

**JOINT/SELECT
COMMITTEE REPORT
LEGISLATIVE
ASSEMBLY**

1929

The Workmen's Compensation (Amendment) Bill

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1929.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks
1.	The Public Safety Bill.	20.2.29.	
2.	The Workmen's Compensation(Amendment) Bill.	26.2.29.	
3.	The Indian Income-tax(Amendment) Bill(Sec.2,23.etc.)	26.2.29.	
4.	The Trade Disputes Bill.	16.3.29.	
5.	The Reservation of the Coastal Traffic of India Bill by Mr.S.N.Haji.	2.4.29.	
6.	The Transfer of Property(Amendment) Bill.	2.9.29.	
7.	The Transfer of Property(Amendment Supplementary Bill.	2.9.29.	
8.	The Indian Income-tax (Provident Fund Relief)Bill.	16.9.29.	
9.	The Indian Patents and Designs(Amendment) Bill.	25.9.29.	

LEGISLATIVE ASSEMBLY DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill further to amend the Workmen's Compensation Act, 1923, for certain purposes, was referred, have considered the Bill

Papers Nos. I—V. and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Clause 2.—This clause has been justly criticised on the ground that the proposed definition, as applied to the railway servants referred to in sub-clause (i) of clause (n) of section 2 (1) of the Act, will not necessarily include persons employed upon new lines under construction and upon railways not used for the carriage of passengers and goods such as are referred to in sub-section (1) of section 148 of the Indian Railways Act, 1890, and also on the further ground that it would include persons employed by contractors otherwise than by way of manual labour or on wages exceeding three hundred rupees. We think we have met this criticism by the omission of this clause and the insertion of a new clause in Schedule II of the Act all the entries in which Schedule are subject to the qualification as regards manual labour and limit of wages referred to above. The new clause which we propose will be found in clause 8 of the Bill (now clause 7). The remaining clauses of the Bill have been re-numbered accordingly.

Clause 3 (now clause 2).—The amendment which we have made in this clause is of a purely drafting nature.

Clause 4 (now clause 3).—The method by which the Bill sought to deal with the case of a casual labourer or a workman who is injured after having been for less than a month in the service of an employer has been criticised both by employers and by representatives of workmen. On the one hand, it is pointed out that workmen of this class will, owing to inexperience, often be drawing less wages than other workmen performing similar tasks; on the other hand, it is feared that, in the absence of more perfect machinery for the determination of wages in such cases, disputes and ill-feeling might arise and that pressure might be brought by employers upon other workmen to state the wages of the injured workman at a lower figure than that at which they had actually been paid. On the whole, we consider that the question requires further consideration, and we understand that it will be re-considered in connection with the more general revision of the Act, the preliminary stages of which have already been undertaken. Our decision therefore is to omit clause (i) of sub-clause (1) of this clause of the Bill.

Clause 5 (now clause 4).—We think there is considerable force in some of the opinions received which are to the effect that the proposed new sub-section (1) of section 8 of the Act would prevent an employer from advancing money to the dependants of a deceased workman either for funeral expenses or for temporary maintenance. We understand that such advances are frequently made, and we are clearly of opinion that it would be in the interests of workmen that they should continue to be legal, at any rate up to a certain amount. We have accordingly made an exception to meet this case which will allow an employer to advance not more than fifty rupees on account of funeral

expenses, and not more than one hundred rupees to any one dependant of a deceased workman for maintenance. It will be observed that the advance for funeral expenses may be deducted by the employer from the amount which he has to deposit with the Commissioner, whilst in the case of an advance for maintenance the employer will be required to deposit the full sum and will be entitled to repayment to the amount only of the compensation awarded to the dependant. This will ensure a decision by the Commissioner of any dispute as to the amount actually advanced.

We have further decided to extend the provisions of the new sub-section (1) to the case of the payment of a lump sum to any woman worker, as we think that in many cases the female labourer requires as much protection as a minor, and also to any person who is under a legal disability, and not only to a minor as defined in the Act. This decision involves the omission of the proposed new sub-section (2) under which the deposit of compensation payable to a woman or a person other than a minor, under a legal disability was not compulsory but could be ordered by the Commissioner at his discretion.

The omission of the proposed new sub-section (2) involves a certain amount of re-numbering which we have carried out in the Bill attached to our Report; and the decision to legalise advances involves a consequential additional amendment in sub-section (4) of section 8 of the Act.

We have also adopted a suggestion made by the Local Government of Bombay that provision should be made enabling the recovery of any amount which has been paid as compensation to any person through fraud or other improper means.

Clause 7 (now clause 6).—As a corollary to the similar amendment which we have made in clause 5 (now clause 4) we have decided to extend the protection which is afforded by compulsory registration of agreements to the cases where compensation settled by agreement is payable to a woman or any person under a legal disability.

We have also considered the various representations made that with the omission of clause (5) of the proviso to sub-section (1) of section 28 of the Act, the Act no longer contains any provision indicating that a memorandum of agreement can be presented for registration by a workman. We agree that this is so, but we also agree that clause (b) of the proviso is otiose as the Act as at present framed makes no definite provision for this case. We have, however, received an assurance that the question of making such provision will be considered in connection with the general revision of the Act to which we have already alluded.

Clause 8 (now clause 7).—It has been pointed out that the new clause (v) which the Bill proposes to insert in Schedule II of the Act would appear to include members of the crew of a ship registered under the Merchant Shipping Act, 1894, and also the crew of a foreign ship. In view of the fact that seamen of registered ships as defined in the Act are already covered by clause (iv) of the Schedule, we have made it clear that the clause does not include the master or crew of the ship.

It has also been pointed out that the clause as framed will include some dock labourers but not others. We agree that this appears illogical;

but we think it is not a point which we can attempt to meet until the matter has received full consideration from all interests affected.

The only other alteration which we have made, apart from the addition, to which we have already referred, of a clause to cover labour engaged by railway contractors, is a slight verbal alteration in the proposed amendment to clause (vii) of Schedule II.

2. The Bill was published as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	4th September, 1928.
Fort Saint George Gazette	25th September, 1928.
Bombay Government Gazette	8th November, 1928.
Calcutta Gazette	1st November, 1928.
Punjab Government Gazette	2nd November, 1928.
Burma Gazette	27th October, 1928.
Central Provinces Gazette	22nd September, 1928.
Bihar and Orissa Gazette	10th October, 1928.
Coorg District Gazette	1st November, 1928.
Sind Official Gazette	15th November, 1928.
North-West Frontier Gazette	19th October, 1928.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Tamil	13th Nov., 1928.
	Telugu	13th Nov., 1928.
	Hindustani	6th Nov., 1928.
	Kanarese	6th Nov., 1928.
Bombay	Malayalam	13th Nov., 1928.
	Marathi	12th Jan., 1929.
	Gujarathi	12th Jan., 1929.
Central Provinces	Kanarese	12th Jan., 1929.
	Marathi	24th Nov., 1928.
	Hindi	24th Nov., 1928.
Coorg	Kanarese	1st Dec., 1928.
Sind	Sindhi	6th Dec., 1928.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

B. N. MITRA.
DARCY LINDSAY.
VICTOR SASSOON.
V. V. JOGIAH.
ABDUL MATIN CHAUDHURY.
M. S. SESA IYENGAR.
S. LALL.
D. CHAMAN LALL.*

The 26th February, 1929.

* Subject to a Note.

Note.

I sign this with the clear understanding that an effective attempt will be made (and that with expedition) to revise the entire Act keeping in view modern legislation existing in civilised

countries with especial attention to the clamorous needs of the working classes of India.

D. CHAMAN LALL.

[Words printed in italics indicate the amendments suggested by the Committee.]

A

BILL

Further to amend the Workmen's Compensation Act, 1923, for certain purposes.

WHEREAS it is expedient further to amend the Workmen's Compensation Act, 1923, for certain purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Workmen's Compensation (Amendment) Act, 1929.
Short title.

2. In the proviso to sub-section (1) of section 3 of the Workmen's Compensation Act, 1923 VIII of 1923. *Amendment of section 3, Act VIII of 1923.* (hereinafter referred to as the said Act), the word "or" at the end of clause (b) and the whole of clause (c) shall be omitted.

3. (1) Section 5 of the said Act shall be re-numbered as sub-section (1) of section 5, and in that sub-section as so re-numbered, in the *Explanation*, for the words "this section" the words "this sub-section" shall be substituted.
Amendment of section 5, Act VIII of 1923.

(2) To the same section as so re-numbered the following sub-section shall be added, namely :—

"(2) The provisions of sub-section (1), other than the proviso, shall apply to the calculation of wages for the purposes of clause (n) of sub-section (1) of section 2 and of sub-section (3) of that section."

4. In section 8 of the said Act,—

Amendment of section 8, Act VIII of 1923.

(a) for sub-sections (1) to (3) the following sub-sections shall be substituted, namely :—

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

Provided that, in the case of a deceased workman,—

(a) an employer may make to any dependant or other person, by whom the funeral expenses are to be or have been incurred, an advance not exceeding fifty rupees for the purpose of defraying the same in whole or in part, and may make other advances to dependants on account of compensation, not exceeding however an aggregate of one hundred rupees in the case of any one dependant ;

- (b) *the amount of any advance made in accordance with the provisions of clause (a) to defray funeral expenses may be deducted by the employer from the lump sum to be deposited with the Commissioner, and the amount of any other advance so made to a dependant, or so much thereof as does not exceed the compensation apportioned to him, shall be deducted by the Commissioner from such compensation and be repaid to the employer.*
- (2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.
- (3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him," ;
- (b) *in sub-section (4), after the words "under sub-section (1)" the words "as compensation in respect of a deceased workman" shall be inserted; and after the words "fifty rupees" the following words shall be inserted, namely :—*
- " or so much of that cost or of fifty rupees, whichever is less, as has not already been advanced by the employer on account of such expenses " ;*
- (c) for sub-section (5) the following sub-sections shall be substituted, namely :—
- " (5) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.*
- (6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may in other cases, pay the money to the person entitled thereto.
- (7) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman"; and
- (d) *sub-section (6) shall be renumbered as sub-section (8) and after that sub-section the*

following sub-section shall be added, namely :—

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

5. To section 23 of the said Act after the words “material objects” the following words shall be added, namely :—

“and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898.” V of 1898.

6. In sub-section (1) of section 28 of the said Act,—
Amendment of section 28, Act VIII of 1923.

- (a) for the words “to a person under a legal disability” the words “to a woman or a person under a legal disability” shall be substituted;
- (b) clause (b) of the proviso shall be omitted; and
- (c) in clause (d), for the words “to a person under any legal disability” the words “to a woman or a person under a legal disability” shall be substituted.

7. In Schedule II to the said Act,—
Amendment of Schedule II, Act VIII of 1923.

(1) for clause (v) the following clause shall be substituted, namely :—

“(v) employed for the purpose of loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew; or”;

(2) in clause (vii), for the word “cable” the words “line or cable or post or standard for the same” shall be inserted; and

(3) after clause (ix) the following clauses shall be added, namely :—

“or

(x) employed upon a railway as defined in clause (4) of section 3, and sub-section (1) of section 148, of the Indian Railways Act, 1890, by a person fulfilling IX of 1890. a contract with the railway administration; or

(xi) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service; or

(xii) employed, in connection with operations for winning natural petroleum or natural gas, as a rig-builder, driller, driller's helper, oil-well puller, or in bailing or cleaning oil-wells or putting in and taking out casings or drill pipes in oil wells; or

(xiii) employed in any occupation involving blasting operations.”

8. In Schedule IV to the said Act, for the words and letters “clause (a) or clause (b)” the word and figure “sub-section (1)” shall be substituted.
Amendment of Schedule IV, Act VIII of 1923.

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**LEGISLATIVE ASSEMBLY
DEPARTMENT.**

Report of the Select Committee on the
Bill further to amend the Workmen's
Compensation Act, 1923, for certain
purposes, with the Bill as amended.