest

28A.—(1) Where an employer fails to pay compensation in accordance with section 24(4) or 28(1A), or where an employer fails to make a deposit with the Commissioner under section 29(3), the employer shall be liable to pay the Commissioner or such other person as the Commissioner may direct, interest on the amount unpaid at such prescribed rate subject to the following provisions:

(a) the amount of interest on compensation unpaid shall not exceed 50% of the assessed amount of compensation; and

(b) the Commissioner may, in his discretion, waive or remit the whole or any part of such interest.

(2) Any interest under subsection (1) shall be payable —

(a) to or for the benefit of the employee;

(b) where the employee is dead, to or for the benefit of any one or more of the deceased employee’s dependants or to the estate of the deceased employee where a will has been produced, as the Commissioner deems fit, or where the deceased employee has no dependants, to the Workers’ Fund; or

(c) where the employee is mentally incapacitated, to any one or more of the employee’s dependants for the benefit of the employee, or to any committee or committees appointed under the Mental Disorders and Treatment Act (Cap. 178) to manage the employee’s property, as the Commissioner deems fit.”.

Amendment of section 29

30. Section 29 of the principal Act is amended —

(a) by deleting the words “section 24(3)” in subsection (1) and substituting the words “section 24(3B)”;

(b) by deleting the words “determined by the Commissioner under section 25” in subsection (3) and substituting the words “ordered by the Commissioner under section 25B, 25C or 25D”; and

(c) by deleting subsections (4) and (5).

Amendment of section 30

31. Section 30 of the principal Act is amended by inserting, immediately after the word “Commissioner” in the section heading, the words “during hearing”.

5 **New Part IV**

32. The principal Act is amended by inserting, immediately after section 30, the following Part:

“PART IV

POWERS, OFFENCES, PENALTIES AND PROCEEDINGS

10 **Powers of Commissioner and investigation officers**

30A. The Commissioner and any investigation officer shall, for the purposes of the execution of this Act, have power to do all or any of the following:

- (a) to enter, inspect and examine at any time any workplace;
- 15 (b) to enter, inspect and examine at all reasonable times any place which the Commissioner or investigation officer has reasonable cause to believe to be —
 - (i) a workplace; or
 - (ii) a place of which a workplace forms a part;
- 20 (c) to inspect and examine any machinery, equipment, plant, installation or article in any place referred to in paragraphs (a) and (b);
- (d) where the Commissioner, or an investigation officer, is a registered medical practitioner, to carry out on any person
 - 25 who is or had been working in a workplace such medical examinations as may be necessary for the purposes of this Act;
- (e) to take samples of any material or substance found in a workplace or being discharged from any workplace for the
 - 30 purpose of analysis or test;

- (f) to assess the levels of noise, illumination, heat or harmful or hazardous substances in any workplace and the exposure levels of persons at work therein;
- 5 (g) to take such photographs or video recording as the Commissioner or investigation officer thinks necessary of the premises and persons reasonably believed to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of this Act;
- 10 (h) to require any person whom the Commissioner or investigation officer has reason to believe has any document, including documents of identity or documents containing information relevant to the carrying out of the provisions of this Act, to produce any such document;
- 15 (i) to take into custody any article in the workplace which is required for the purpose of any investigation under this Act;
- (j) to require any person to attend at such time and place as may be specified in a notice served on that person, which is necessary for the purpose of any investigation under this Act;
- 20 (k) to examine orally any person supposed to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of this Act, and to reduce into writing the answer given or statement made by that person who shall be bound to state truly the facts and circumstances with which
- 25 he is acquainted; and the statement made by that person shall be read over to him and shall, after correction, be signed by him;
- 30 (l) to report any failure by any person to attend as required by a notice under paragraph (j), to a Magistrate who may thereupon issue a warrant to secure the attendance of that person as required by the notice.”.

Amendment of section 33

33. Section 33 of the principal Act is amended by deleting subsection (2) and substituting the following subsections:

- 35 “(2) Subject to subsections (2A) and (2B), no action for damages shall be maintainable in any court by an employee against his

employer in respect of any injury by accident arising out of and in the course of employment —

- 5 (a) if he has a claim for compensation for that injury under the provisions of this Act and does not withdraw his claim within a period of 28 days after the service of the notice of assessment of compensation in respect of that claim;
- (b) if he and his employer have agreed or are deemed to have agreed to the notice of assessment under section 24(2)(a) for that injury; or
- 10 (c) if he has recovered damages in respect of the injury in any court from any other person.

(2A) Where —

- 15 (a) a claim for compensation under this Act is made for an employee's injury by accident arising out of and in the course of the employment;
- (b) there is no objection by the employee to the notice of assessment of compensation in respect of that claim;
- (c) the compensation ordered by the Commissioner thereafter in respect of that claim is of a lesser amount than that stated in that notice of assessment of compensation in respect of that claim;
- 20 (d) within a period of 28 days after the making of the order, the employee notifies the Commissioner and the employer in writing that he does not accept the compensation so ordered, and has not received or retained any part of such compensation earlier paid (if any) by the employer; and
- 25 (e) no appeal under section 29 is made against the order,

the employee may institute an action in any court against his employer for damages in respect of that injury and any order made by the Commissioner in respect of that injury shall be void.

(2B) Where —

- 30 (a) the Commissioner assesses or makes an order that no compensation shall be payable for a claim for compensation for an employee's injury by accident arising out of and in the course of employment because —
- 35

- (i) the injury did not arise out of and in the course of the employee's employment; or
 - (ii) the injured person is not an employee within the meaning of this Act; or
- 5 (b) an appeal to the High Court under section 29 from an order made by the Commissioner has failed because of any reason mentioned in paragraph (a)(i) or (ii),
- the employee may institute an action in any court to recover damages independently of this Act for injury caused by that accident.”.

10 **Amendment of section 34**

34. Section 34 of the principal Act is amended by deleting the word “workmen’s” wherever it appears and in the section heading and substituting in each case the words “work injury”.

Repeal of sections 35 and 36 and new sections 35 to 45

- 15 **35.** Sections 35 and 36 of the principal Act are repealed and the following sections substituted therefor:

“Offences and penalties

35.—(1) Any employer who —

- 20 (a) for the purpose of defraying or partly defraying the cost of insurance in respect of his liability to pay compensation under this Act, makes any deduction from the earnings of an employee in his employment; or
- (b) fails to insure himself in accordance with section 23(1) or (2),

25 shall be guilty of an offence and shall be liable —

- (i) in the case of an offence under paragraph (a), on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both; and
- 30 (ii) in the case of an offence under paragraph (b), on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) Any person who —

- (a) fails to pay compensation in accordance with and within the time specified in this Act;
- (b) fails to pay the interest in accordance with section 28A(1);
- 5 (c) makes any statement or furnishes any information to the Commissioner or an investigation officer under this Act which he knows or ought reasonably to know is false in any material particular or is misleading by reason of the omission of any material particular;
- 10 (d) abets the commission of an offence under this Act;
- (e) wilfully obstructs or delays the Commissioner or an investigation officer in the exercise of his powers under section 30A; or
- 15 (f) fraudulently makes any claim for compensation under this Act which he knows to be false in order to induce or deceive the employer or insurer or the Commissioner in making payment of such compensation to him or any other person,

shall be guilty of an offence and shall be liable —

- 20 (i) in the case of an offence under paragraph (a) or (b), on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both;
- 25 (ii) in the case of an offence under paragraph (c) or (e), on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both;
- (iii) in the case of an offence under paragraph (d), on conviction to be punished with the punishment provided for that offence; and
- 30 (iv) in the case of an offence under paragraph (f), on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 12 months or to both.

Offences by bodies corporate, etc.

36.—(1) Where an offence under this Act or any regulations made thereunder is committed by a body corporate and it is proved to have

been committed with the consent or connivance of, or to be attributable to any act or default on the part of, any officer of the body corporate, the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act or any regulations made thereunder is committed by a partnership of individuals or bodies corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any act or default on the part of, any partner of the partnership or any officer of the body corporate, the partner or the officer of the body corporate as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act or any regulations made thereunder is committed by an unincorporated association (other than a partnership), any officer of the unincorporated association or member of its governing body and it is proved to have been committed with the consent or connivance of, or to be attributable to any act or default on the part of, any officer of the unincorporated association, or any person who was purporting to act in any such capacity, he as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

“body corporate” includes a limited liability partnership which has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“officer” —

(a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of the president, secretary or member of the committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(6) Regulations may provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

When Magistrate may take cognizance of offence

37. For the purpose of section 133 of the Criminal Procedure Code (Cap. 68) and notwithstanding subsections (1) and (2) thereof, a Magistrate may take cognizance of an offence under this Act upon receiving a complaint in writing and signed by the Commissioner.

Jurisdiction of court

38. Notwithstanding any provision to the contrary in the Criminal Procedure Code, a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

Composition of offences

39.—(1) The Commissioner or an Assistant Commissioner so authorised by the Commissioner may compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding —

- (a) one half of the amount of the maximum fine that is prescribed for the offence; or
- (b) \$5,000,

whichever is the lower.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) All sums collected under this section shall be paid to the Consolidated Fund.

Recovery of compensation upon conviction

5 **40.**—(1) The court before which any conviction under section 35(2)(a)(i) or (b)(i) is had may, on the application of the Commissioner, and in addition to the fine prescribed in that section, order the person convicted to pay the amount of any compensation ordered by the Commissioner or interest due.

10 (2) The court may order that the amount ordered to be paid under subsection (1) —

 (a) be paid directly to the person to whom the compensation amount or interest is due; and

 (b) be recoverable according to the law for the time being in force relating to the recovery of fines.

15 (3) Any amount ordered by the court under subsection (1) shall cease to be payable if the person convicted under that subsection has served a default sentence of imprisonment in relation to that amount.

PART V

GENERAL

20 **Government not liable to prosecution**

41. For the avoidance of doubt, nothing in this Act shall render the Government liable to prosecution for an offence.

Exempt employer from any provision

25 **42.**—(1) The Minister may, by order published in the *Gazette* and with or without conditions, exempt any class or description of employers from all or any of the provisions of this Act.

 (2) If an exemption is granted under subsection (1) with conditions, the exemption operates only if the conditions are complied with.

Service of documents, etc.

43.—(1) Subject to subsection (3), any notice or document required or authorised to be served under this Act may be served —

(a) in the case of an individual —

- 5 (i) by delivering it to the individual personally or any advocate and solicitor engaged by him;
 - (ii) by leaving it with an adult person apparently resident at, or by sending it by pre-paid registered post to, the usual or last known address of the place of residence of the individual;
 - 10 (iii) by leaving it with an adult person apparently employed at, or by sending it by pre-paid registered post to, the usual or last known address of the place of business of the individual;
 - 15 (iv) by affixing a copy of the notice in a conspicuous place at the usual or last known address of the place of residence or business of the individual;
 - (v) by sending it by facsimile transmission to the fax transmission number operated at the usual or last known address of the place of residence or business of the individual, or the last fax number given by the individual to the Commissioner or a person authorised by the Commissioner as the facsimile transmission number for the service of documents on the individual;
 - 20 or
 - (vi) by electronic communication, by sending an electronic communication of the document to the last email address given by the individual to the Commissioner or a person authorised by the Commissioner as the email address for the service of documents on the individual;
 - 30
- (b) in the case of a partnership other than a limited liability partnership —
- (i) by delivering it to any one of the partners or the secretary or other like officer of the partnership;

- 5
- (ii) by leaving it at, or by sending it by pre-paid registered post to, the principal or last known place of business of the partnership in Singapore;
- (iii) by sending it by facsimile transmission to the fax transmission number operated at the principal or last known place of business of the partnership in Singapore; or
- 10
- (iv) by electronic communication, by sending an electronic communication of the document to the last email address given by the partnership to the Commissioner or a person authorised by the Commissioner as the email address for the service of documents on the partnership; and
- 15
- (c) in the case of any limited liability partnership or any other body corporate —
- (i) by delivering it to the secretary or other like officer of the body corporate or, in the case of a limited liability partnership, the manager thereof;
- 20
- (ii) by leaving it at, or by sending it by pre-paid registered post to, the registered office or principal office of the limited liability partnership or body corporate in Singapore;
- (iii) by sending it by facsimile transmission to the fax transmission number operated at the registered office or principal office of the limited liability partnership or body corporate in Singapore; or
- 25
- (iv) by electronic communication, by sending an electronic communication of the document to the last email address given by the limited liability partnership or body corporate in Singapore to the Commissioner or a person authorised by the Commissioner as the email address for the service of documents on the limited liability partnership or body corporate.
- 30
- (2) Where any notice or other document to be served under this Act
- 35
- is —

- 5 (a) sent by a facsimile transmission to the fax transmission number operated at the last known place of residence or business or registered office or principal office in accordance with subsection (1), it shall be deemed to have been duly served on the person to whom it is addressed on the day of transmission, subject to receipt on the sending facsimile machine of a notification (by electronic or other means) of a successful transmission to the place of residence or business or registered office or principal office, as the case may be;
- 10 (b) sent by electronic communication to an email address in accordance with subsection (1), it shall be deemed to have been duly served on the person to whom it is addressed at the time of entering the information system addressed to the email address; and
- 15 (c) sent by pre-paid registered post, it shall be deemed to have been duly served on the person to whom it is addressed 2 days after the day the notice or document was posted, whether or not it is returned undelivered.

20 (3) Service of any document under this Act on a person by electronic communication may be effected only if the person gives as part of his or its address for service an email address.

(4) This section shall not apply to notices and documents to be served in proceedings in court.

25 **Amendment of Schedules**

44.—(1) The Minister may, by order published in the *Gazette*, add to or amend any of the Schedules.

30 (2) The Minister may, in any order made under subsection (1), make such saving or transitional provisions as may be necessary or expedient.

Regulations

45.—(1) The Minister may, from time to time, make regulations generally for the carrying out or giving effect to the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to all or any of the following matters:

- 5 (a) the limitations subject to which officers appointed to exercise powers and perform duties conferred and imposed on the Commissioner may exercise and perform such powers and duties;
- 10 (b) the intervals at which and conditions subject to which an employee may be required to submit himself for examination by a medical practitioner under this Act;
- (c) the manner in which money held for the benefit of dependants of a deceased employee may be invested;
- (d) the procedure in respect of any proceedings or any matter or thing to be done under this Act;
- 15 (e) the forms to be submitted and the fees to be paid in respect of any matter or thing done or document issued under this Act;
- (f) provide for the transfer outside Singapore of money in the hands of the Commissioner or for the receipt and
20 administration by the Commissioner of any money from outside Singapore applicable for the benefit of any person;
- (g) provide for the establishment, maintenance and application of the Workers' Fund;
- 25 (h) provide for the representation in proceedings before the Commissioner of parties who are subject to legal disability or are mentally incapacitated or are unable for other reasons to appear personally;
- 30 (i) provide for the procedure to be followed when a medical practitioner who has examined an employee certifies that medical treatment in an approved hospital is necessary under section 14 and the procedure for the payment of cost of medical treatment;
- (j) provide for the establishment of medical boards and panels to determine matters relating to medical evidence;

- (k) provide for the prohibition of conditions and exceptions in policies of insurance issued or renewed, and for certificates of insurance to be issued and displayed, for the purposes of section 23;
- 5 (l) provide for any matter relating to the calculation of earnings for the purposes of section 8;
- (m) the rate of interest on any compensation amount not paid for the purpose of section 28A(1);
- 10 (n) the period within which any compensation has to be paid by any person liable to pay the compensation under this Act;
- (o) any matter and condition which relates to the provision of insurance, the appointment of insurers and the imposition of any duties on insurers for the purpose of this Act;
- 15 (p) any other matter as may be necessary or expedient to be prescribed for carrying out the provisions of this Act.

(3) The regulations made under this section may prescribe offences in respect of the contravention of any specified provision thereof, and may prescribe that fines not exceeding \$10,000 or imprisonment for a term not exceeding 6 months or both, on conviction, be imposed in respect of any such offence.”.

20

Deletion and substitution of Second Schedule

36. The Second Schedule to the principal Act is deleted and the following Schedule substituted therefor:

“SECOND SCHEDULE

Sections 2(1), 4, 24(6) and 44(1)

OCCUPATIONAL DISEASES

<i>First column</i>	<i>Second column</i>	<i>Third column</i>
<i>Description of Occupational Disease or Injury</i>	<i>Nature of Occupation</i>	<i>Period</i>
1. Anthrax	Any occupation involving the handling of wool, hair, bristles, hides or skins or other animal products or residues, or contact with animals infected with anthrax.	12 months
2. Asbestosis	Any occupation involving exposure to asbestos dust.	3 years
3. Barotrauma	Any occupation involving subjection to compressed air.	12 months
4. Byssinosis	Any occupation involving exposure to raw cotton dust.	12 months
5. Cataract produced by exposure to the glare of, or rays from, molten glass or molten or red-hot metal	Any process involving frequent or prolonged exposure to the glare of, or rays from, molten glass or molten or red-hot metal.	12 months
6. Chrome Ulceration	Any process involving the use or handling of chromic acid, chromates or bichromates or any preparation or solution containing any of these substances.	12 months
7. Compressed Air Illness or its sequelae	Any occupation involving subjection to compressed air.	12 months

<i>First column</i>	<i>Second column</i>	<i>Third column</i>
<i>Description of Occupational Disease or Injury</i>	<i>Nature of Occupation</i>	<i>Period</i>
13. Leptospirosis or its sequelae	Any occupation involving contact with a source or sources of leptospiral infections e.g. abattoir, drainage and sewerage work, refuse collection, road sweeping and work with animals.	12 months
14. Liver Angiosarcoma	Any occupation involving the use or handling of, or exposure to, vinyl chloride monomer.	12 months
15. Mesothelioma	Any occupation involving the use or handling of, or exposure to, asbestos.	12 months
16. Noise-Induced Deafness	Any occupation involving prolonged exposure to a high level of noise.	12 months
17. Occupational Asthma	Any occupation involving the use or handling of, or exposure to, a chemical or other agent which may irritate or sensitise the respiratory system, e.g. isocyanates, rosin, formaldehyde, proteolytic enzymes.	12 months
18. Poisoning by —	Any occupation or process involving —	12 months
(a) Arsenic	— the use or handling of, or exposure to the fumes, dust or vapour of, arsenic or a compound of arsenic, or a substance containing arsenic or exposure to any solution containing arsenic or compound of arsenic;	

<i>First column</i> <i>Description of Occupational Disease or Injury</i>	<i>Second column</i> <i>Nature of Occupation</i>	<i>Third column</i> <i>Period</i>
(b) Benzene or a homologue	— the use or handling of, or exposure to the fumes of, or vapour containing benzene or any of its homologues;	
(c) Cadmium	— the use or handling of, or exposure to the fumes, or dust of cadmium or its compounds;	
(d) Carbamate	— the production, use or handling of carbamate;	
(e) Carbon disulphide	— the use or handling of, or exposure to the fumes or vapour of, carbon disulphide or a compound of carbon disulphide, or a substance containing carbon disulphide;	
(f) Carbon dioxide gas	— the exposure to carbon dioxide, e.g. in the manufacture of mineral water, fermentation in breweries or other processes;	
(g) Carbon monoxide gas	— the exposure to carbon monoxide, e.g. where blast furnaces and internal combustion engines are used;	

<i>First column</i> <i>Description of Occupational Disease or Injury</i>	<i>Second column</i> <i>Nature of Occupation</i>	<i>Third column</i> <i>Period</i>
(h) Cyanide	— the use or handling of, or exposure to the fumes, dust or vapour of, cyanide or compound of cyanide, or a substance containing cyanide;	
(i) Halogen derivatives of hydrocarbon compounds	— the production, liberation or use of any halogen derivative of hydrocarbon compounds;	
(j) Hydrogen sulphide	— the exposure to hydrogen sulphide, e.g. in oil refining, sewerage work and manholes;	
(k) Lead	— the use or handling of, or exposure to the fumes, dust or vapour of, lead or compound of lead, or a substance containing lead;	
(l) Manganese	— the use or handling of manganese or substance containing manganese;	
(m) Mercury	— the use or handling of, or exposure to the fumes, dust or vapour of, mercury or a compound of mercury, or a substance containing mercury;	

<i>First column</i>	<i>Second column</i>	<i>Third column</i>
<i>Description of Occupational Disease or Injury</i>	<i>Nature of Occupation</i>	<i>Period</i>
(n) Nitrous fumes	— the use or handling of nitric acid or exposure to nitrous fumes;	
(o) Organophosphates	— the production, use or handling of organophosphates;	
(p) Phosphorus	— the use or handling of, or exposure to the fumes, dust or vapour of, phosphorus or a compound of phosphorus, or a substance containing phosphorus.	
19. Silicosis	Any occupation involving exposure to silica dust, e.g. in granite quarries, foundries with sand moulds.	3 years
20. Toxic hepatitis	Any process involving the use or handling of, or exposure to, tetrachloroethane, nitro-derivatives or amino-derivatives of benzene, vinyl chloride monomer, or other poisonous substances.	12 months
21. Tuberculosis	Any occupation involving close and frequent contact with a source or sources of tuberculosis infection by reason of employment —	12 months

<i>First column</i> <i>Description of Occupational Disease or Injury</i>	<i>Second column</i> <i>Nature of Occupation</i>	<i>Third column</i> <i>Period</i>
22. Severe Acute Respiratory Syndrome (SARS)	<p>(a) in the medical treatment or nursing of a person or persons suffering from tuberculosis, or in a service ancillary to such treatment or nursing;</p> <p>(b) in attendance upon a person or persons suffering from tuberculosis, where the need for such attendance arises by reason of physical or mental infirmity;</p> <p>(c) as a research worker engaged in research in connection with tuberculosis;</p> <p>(d) as a laboratory worker, pathologist or post-mortem worker, where the occupation involves working with material which is a source of tuberculosis infection, or in any occupation ancillary to such employment.</p> <p>Any occupation involving close contact with any source of severe acute respiratory syndrome (SARS) infection by reason of employment —</p>	12 months

<i>First column</i> <i>Description of Occupational Disease or Injury</i>	<i>Second column</i> <i>Nature of Occupation</i>	<i>Third column</i> <i>Period</i>
	<p>(a) in the medical treatment or nursing of any person suffering from severe acute respiratory syndrome (SARS), or in a service ancillary to such treatment or nursing;</p> <p>(b) in attendance upon any person suffering from severe acute respiratory syndrome (SARS), where the need for such attendance arises by reason of physical or mental infirmity of the person or when engaged in the identification, detection, tracing, isolation, detention, supervision or surveillance of the person;</p> <p>(c) as a worker engaged in research on severe acute respiratory syndrome (SARS) or in a service ancillary to such research; or</p>	

<i>First column</i> <i>Description of Occupational Disease or Injury</i>	<i>Second column</i> <i>Nature of Occupation</i>	<i>Third column</i> <i>Period</i>
23. Avian Influenza	<p>(d) as a laboratory worker or post-mortem worker or funeral services worker, where the occupation involves working with any human body or other material which is a source of severe acute respiratory syndrome (SARS) infection, or in any occupation ancillary to such employment.</p> <p>Any occupation involving —</p> <p>(a) the handling of, or the exposure to, animals or birds; or</p> <p>(b) the exposure to any material or substance with the Avian Influenza virus.</p>	12 months.”.

Amendment of Third Schedule

37. The Third Schedule to the principal Act is amended —

- (a) by deleting the table in paragraph 1(1) and substituting the following table:

“TABLE

<i>First column</i>	<i>Second column</i>
<i>Age</i>	<i>Multiplying factor</i>
14 and below	136
15	135
16	135
17	134
18	134
19	133
20	132
21	132
22	131
23	130
24	129
25	128
26	127
27	127
28	125
29	124
30	123
31	122
32	121
33	120
34	118
35	117
36	115
37	114
38	112
39	110
40	108
41	107
42	106

<i>First column</i>	<i>Second column</i>
<i>Age</i>	<i>Multiplying factor</i>
43	105
44	104
45	103
46	102
47	101
48	100
49	98
50	96
51	94
52	92
53	90
54	88
55	86
56	84
57	82
58	80
59	78
60	75
61	72
62	68
63	63
64	58
65	53
66 and above	48”;

- (b) by deleting the words “\$111,000 or be less than \$37,000” in paragraph 1(2) and substituting the words “\$140,000 or be less than \$47,000”;
- (c) by deleting the table in paragraph 2(1) and substituting the following table:

“TABLE

<i>First column</i>	<i>Second column</i>
<i>Age</i>	<i>Multiplying factor</i>
14 and below	181
15	180
16	179
17	178
18	178
19	177
20	176
21	175
22	174
23	173
24	172
25	170
26	169
27	168
28	167
29	165
30	164
31	162
32	160
33	159
34	157
35	155
36	153
37	151
38	149
39	146
40	144
41	142
42	140

<i>First column</i>	<i>Second column</i>
<i>Age</i>	<i>Multiplying factor</i>
43	138
44	136
45	134
46	132
47	130
48	128
49	126
50	124
51	122
52	120
53	118
54	116
55	114
56	111
57	108
58	105
59	102
60	99
61	96
62	92
63	87
64	82
65	77
66 and above	72”;

- (d) by deleting the words “\$147,000 or be less than \$49,000” in paragraph 2(2) and substituting the words “\$180,000 or be less than \$60,000”;
- (e) by deleting sub-paragraph (3) of paragraph 2 and substituting the following sub-paragraph:

“(3) Notwithstanding sub-paragraph (2), where the injured employee is certified by a medical practitioner to have suffered from permanent total incapacity, additional compensation shall be paid amounting to one quarter of the amount which is otherwise payable under this paragraph.”;

5 (f) by deleting the words “a payment every month of an amount equal to two-thirds of his monthly earnings” in paragraph 4(1) and substituting the words “a further periodical payment of an amount equal to two-thirds of his earnings”;

(g) by deleting the word “monthly” in paragraph 4(2);

10 (h) by deleting sub-paragraph (3) of paragraph 4 and substituting the following sub-paragraph:

“(3) If the temporary incapacity of the employee ceases before the date on which any payment under sub-paragraph (1) falls due, he shall be paid an amount as is appropriate to the duration of such temporary incapacity.”;
15 and

(i) by deleting paragraph 5 and substituting the following paragraph:

“5.—(1) Any compensation payable by an employer for the medical treatment received by an employee in relation to his injury by accident arising out of and in the course of employment shall be the lower of the
20 following amounts:

(a) the cost of medical treatment received by the employee within a period of one year after the happening of the accident causing the injury; or

(b) \$25,000 per accident per employee.

25 (2) For the avoidance of doubt, the cost of medical treatment shall include, but is not limited to, the fees for medical reports as required for the purpose of this Act, the charges for physiotherapy and occupational and speech therapy, and the cost of medicines and artificial limbs and surgical appliances.”.

30 **New Fourth Schedule**

38. The principal Act is amended by inserting, immediately after the Third Schedule, the following Schedule:

“FOURTH SCHEDULE

Sections 2(1) and 44(1)

CLASSES OF PERSONS NOT COVERED UNDER THE ACT

1. Any member of the Singapore Armed Forces.
- 5 2. Any officer of the Singapore Police Force, the Singapore Civil Defence Force, the Central Narcotics Bureau or the Singapore Prisons Service.
3. A domestic worker, being any person employed in or in connection with the domestic services of any private premises.”.

Miscellaneous amendments

10 **39.** The principal Act is amended —

- (a) by deleting the word “workman” wherever it appears in the following provisions and substituting in each case the word “employee”:

15 Sections 2(1) (definitions of “dependant”, “earnings” and “employer” (12th and penultimate lines)), (3) (2nd line) and (4) (2nd line), 3(5)(a) (2nd and 3rd lines), 4(2) (4th line), (4) (2nd and 3rd lines) and (5), 6(2) and (3), 9(1) (penultimate line), (3) (4th line), (5A) and (6), 10, 11(1)(a) and (5), 13(3) (6th, 8th and 9th lines), (5) (last line) and (7), 14(5), 15(1), 17(1), (2) and (3), 19(1) (3rd and last lines), (1A), (2), (3) and (3A), 27(2) and 33(3) (7th and penultimate lines) and Third Schedule (paragraphs 1(1), 2(1), 3(1)(b) and 4(1) and (4) (penultimate line));

- 25 (b) by deleting the word “workman’s” in the following provisions and substituting in each case the word “employee’s”:

Sections 2(1) (definition of “dependant”), 13(7)(a) (6th line) and 33 (section heading);

- (c) by deleting the words “a workman” in the following provisions and substituting in each case the words “an employee”:

30 Sections 2(1) (definitions of “employer” (10th line), “partial incapacity” (3rd line) and “total incapacity” (2nd line)), (3) (1st line) and (4) (1st line), 3(1) to (4) and (5)(a) (1st line), 4(2) (1st line) and (3A), 5, 9(1) (2nd line) and (3) (2nd line), 13(3) (1st

Consequential amendments to other written laws

40. The provisions of the Acts specified in the first column of the Schedule are amended in the manner set out in the second column thereof.

Transitional and savings provisions

5 **41.**—(1) Subject to subsections (2) to (5) and any regulations made under subsection (6), the provisions of the principal Act as amended by this Act shall not apply with respect to claims for compensation, and any rights and obligations, in respect of personal injury caused by accidents happening before the date of commencement of this section, and the
10 provisions of the principal Act in force immediately before the commencement of this section shall continue to apply with respect to those claims for compensation and rights and obligations as if this Act had not been enacted.

15 (2) Sections 9, 11(*a*) and (*b*), 15, 19, 21, 25, 26, 27, 28(*a*), 30(*b*), 32 and 35 of this Act shall apply with respect to claims for compensation, and any rights and obligations, in respect of personal injury caused by accidents happening before the respective dates of commencement of those sections.

20 (3) Sections 13(*b*), 23(*a*), (*b*), (*c*), (*e*) and (*f*), 24 and 33 of this Act shall apply with respect to claims for compensation, and any rights and obligations, in respect of personal injury caused by accidents happening before the respective dates of commencement of those sections except where a claim for compensation in respect of the injury has been made before the respective dates of commencement of those sections (referred
25 to in this subsection as an excepted claims); and the former provisions of the principal Act in force immediately before the commencement of those sections shall continue to apply to those excepted claims as if those sections had not been enacted.

30 (4) Sections 23(*d*), 28(*b*) and 30(*c*) of this Act shall apply with respect to claims for compensation, and any rights and obligations, in respect of personal injury caused by accidents happening before the respective dates of commencement of those sections except where an order has been made before the respective dates of commencement of those sections; and the former provisions of the principal Act in force immediately before the
35 commencement of those sections shall continue to apply to all those claims and rights and obligations as if those sections had not been enacted.

(5) Any subsidiary legislation made under the principal Act as in force before the commencement of section 22 of this Act and in force immediately before that commencement shall, so far as it is not inconsistent with the provisions of the principal Act as amended, continue
 5 in force until it is revoked or repealed by subsidiary legislation made under the principal Act as amended by section 22 of this Act.

(6) For a period of 2 years after the date of commencement of this section, the Minister may, by regulations published in the *Gazette*, prescribe such provisions of a savings or transitional nature consequent on
 10 the enactment of this Act, as he may consider necessary or expedient.

THE SCHEDULE

Section 40

CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAWS

<i>First column</i>	<i>Second column</i>
(1) Appraisers and House Agents Act (Chapter 16, 2000 Ed.) Second Schedule, item 7	Delete the words “workmen’s compensation” and substitute the words “work injury compensation”.
(2) Bankruptcy Act (Chapter 20, 2000 Ed.) Section 90(1)	Delete the words “workmen’s compensation under the Workmen’s Compensation Act” in paragraph (d) and substitute the words “work injury compensation under the Work Injury Compensation Act”.
(3) Building Maintenance and Strata Management Act 2004 (Act 47 of 2004) Section 71(1)	Delete the words “Workmen’s Compensation Act” in paragraph (a) and substitute the words “Work Injury Compensation Act”.

<i>First column</i>	<i>Second column</i>
<p>(4) Companies Act (Chapter 50, 2006 Ed.) Section 328</p>	<p>(i) Delete the words “workmen’s compensation under the Workmen’s Compensation Act” in subsection (1)(d) and substitute the words “work injury compensation under the Work Injury Compensation Act”.</p> <p>(ii) Delete the words “workmen’s compensation” in subsection (9)(a) and substitute the words “work injury compensation”.</p>
<p>(5) Employment Act (Chapter 91, 1996 Ed.) Section 44(5)</p>	<p>Delete the words “Workmen’s Compensation Act” and substitute the words “Work Injury Compensation Act”.</p>
<p>(6) HUDC Housing Estates Act (Chapter 131, 1985 Ed.) Section 32(1)</p>	<p>Delete the words “Workmen’s Compensation Act” in paragraph (a) and substitute the words “Work Injury Compensation Act”.</p>
<p>(7) Institute of Technical Education Act (Chapter 141A, 1993 Ed.) Section 38</p>	<p>(i) Delete the words “workmen (within the meaning of the Workmen’s Compensation Act)” in subsection (1) and substitute the words “employees (within the meaning of the Work Injury Compensation Act)”.</p> <p>(ii) Delete the words “Workmen’s Compensation Act” in subsection (2) and substitute the words “Work Injury Compensation Act”.</p>

*First column**Second column*

- (iii) Delete the words “a workman” in subsection (2) and substitute the words “an employee”.
- (iv) Delete the word “workmen” in the marginal note and substitute the word “employees”.
- (8) Insurance Act
(Chapter 142, 2002 Ed.)
Section 46(13)
- Delete the words “Workmen’s Compensation Act” in paragraph (a) and substitute the words “Work Injury Compensation Act”.
- (9) Jurong Town Corporation Act
(Chapter 150, 1998 Ed.)
Section 63(2)
- Delete the words “compensation to workmen” and substitute the words “compensation to employees defined under the Work Injury Compensation Act (Cap. 354)”.
- (10) Limited Liability Partnerships Act
(Chapter 163A, 2006 Ed.)
Fifth Schedule, paragraph 76
- (i) Delete the words “workmen’s compensation under the Workmen’s Compensation Act” in sub-paragraph (1)(d) and substitute the words “work injury compensation under the Work Injury Compensation Act”.
- (ii) Delete the words “workmen’s compensation” in sub-paragraph (10)(a) and substitute the words “work injury compensation”.

<i>First column</i>	<i>Second column</i>
<p>(11) Merchant Shipping Act (Chapter 179, 1996 Ed.)</p> <p>Section 75(2)</p>	<p>Delete the words “Workmen’s Compensation Act” and substitute the words “Work Injury Compensation Act”.</p>
<p>(12) Motor Vehicles (Third-Party Risks and Compensation) Act (Chapter 189, 2000 Ed.)</p> <p>Section 10(6)</p>	<p>Delete the words “Workmen’s Compensation Act” in paragraph (b) and substitute the words “Work Injury Compensation Act”.</p>
<p>(13) Pension Fund Act (Chapter 224A, 1996 Ed.)</p> <p>The Schedule</p>	<p>Delete item 11 and substitute the following item:</p> <p style="padding-left: 40px;">“11. The Work Injury Compensation Act (Cap. 354).”.</p>
<p>(14) Pensions Act (Chapter 225, 2004 Ed.)</p> <p>First Schedule</p> <p>(a) Regulation 20</p> <p>(b) Regulation 21(2)</p> <p>(c) Regulation 22(6)</p>	<p>Delete the words “Workmen’s Compensation Act” in paragraphs (6)(a), (7), (8) and (14) and substitute in each case the words “Work Injury Compensation Act”.</p> <p>Delete the words “Workmen’s Compensation Act” in sub-paragraph (d) and substitute the words “Work Injury Compensation Act”.</p> <p>Delete the words “Workmen’s Compensation Act” in sub-paragraph (d) and substitute the words “Work Injury Compensation Act”.</p>

First column

(d) Regulation 23

(15) Personal Injuries (Emergency Provisions) Act
(Chapter 228, 1985 Ed.)

Section 6(1)

(16) Trade Unions Act
(Chapter 333, 2004 Ed.)

Section 20(1)

(17) Third Parties (Rights against Insurers) Act
(Chapter 395, 1994 Ed.)

Section 1(6)

Second column

(i) Delete the words “Workmen’s Compensation Act” in paragraphs (1)(a), (2)(a), (3)(b)(i), (7)(a), (9)(a) and (10) and substitute in each case the words “Work Injury Compensation Act”.

(ii) Delete the words “a workman” in paragraphs (1)(a), (2)(a), (3)(b)(i), (7)(a), (9)(a) and (10) and substitute in each case the words “an employee”.

Delete the words “Workmen’s Compensation Act” in paragraph (a) and substitute the words “Work Injury Compensation Act”.

Delete the words “Workmen’s Compensation Act” in paragraph (b)(i) and substitute the words “Work Injury Compensation Act”.

Delete the words “Workmen’s Compensation Act” in paragraph (b) and substitute the words “Work Injury Compensation Act”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Workmen's Compensation Act (Cap. 354) for the following main purposes:

- (a) to expand the coverage of the Act to employees without regard to salary;
- (b) to increase the compensation amounts for claims under the Act in relation to injuries which result in death or permanent incapacity of an employee;
- (c) to enhance the enforcement powers of the Commissioner for Labour (the Commissioner) and investigation officers;
- (d) to clarify legal ambiguities, for example, the distribution of compensation to dependants of deceased employees and the withdrawal of claims under the Act in order to pursue a civil action;
- (e) to reform the compensation process to ensure greater operational expediency;
- (f) to enhance the penalties of selected existing offences and to create new offences; and
- (g) to allow a court to order the employer, upon a conviction of certain offences and on application by the Commissioner, to repay the employee the compensation amount owed (including any applicable interest), in addition to any fine amount ordered by the court; and to provide that in the event of a default, this repayment amount may be recoverable as if it were a court fine.

The Bill also seeks to make consequential amendments to certain other written laws.

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title by substituting the term "workmen" with the term "employees".

Clause 3 amends the short title to change it to the "Work Injury Compensation Act".

Clause 4 amends various definitions in section 2(1). A new definition of "employee" also replaces the present definition of "workman". Presently, the Act only covers manual workers (regardless of income) and non-manual workers earning \$1,600 or below per month. The new definition is connected with the expanded coverage of the Act to allow all employees, except those in the excepted classes of persons specified in the Fourth Schedule, to claim compensation for personal injury caused by accidents arising out of and in the course of employment.

The clause also inserts new definitions of "Assistant Commissioner (Work Injury Compensation)", "investigation officer" and "workplace", and deletes the definitions of "domestic servant" and "outworker".

The clause also inserts a new subsection (4A) which will extend the coverage of the Act to allow for claims for compensation for personal injury to any seaman caused by an accident happening onboard any Singapore ship, whether the ship was within or outside Singapore at the time of the accident.

Clause 5 inserts new sections 2A and 2B which pertain to the administrative machinery of the Act. The principal officer in charge is the Commissioner.

The new section 2A provides for the appointment by the Commissioner of public officers as Assistant Commissioners (Work Injury Compensation) and investigation officers and other persons as authorised persons. The Commissioner may delegate the exercise of all or any of the powers conferred or duties imposed upon him by the Act (except the power of delegation) to any Assistant Commissioner (Work Injury Compensation), investigation officer or authorised person, subject to such conditions or limitations as the Commissioner may specify.

The new section 2B deems the Commissioner, every Assistant Commissioner (Work Injury Compensation) and investigation officer to be public servants within the meaning of the Penal Code (Cap. 224).

Clause 6 amends the heading to Part II by inserting a Division heading.

Clause 7 amends section 3(5)(a) by exempting an employer totally from liability to pay compensation under the Act in respect of any injury resulting from an accident if it is proved that the injury to the employee is directly attributable to the employee having been at the time of the accident under the influence of alcohol, a controlled drug, or a prescription only drug that is not prescribed by a medical practitioner for the employee's consumption or use. The employer would no longer still be liable to an injured workman even if the injury results in the death or permanent incapacity causing a loss of not less than 50% of the earning capacity of the workman.

Clause 8 amends section 4 which deals with occupational diseases and the resulting incapacity or death of an employee from any of those diseases if the disease were a personal injury by accident arising out of and in the course of that employment. Prior to the amendment, occupational diseases may be included in the Second Schedule together with a default 12-month limitation period after ceasing employment by amending the Second Schedule by an order published in the *Gazette*. This amendment allows occupational diseases with different limitation periods to be included in the Second Schedule by amending the Second Schedule by an order published in the *Gazette*. As with today, no compensation will be payable by an employer in respect of the incapacity or death of an employee resulting from the employee contracting an occupational disease if the employee's incapacity starts or his death happens more than the limitation period specified for that occupational disease after the employee ceases to be in his employment.

Clause 9 amends section 6(1) by providing for the persons who are entitled to compensation. Compensation will be payable to or for the benefit of the employee, or, where death results from the injury, to the deceased employee's estate or to or for the benefit of his dependants as provided by the Act.

Clause 10 repeals and re-enacts sections 7 and 8 to deal with the computation of compensation under the Act.

The new section 7 provides that the amount of compensation under the Act in respect of any personal injury of an employee caused by an accident arising out of and in the course of his employment is to be computed in accordance with the Third

Schedule. One important concept in the method of calculating compensation is the earnings of an employee.

The new section 8 provides for the manner in which the earnings of an employee are to be computed. The amendment also relaxes the basis of calculation where an employee is employed under different contracts of service. The restriction that such an employee can claim compensation in respect of his earnings under all such contracts only if he is employed in the same occupation is abolished. Instead, where an employee is employed under contracts of service with 2 or more employers, his monthly earnings can be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident, but excluding earnings from contracts of service that the last-mentioned employer does not know.

Clause 11 amends section 9(1A) by enabling the Commissioner to authorise direct payment of compensation to be made, instead of depositing the compensation with the Commissioner in more circumstances. In addition to the present circumstance where direct payments may be authorised viz. for injury which has resulted in permanent partial incapacity of the employee, the amendment includes the circumstances where injury has resulted in the death or permanent total incapacity of the employee. Such direct payments may also be made to more persons, other than an employee not less than 18 years of age. Persons to whom direct payments may be made to with the Commissioner's authorisation include dependants of a deceased employee, the estate of a deceased employee, or any committee or committees of the employee and estate of the employee appointed under the Mental Disorders and Treatment Act (Cap. 178) if the employee is mentally incapacitated. The clause also provides for how the Commissioner may apportion the compensation deposited in respect of an accident resulting in the death of an employee or resulting in the permanent incapacity of an employee who, before the payment of such compensation is made, becomes mentally incapacitated.

Clause 12 amends section 10 by expanding the protection against attachment or assignment to all payments of compensation under the Act. As amended, no payment of compensation payable under the Act can be assigned or charged or be liable to attachment or pass to any person other than the employee by operation of law. No claim can be set off against any compensation under the Act.

Clause 13 amends section 11(1) (on notice of claims for compensation) by requiring any claim for compensation under the Act to be made in such form and manner as the Commissioner may determine.

Clause 14 amends section 12 to require every employer to give notice to the Commissioner in such form and manner as the Commissioner may determine, and to his insurer in writing, of the occurrence of any prescribed event that may give rise to a claim for compensation under the Act within the time prescribed for that event. It is envisaged that different reporting times may be prescribed by regulations for different events.

Clause 15 inserts a new section 12A to deal with changes in the address of claimants to improve the processing of claims for compensation. The new section provides that

where any claim for compensation has been made under the Act by an employee or a person acting on behalf of an employee who is dead or mentally incapacitated, and the Commissioner has reason to believe that there is a change during the currency of the claim in the address used by the employee or the person for the purposes of the claim, the Commissioner may serve a notice on the employee or the person, as the case may be, requesting for particulars of any change in address. The employee or the person acting on behalf of an employee who is dead or mentally incapacitated, as the case may be, on whom the Commissioner has served such a notice must, within a period of 14 days after the service of the notice, inform the employee's employer and the Commissioner, in writing or in person of any change in address. However, there is no need to do so if the compensation claimed has been fully paid in accordance with the Act. If the employee or the person acting on behalf of an employee fails, without reasonable cause, to notify the Commissioner of any change in address as is required by that notice, the employee's right to compensation will be suspended from the 15th day after the Commissioner has served a notice on the employee or the person, as the case may be. Any suspension under the section will cease upon the employee or the person acting on behalf of an employee, as the case may be, providing the particulars of any change in address used by the employee or the person for the purposes of the claim. If, at the end of 3 months after the Commissioner has served a notice requesting for particulars of any change in address, the employee or the person acting on behalf of an employee who is dead or mentally incapacitated, as the case may be, still fails to provide the particulars of any change in address as requested by that notice, then no compensation under the Act will be payable in respect of the claim to which the notice relates unless the Commissioner is satisfied that there was reasonable cause for the failure.

Clause 16 amends section 13 by shortening the time frame within which the employee must submit himself for medical examination. When notice of an accident has been given to an employer by an employee or on the employee's behalf, the employer must, before the expiry of the 5th day after the giving of the notice, offer to have the employee examined free of charge by a medical practitioner. The employee must submit himself for such medical examination. As amended, where an employee, on being required by the Commissioner to submit himself for medical examination by a medical practitioner, fails to do so and such failure extends over a period of 3 months from the date he is required to do so by the Commissioner, no compensation under the Act can be payable to him unless the employee has died from the injury or the Commissioner is satisfied that there was reasonable cause for the failure to submit for medical examination.

Clause 17 amends section 14 to deal with compensation for medical treatment. Prior to this amendment, the Minister is empowered to do so by notification in the *Gazette* instead. The amendments first allow the Minister to prescribe which hospitals to be approved hospitals for the purposes of the Act. Next, the amendments make it clear that costs for medical treatment are payable as part of compensation. Where personal injury by accident arising out of and in the course of the employment is caused to an employee and the injured employee receives medical treatment by a medical practitioner or at an approved hospital for his injury, being medical treatment that is certified by any attending medical practitioner to be necessary, the employer of the

employee will be liable to pay compensation in accordance with paragraph 5 of the Third Schedule for the medical treatment received by the employee. The employer is also liable to pay compensation where personal injury by accident arising out of and in the cause of employment is caused to an employee referred to in section 2(4) or (4A), and the injured employee receives treatment outside Singapore for the accident which occurs outside Singapore, and which medical treatment, in the view of the Commissioner, requires immediate medical treatment due to the nature of the injury suffered by the employee. Compensation for medical treatment received by the employee at an approved hospital must be paid directly to the proprietor of the approved hospital, after deducting any amount previously paid by the employee in relation to the medical treatment. The proprietor of an approved hospital is also expressly declared entitled to recover such compensation (less those deductions) directly from the employer. Where an employee has paid for the cost of any medical treatment which an employer is liable to pay under the Act, the employee is also entitled to recover such cost from the employer. This will clarify the employer's legal obligation to pay for medical treatment.

Clause 18 inserts a new section 14A on compensation for injury caused by accident arising out of and in the course of employment that results in the temporary incapacity of an employee. The compensation payable by the employer for such injury is a periodical payment calculated in accordance with paragraph 4 of the Third Schedule. Such compensation is to be paid not later than the same day as earnings would have been payable to the employee under the contract of service or apprenticeship under which he was employed at the time of the accident, except that the interval between periodical payments will in no case exceed one month. The compensation has to be paid even though no claim for compensation in respect of that injury is made under the Act, or that a claim for compensation in respect of that injury has not been assessed or determined by the Commissioner. The new section also provides that the Commissioner may order the employee to refund to the employer any payment made by the employer if the employee fails to make any claim for compensation or withdraws his claim, the Commissioner has determined that no compensation be paid to the employee, or the employee has made a false claim.

Clause 19 amends section 17 to allow the Commissioner to decide whether the direct employer or the principal is liable to pay compensation under the Act to an injured employee, instead of allowing the injured employee to elect who he wishes to claim from. However, nothing in the amended section 17 is to be construed as preventing the Commissioner from ordering the compensation under the Act to be recovered from the employer instead of the principal. A claim so determined by the Commissioner to be made against a principal or an employer, as the case may be, will not operate as a bar to subsequent proceedings under the Act against the other to recover so much of the compensation as may remain unpaid.

Clause 20 amends section 18 which presently confers on the employer a right to indemnity in cases where only a stranger and not the employer can be made liable to pay the employee damages in tort. The Act imposes a statutory liability upon the employer irrespective of fault, so when the liability to pay compensation is caused by a third party who could have been sued by the employee at common law, a remedy by way of indemnity by that third party is provided to relieve the employer of the whole

amount of the compensation which that third party had caused him to pay. The courts have ruled that the indemnity is of the full amount paid as compensation up to the extent of the liability in tort, and that there is no room for partial relief for the employer from the damages he may become liable to pay because of his own breach of duty to his employee. The amendment changes the position by making it clear that where any injury for which compensation is payable under the Act was caused under circumstances creating a legal liability in the third party to pay damages in respect of the injury, and there are circumstances which give a right to recover reduced damages from the third party because of any wilful act or negligence of the employer or employee, a right to indemnity is still conferred on the person by whom any compensation under the Act was paid, but the right to be indemnified by the third party is limited to such part only of the total compensation paid or payable as the court may determine to be appropriate to the degree to which the injury was attributable to the act, default or negligence of the third party.

Clause 21 repeals and re-enacts section 22 so that it is lawful for the Commissioner to receive and pay the compensation or interest, without production of a grant of representation, to any one or more of the dependants of a deceased employee or to the estate of the deceased employee. The new section further provides that where it appears to the Commissioner that compensation or interest is payable to an employee who is mentally incapacitated before such payment is made, it is lawful for the Commissioner to receive and pay the compensation or interest to any one or more of the employee's dependants for the benefit of the employee without the appointment of any committee or committees of the employee and estate of the employee required under the Mental Disorders and Treatment Act (Cap. 178).

Clause 22 repeals and re-enacts section 23 to deal with compulsory insurance against an employer's liability. Subject to any prescribed minimum amounts for which an employer must insure himself in respect of any of his liabilities under the Act, every employer must insure and maintain insurance under one or more approved policies with an insurer within the meaning of the Insurance Act (Cap. 142) against all liabilities which he may incur under the provisions of the Act to any employee employed by him. However, the Minister may, by notification in the *Gazette*, waive the requirement of such insurance in relation to any employer. The employer must pay any liability that he may incur under the Act in excess of the prescribed insurance limits. The clause also defines an "approved policy" to mean a policy of insurance not subject to any conditions or exceptions prohibited by regulations made under the Act. The clause further provides that any prohibited conditions or exceptions imposed in a policy of insurance by any insurer do not absolve the insurer's liability under the policy.

Clause 23 amends section 24 firstly by empowering the Commissioner to serve 2 types of notices of assessment on the employer and the person claiming compensation when a claim for compensation has been assessed. The first type of notice of assessment will state the compensation amount payable, and the second type will state that no compensation is payable if the Commissioner is of the view that the injury to which the claim relates did not arise out of or in the course of the person's employment or that the person was not an employee within the meaning of the Act. The next amendment in the clause provides that an employer and the person claiming compensation may be deemed to have agreed upon the notice of assessment of

compensation, and an order of compensation may be deemed to have been made. This will occur on the 15th day after the notice of assessment is served where no objection is received by the Commissioner within a period of 14 days after the service of the notice. However, if objections have been so received, the notice of assessment may still be deemed to have been agreed to and take effect as an order if where all objections so received by the Commissioner are withdrawn within a period of 28 days after the service of the notice. The notice of assessment will take effect as an order on the 29th day after the notice is served.

The clause further amends section 24 to provide that the employer must pay the amount of compensation determined to the Commissioner or the person claiming compensation as the Commissioner may direct within certain specified periods under certain circumstances.

Clause 24 repeals and re-enacts section 25 to deal with objections to notices of assessment. If any employer or person claiming compensation objects to any notice of assessment of compensation issued by the Commissioner, he must, within a period of 14 days after the service of the notice of assessment (or such longer period as the Commissioner may, in his discretion, allow in any particular case), give notice of his objection in the prescribed form and manner to the Commissioner stating precisely the grounds of his objection. The Commissioner is to disregard any ground of objection that is contained in any notice of objection given outside of the period allowed for objections.

Clause 25 inserts new sections 25A to 25D which deals with the Commissioner's new powers to determine claims and conduct pre-hearing conferences.

The new section 25A provides that the Commissioner may, at any time after a claim for compensation has been made, make such order or give such direction as he thinks fit, including the direction for any person in relation to the claim to appear before him, for the determination of the claim. If any party fails to comply with any order made or such direction given by the Commissioner, the Commissioner may dismiss the claim or make such other order as he thinks fit. The Commissioner may also make such order as to costs as he thinks fit. The Commissioner may also set aside or vary, on such terms as he thinks just, any order or direction made or given against any person who does not appear before the Commissioner when directed to do so.

The new section 25B provides for the holding of pre-hearing conferences by the Commissioner. At any time after a claim for compensation has been made, the Commissioner may direct parties to attend a pre-hearing conference. At the pre-hearing conference, the Commissioner may give all such directions as appear to be necessary or desirable for the determination of any issue for hearing. The new section also provides for what the Commissioner may do if any party defaults in complying with the Commissioner's directions. If at any time during the pre-hearing conference where the parties are agreeable to a settlement of some or all of the matters for hearing, the Commissioner may record that settlement and make an order to give effect to the settlement.

The new section 25C provides for the situation where one or more of the parties fail to appear at a pre-hearing conference. In such a case, the Commissioner may make a

decision concerning the claim and make such order as to compensation or costs as he thinks just. An order made by the Commissioner in the absence of a party concerned or affected by the order may be set aside or varied by the Commissioner. The Commissioner may also, if he thinks fit, adjourn the pre-hearing conference where one or more of the parties to the action or proceedings fail to attend the pre-hearing conference.

The new section 25D relates to the power of the Commissioner to conduct a hearing. After a claim for compensation has been made, the Commissioner may conduct a hearing of the case and hand down a decision accordingly, and make any order for the payment of compensation as he thinks just at or after the hearing.

Clause 26 amends section 26 by inserting a new subsection (2) relating to medical boards or panels. Where any medical board or panel has been established under the Act to assist the Commissioner to determine the extent of injury suffered by an employee in an accident, any determination by the medical board or panel as to the extent of the injury is to be treated as being conclusive by the Commissioner when assessing or determining the amount of compensation payable to the employee.

Clause 27 amends section 27(1) by expanding on the list of persons who may make an appearance before the Commissioner on behalf of a person who is required under the Act to make such an appearance before the Commissioner.

Clause 28 amends section 28(1) by expanding on the list of orders made by the Commissioner under the Act to be enforced by a District Court in the same manner as a judgment of that Court and all necessary processes may be served by that Court on behalf of the Commissioner. The clause also inserts a new subsection (1A) which provides that where an order for compensation has been made under new section 25B, 25C or 25D, the employer must, within 21 days of the making of the order, pay the Commissioner or such other person as the Commissioner may direct, the amount of compensation so ordered.

Clause 29 inserts a new section 28A relating to the payment of interest. The clause consolidates in one provision the several provisions in the present Act relating to payment of interest such as sections 24(5) and 29(4) and (5). The new section provides that where an employer fails to pay compensation in accordance with section 24(4) or 28(1A), or where an employer fails to make a deposit with the Commissioner under section 29(3), the employer is liable to pay the Commissioner or such other person as the Commissioner may direct, interest on the amount unpaid at such rate to be prescribed in the regulations. However, the amount of interest on compensation unpaid must not exceed 50% of the assessed amount of compensation. The Commissioner may also waive or remit the whole or any part of such interest. The new section also provides for the interest to be payable to certain persons.

Clause 30 amends section 29(1) by providing that any person aggrieved by any order of the Commissioner made under the Act may appeal to the High Court, except where the parties are deemed by section 24 (as amended) to have agreed to the order. The High Court's decision on appeal is final.

Clause 31 amends the section heading of section 30.

Clause 32 inserts a new Part IV relating to the powers of the Commissioner and investigation officers, offences, penalties and proceedings. The new section 30A confers certain powers on the Commissioner and the investigation officer for the better enforcement and administration of the Act.

Clause 33 amends section 33(2) which deals with limitations on an employee's right of action under common law if he makes a claim for compensation under the Act. The principle against double recovery by an employee is retained substantially, but the amendments provide for relaxation of that rule in certain circumstances. So, no action for damages will be maintainable in any court by an employee against his employer in respect of any injury by an accident arising out of and in the course of employment —

- (a) if he has a claim for compensation for that injury under the provisions of the Act and does not withdraw his claim within a period of 28 days after the service of the notice of assessment of compensation in respect of that claim;
- (b) if he and his employer have agreed or are deemed to have agreed to the notice of assessment of compensation under section 24(2)(a) for that injury; or
- (c) if he has recovered damages in respect of the injury in any court from any other person.

In addition, the employee may still institute an action in any court against his employer for damages in respect of that injury even where a claim for compensation under the Act is made for the employee's injury, provided that —

- (a) there is no objection by the employee to the notice of assessment in respect of that claim;
- (b) the compensation ordered by the Commissioner thereafter in respect of that claim is of a lesser amount than that stated in that notice of assessment of compensation in respect of that claim;
- (c) within a period of 28 days after the making of the order, the employee notifies the Commissioner and the employer in writing that he does not accept the compensation so ordered, and has not received or retained any part of such compensation earlier paid (if any) by the employer; and
- (d) no appeal under section 29 is made against the order.

Regardless of whether the employee actually institutes an action in any court, any order made by the Commissioner in respect of that injury will become void once the circumstances in the new section 33(2A) are fulfilled.

Finally, the employee may also institute an action in any court to recover damages independently of the Act for injury caused by that accident even where a claim for compensation under the Act is made for the employee's injury if —

- (a) the Commissioner assesses or makes an order that no compensation is payable for a claim for compensation because the employee's injury did not arise out of and in the course of employment or he is not an employee; or

(b) an appeal to the High Court under section 29 from an order made by the Commissioner has failed for the same reasons.

Clause 34 makes certain technical amendments to section 34 arising from the deletion of the word “workman” and the change of the short title of the Act to “Work Injury Compensation Act”.

Clause 35 repeals sections 35 and 36 and inserts new sections 35 to 45.

The new section 35 provides for certain offences and the penalties for those offences.

The new section 36 provides for the offences by bodies corporate and unincorporate.

The new section 37 provides for when a Magistrate may take cognizance of an offence under the Act.

The new section 38 provides that a District Court will have jurisdiction to try any offence under the Act and also has the power to impose the full penalty or punishment for any such offence.

The new section 39 provides that the Commissioner or Assistant Commissioner so authorised by the Commissioner may compound any offence under the Act which is prescribed by regulations to be a compoundable offence by collecting from the person reasonably suspected of having committed the offence a sum not exceeding one half of the amount of the maximum fine that is prescribed for the offence or a sum of \$5,000, whichever is the lower.

The new section 40 provides for the recovery of compensation upon conviction. The court before which any conviction under section 35(2)(a)(i) or (b)(i) is had may, on the application of the Commissioner, in addition to the fine prescribed in that section, order the person convicted to pay the amount of any compensation ordered by the Commissioner or interest due. The court may order that the amount ordered to be paid be made over directly to the person to whom the compensation amount or interest is due. Any such amount may be recoverable according to the law for the time being in force relating to the recovery of fines. In addition, any amount ordered by the court under the new subsection (1) will cease to be payable if the person convicted under that subsection has served a default sentence of imprisonment in relation to that amount.

The new section 41 makes it clear that while the Act does apply to the Government, nothing in the Act will render the Government liable to prosecution for an offence.

The new section 42 empowers the Minister to exempt any class or description of employers from all or any of the provisions of the Act.

The new section 43 relates to the various modes of service of any notice or document required or authorised to be served under the Act.

The new section 44 empowers the Minister to add to or amend any of the Schedules by order published in the *Gazette*.

The new section 45 empowers the Minister to make regulations for carrying out the purposes and provisions of the Act.

Clause 36 deletes and substitutes the Second Schedule. A new third column with time limits within which an occupational disease must start after the employee ceases employment has been added to the Second Schedule.

Clause 37 amends the Third Schedule (which refers to the amount of compensation). The multiplying factor in the second column of the Third Schedule for earnings has been raised for workers aged below 40 years, while those aged 40 years and above are entitled to the same multiplying factors as before the commencement of the amendments. The maximum and minimum amounts of compensation where death or permanent total incapacity results from any injury by accident arising out of and in the course of an employee's employment have been raised.

Paragraph 5 of the Third Schedule (on cost of medical treatment) is also replaced. The compensation for medical treatment payable by the employer is the lower of the following amounts:

- (a) the cost of medical treatment received by the employee within a period of one year after the happening of the accident causing the injury, being medical treatment that is certified by the attending medical practitioner as necessary; or
- (b) \$25,000 per accident per employee.

The new paragraph 5 also makes clear that the cost of medical treatment includes, but is not limited to, the fees for medical reports as required for the purpose of the Act, the charges for physiotherapy and occupational and speech therapy, and the cost of medicines and artificial limbs and surgical appliances.

Clause 38 inserts a new Fourth Schedule which contains the classes of persons not covered under the Act.

Clause 39 makes certain miscellaneous amendments to the Act arising from the deletion of the words "workman" and "monthly payments". The clause also inserts various Division headings to the various parts of the Act and makes a technical amendment to the Part III heading.

Clause 40 makes certain consequential amendments to other written laws.

Clause 41 relates to the transitional and savings provisions. Generally, the Act as amended by the Bill will not apply to claims for compensation in respect of accidents happening before the operative date of the amendments. For those that do, exceptions have been made in certain cases if notices of claims or orders have been made before the operative date of the amendments.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
