

EXTRAORDINARY

GOVERNMENT



REGISTERED NO. P.III

G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 19TH MARCH, 2013.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 19th March, 2013.

No. PA/Khyber Pakhtunkhwa/Bills/2013/7476.—The Khyber Pakhtunkhwa Workers' Compensation Bill, 2013 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 11th March, 2013 and assented to by the Governor of the Khyber Pakhtunkhwa on 16th March, 2013 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA WORKERS' COMPENSATION ACT, 2013 (KHYBER PAKHTUNKHWA ACT NO. XIX OF 2013)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 19th March, 2013).

AN ACT

*to provide for the payment by certain classes of employers
to their workers or their legal heirs of compensation
for injury or death by accident.*

Preamble. WHEREAS it is expedient to provide for the payment by certain classes of employers to their workers or their legal heirs of compensation for injury or death by accident;

It is hereby enacted as follows:

CHAPTER-I Preliminary

1. **Short title, extent and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Worker's Compensation Act, 2013.

- (2) It extends to the whole of the province of the Khyber Pakhtunkhwa.
- (3) It shall come into force at once.

2. **Definitions.**---(1) In this Act, unless there is anything repugnant in the subject or context-,
- (a) “adult” means, for the purpose of this Act, a person who has completed fifteenth years of his age;
 - (b) “Commissioner” means a Commissioner for Workers’ Compensation appointed under section 25;
 - (c) “compensation” means compensation as provided for by this Act;
 - (d) “dependent” means any of the following relatives of a deceased worker, namely:
 - (i) a widow, minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and
 - (ii) if wholly or in part dependent on the earnings of the worker at the time of his death, a widower, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate, if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, a minor child of a deceased daughter where no parent of the child is alive, or, where no parent of the worker is alive, a paternal grandparent;
 - (e) “employer” includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a worker are temporarily lent or let on hire to another person by the person with whom the worker has entered into a contract of service or apprenticeship, means such other person while the worker is working for him;
 - (f) “Government” means the Government of the Khyber Pakhtunkhwa;
 - (g) “managing agent” means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;
 - (h) “minor” means, for the purpose of this Act, a person who has not completed fifteenth years of age;
 - (i) “partial disablement” means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a worker in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in Schedule-I shall be deemed to result in permanent partial disablement;

- (j) "prescribed" means prescribed by rules made under this Act;
- (k) "qualified medical practitioner" means any person registered under any Act of the Federal Legislature or any Provincial Legislature providing for the maintenance of a register of medical practitioners, or, in any area where no such last mentioned Act is in force, any person declared by the Government, by notification in the official Gazette, to be a qualified medical practitioner for the purposes of this Act;
- (l) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a worker for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule-I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred per cent;

- (m) "Tribunal" has the same meaning as in the Khyber Pakhtunkhwa Industrial Relations Act, 2010 (Khyber Pakhtunkhwa Act No. XVI of 2010);
- (n) "wages" includes any privilege or benefit which is capable of being estimated in money, other than a traveling allowance or the value of any traveling concession or a contribution paid by the employer of a worker towards any pension or provident fund or a sum paid to a worker to cover any special expenses entailed on him by the nature of his employment; and
- (o) "worker" means any person employed in any factory, industrial establishment or commercial establishment or a mine to do any skilled or unskilled, manual or clerical work for hire or reward; or

any person who is a railway servant as defined in section 3 of the Railways Act, 1890, not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule-II.

(2) The exercise and performance of the powers and duties of a local authority or of any department acting on behalf of Government shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

(3) Government, after giving, by notifications in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule-II any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply to such classes of persons:

Provided that in making such addition Government may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only.

(4) Expressions used in this Act but not defined herein shall have the same meanings as assigned to them in the relevant labour laws.

CHAPTER-II

Worker's compensation

3. Employer's liability for compensation.---(1) If personal injury is caused to a worker by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable-

- (a) in respect of any injury which does not result in the total or partial disablement of the worker for a period exceeding four days;
- (b) in respect of any injury, not resulting in death, caused by an accident which is directly attributable to-
 - (i) the worker having been at the time thereof under the influence of drink or drugs, or
 - (ii) the willful disobedience of the worker to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workers, or
 - (iii) the willful removal or disregard by the worker of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workers.

(2) If a worker employed in any employment specified in Part-A of Schedule-III contracts any disease specified therein as an occupational disease peculiar to that employment, or if a worker, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Part-B of Schedule-III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

Explanation.- For the purposes of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer in the same kind of employment.

(3) Government, after giving, by notification in the official Gazette not less than three month's notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule-III, and shall specify in the case of the employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall thereupon apply as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a worker in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a worker in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a worker in any court of law in respect of any injury-

- (a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or
- (b) if an agreement has been come to between the worker and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

4. Amount of compensation.---(1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:

- (A) where death results from the injury to a worker the amount shown in the first column of Schedule-IV thereof;
- (B) where permanent total disablement results from the injury to a worker the amount shown in the second column of Schedule-IV thereof;
- (C) where permanent partial disablement results from the injury-
 - (i) in the case of an injury specified in Schedule-I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury; and
 - (ii) in the case of an injury not specified in Schedule-I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury;

Explanation.---Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

- (D) where temporary disablement, whether total or partial, results from the injury, a half monthly payment payable on the sixteenth day after the expiry of a waiting period of four days from the date of the disablement, and thereafter half monthly during the disablement or during a period of five years, whichever period is shorter- in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule-IV of the sum shown against such limits in the fourth column thereof.

Provided that-

- (a) there shall be deducted from any lump sum or half-monthly payments to which the worker is entitled the amount of any payment or allowance which the worker has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be except payments made to the worker during the period of his convalescence towards medical treatment and the half-monthly payments made for the first four months of disablement;
- (b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the worker before the accident exceeds half the amount of such wages which he is earning after the accident; and
- (c) the amount of half-monthly payments to which a worker is entitled shall in no case be less than the amount of half-monthly payments to which a worker drawing lesser monthly wages than such worker is entitled.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half month a sum proportionate to the duration of the disablement in that half month.

5. Method of calculating wages.---In this Act and for the purposes thereof the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated as follows, namely:

- (a) where the worker has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the worker shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

- (b) where the whole of the continuous period of service immediately preceding the accident during which the worker was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the worker shall be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a worker employed on the same work by the same employer, or, if there was no worker so employed, by a worker employed on similar work, in the same locality;
- (c) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

Explanation.- A *period* of service shall, for the purposes of this section be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

6. Review.---(1) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner, on the application either of the employer or of the worker accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the worker or, subject to rules made under this Act, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the worker is entitled less any amount which he has already received by way of half-monthly payments.

7. Commutation of half-monthly payments.---Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

8. Distribution of compensation.--- (1) No payment of compensation in respect of a worker 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 worker, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of 50,000 rupees and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than 20,000 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.

(4) On the deposit of any money under sub-section (1) as compensation in respect of a deceased worker, the Commissioner shall deduct from the actual cost of the worker's funeral expenses, to an amount not exceeding 20,000 rupees and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which he may deem necessary, that no dependant exists, he shall not less than two years after the date of deposit, transfer the balance of the money to such fund or funds for the benefit of workers as the Government may by notification in the official Gazette specify or establish. The Commissioner shall on application by the employer, furnish a statement showing in detail all disbursements made.

(5) Compensation deposited in respect of a deceased worker shall, subject to any deduction made under the proviso to sub-section (1) or under sub-section (4), be apportioned among the dependants of deceased worker 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 worker or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the worker.

(8) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(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 38.

9. Compensation not to be assigned, attached or charged.---Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall, in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the worker by operation of law, nor shall any claim be set off against the same.

10. Notice and claim.---(1) No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within three years of the occurrence of the accident or, in case of death, within three years from the date of death:

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the worker was continuously absent from work in consequence of the disablement caused by the disease:

Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the entertainment of a claim-

- (a) if the claim is preferred in respect of the death of a worker resulting from an accident which occurred on the premises of the employer, or at any place where the worker at the time of the accident was working under the control of the employer or of any person employed by him, and the worker died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or
- (b) if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured worker was employed had knowledge of the accident from any other source at or about the time when it occurred:

Provided, further, that the Commissioner, may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured worker was employed.

(3) Government, may require that any prescribed class of employers shall maintain at their premises at which workers are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured worker employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book.

11. Power to require from employers statement regarding fatal accident.---(1) Where a Commissioner receives information from any source that a worker has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the worker's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the worker, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such enquiry as he may think fit, may inform any of the dependants of the deceased worker that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

12. Report of fatal accident.---(1) Where, by, any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death:

Provided that where the Government has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

(2) Government may, by notification in the Official Gazette, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section and may by such notification, specify the persons who shall send the report to the Commissioner.

13. Officer authorised may refer cases for payment of compensation.- A Labour Commissioner, an Inspector of factories or any other officer authorized by Government for this purpose may refer, in the prescribed manner, to the Commissioner cases of workers who have not been paid due compensation by employers under the provisions of this Act.

14. Fixation of abstracts of the Act or rules at the entrance of the premises.- There shall be affixed in some conspicuous place near the main entrance of every place where workers are employed, in English and in the language of the majority of the workers, such abstracts of this Act and of the rules made thereunder as may be prescribed.

15. Medical Examination.---(1) Where a worker has given notice of an accident, the employer shall, before the expiry of three days from the time at which service of the notice has been effected, have the worker examined free of charge by a qualified medical practitioner, and the worker shall submit himself for such examination, and any worker who is in receipt of a half-monthly payment under this Act, shall if so required, submit himself for such examination from time to time:

Provided that a worker not examined free of charge as aforesaid may get himself examined by a qualified medical practitioner and the expenses of such medical examination shall be reimbursed to the worker by the employer:

Provided further that a worker shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(2) If a worker, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a worker, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a worker, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased worker.

(5) Where under sub-section (2) or sub-section (3), a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (d) of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured worker has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is proved that the worker has not thereafter been regularly, attended by a qualified medical practitioner or having been so attended has deliberately failed to follow his instructions and, that such refusal, disregard or failure was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the worker had been regularly attended by a qualified medical practitioner whose instructions he had followed, and compensation, if any, shall be payable accordingly.

16. Contracting.---(1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any worker employed in the execution of the work any compensation which he would have been liable to pay if that worker had been immediately employed by him, and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the worker under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the worker could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the worker could have recovered compensation and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a worker from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

17. Remedies of employer against stranger.---Where a worker has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 16 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

18. Insolvency of employer.---(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any worker, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound-up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the worker, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the worker than they would have been under to the employer.

(2) If the liability of the insurers to the worker is less than the liability of the employer to the worker, the worker may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance, on the part of the employer with any terms or conditions of the contract (other than a stipulation or the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the worker:

Provided that the provisions of this sub-section shall not apply in any case in which the worker fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(4) There shall be deemed to be included among the debts which under section 405 of the Companies Ordinance, 1984 (Ordinance No. XLVII of 1984), are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability where for accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under subsection (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

19. Returns as to compensation.--- Government may, by notification in the Official Gazette, direct that every person employing workers, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the Government may direct.

20. Contracting out.---Any contract or agreement whether made before or after the commencement of this Act, whereby a worker relinquishes any right of compensation from the employer for the personal injury arising out of or to the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

21. Proof of age.---Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, a valid certificate granted in respect of such person under section 13 or section 82 of the Factories Act, 2012, before the occurrence of the injury, shall be conclusive proof of the age of such person.

22. Penalties.---(1) Whoever-

- (a) fails to maintain, a notice-book which he is required to maintain under sub-section (3) of section 10, or
- (b) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 11, or
- (c) fails to send a report which is required to send under section 12, or
- (d) fails to make a return which he is, required to make under section 19, or
- (e) fails to affix this abstracts ' of this Act and of the rules as required by section 14,

shall be punishable with fine which may extend to five thousand rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no court shall take cognizance of any offence, under this section, unless complaint thereof is made within six month of the date on which the offence is alleged to have been committed.

23. Cognizance of offences...---No Court other than the Labour Court established under the Khyber Pakhtunkhwa Industrial Relations Act, 2010 (Khyber Pakhtunkhwa Act No. XVI of 2010) shall try offences under sections 10 (3), 11 (1), 12, 14, 19 of this Act.

Chapter –III **Commissioners**

24. Reference to commissioners.---(1) If any question arises in any proceedings under this Act as, to the liability of any parson to pay compensation (including any question as to whether a person injured is or is not a worker) or as to the amount or duration of compensation (including any question as to the nature or extend of disablement), the question shall, in default of agreement, be settled by a Commissioner.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act, required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

25. Appointment of commissioner.---(1) Government may, by notification in the Official Gazette, appoint any person to be a Commissioner for Workers' Compensation for such local area as may ` be specified in the notification.

(2) Where more than one Commissioner has been appointed for any local area, the Government may, by general or special order, regulate the distribution of business between them.

(3) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

(4) Every Commissioner shall be deemed to be a public servant within the meaning of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

26. Venue of proceedings and transfer.---(1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by, or before a Commissioner for the local area in which the accident took place which resulted in the injury.

(2) If a Commissioner is satisfied that any matter arising out of any proceedings pending before him can be more conveniently dealt with by any other Commissioner, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

Provided that the Commissioner shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard:

Provided further that no matter other than a matter relating to the actual payment to a worker or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Commissioner save with the previous sanction of Government or to a Commissioner in another province save with the previous sanction of the Provincial Government of that Province, unless all the parties to the proceedings agree to the transfer.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire therein and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

(5) Government may transfer any matter from any Commissioner to any other Commissioner appointed by it.

27. Form of application.---(1) No application for the settlement of any matter by a Commissioner, other than an application by a dependant or dependants for compensation, shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) An application to a Commissioner may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely:

- (a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;
- (b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;
- (c) the names and addresses of the parties; and
- (d) except in the case of an application by dependants for compensation a concise statement of the matters on which agreement has and of those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

28. Power of Commissioner to require further deposit in case of fatal accident.---(1) Where any sum has been deposited by an employer as compensation payable in respect of a worker whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

29. Powers and procedure of Commissioners.---The Commissioners shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, (Act No. V of 1908) for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, 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 (Act No. V of 1998).

30. Appearance of parties.---Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or registered Trade Union authorized in writing by such person or, with the permission of the Commissioner, by any other person so authorized.

31. Method of recording evidence.---The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record:

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.

32. Costs.---All costs, incidental to any proceedings before a Commissioner, shall subject to rules made under this Act, be in the discretion of the Commissioner.

33. Power to submit cases.---A Commissioner may, if he thinks fit, submit any question of law for the decision of the Tribunal and, if he does so, shall decide the question in conformity with such decision.

34. Registration of agreements.---(1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman or a person under a legal disability a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:

Provided that-

- (a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;
- (b) the Commissioner may at any time rectify the register;
- (c) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Contract Act, 1872, or in any other law for the time being in force.

35. Effect of failure to register agreement.---Where a memorandum of any, agreement the registration of which is required by section 34, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the worker by way of compensation whether under the agreement or otherwise.

36. Appeals.---(1) An appeal shall lie to the Tribunal from the following orders of a Commissioner, namely:

- (a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;
- (b) an order refusing to allow redemption of a half-monthly payment;
- (c) an order providing for the distribution of compensation among the dependants of a deceased worker; or disallowing any claims of a person alleging himself to be such dependant;
- (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of Subsection (2) of section 16; or
- (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than fifty thousand rupees;

Provided, further, that no appeal shall be in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties;

Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of the Limitation Act, 1908, shall be applicable to appeals under this section.

37. Withholding of certain payments pending decision of appeal.--- Where an employer makes an appeal under clause (a) of sub-section (1) of section 36, the Commissioner may, and if so directed by the Tribunal shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.

38. Recovery.---(1) The Commissioner may recover as an arrear of land revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public *officer within* the meaning of section 5 of the Revenue Recovery Act, 1890 (Act No. I of 1890).

(2) Without prejudice to the provisions of sub-section (1), the Commissioner may recover in the prescribed manner any amount referred to therein by distress and sale of the moveable property belonging to the person by whom the amount is payable, or by attachment and sale of the immoveable property belonging to such person.

(3) Every commissioner shall have the powers of Collector Grade-I and may exercise such powers for the purposes of this Act.

(4) Every Commissioner, with prior approval of the Director Labour to utilize the profits, accrued on the deposited money in case of appeal, for the general welfare of the workers.

CHAPTER -IV **Rules**

39. Powers to make rules.---(1) Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely-

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;
- (b) for prescribing the intervals at which and the conditions subject to which a worker may be required to submit himself for medical examination under sub-section (1) of section 15;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;
- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased worker and for the transfer of money so invested from one Commissioner to another;
- (f) for prescribing the manner in which any balance of money may under sub-section (4) of section 8 be transferred to a fund or funds for the benefit of workers and for the establishment and administration of such fund or funds;
- (g) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;
- (h) for prescribing the form and manner in which memorandum of agreements shall be presented and registered;
- (i) for the withholding by Commissioners, whether in whole or in part of half-monthly payments pending decision on applications for review of the same;
- (j) for regulating the scales of costs which may be allowed in proceedings under this Act;
- (k) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act;
- (l) for the maintenance by Commissioners of registers and records of proceedings before them;
- (m) for prescribing the classes of employers who shall maintain notice-books under sub-section (3) of section 10, and the form of such notice-books;
- (n) for prescribing the form of statement to be submitted by employers under section 11;

- (o) for prescribing the cases in which the report referred to in section 12 may be sent to an authority other than the Commissioner; and
- (p) for prescribing the abstracts of this Act and of the rules required by section 14.

40. Publication of rules.---(1) The power to make rules conferred by section 39 shall be subject to the condition of the rules being made after, previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897, as that after which a draft of rules proposed to be made under section 39 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Rules so made shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

41. Arrangements for transfer of money paid as compensation.- (1) Government may, by notification in the official Gazette make rules for the transfer to any other country or province of money deposited with a Commissioner under this Act which has been awarded to, or may be due to, any person residing or about to reside in such country or province and for the receipt, distribution and administration in the Khyber Pakhtunkhwa of any money deposited under the law relating to worker's compensation or in any other country or province, which has been awarded to, or may be due to, any person residing or about to reside in the Khyber Pakhtunkhwa:

Provided that no sum deposited under this Act in respect of fatal accidents shall be so transferred without the consent of the employer concerned until the Commissioner receiving the sum has passed orders determining its distribution and apportionment under the provisions of sub-sections (4) and (5) of section 8.

(2) Where money deposited with a Commissioner has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Act regarding distribution by the Commissioner of compensation deposited with him shall cease to apply in respect of any such money.

CHAPTER -V **Miscellaneous**

42. Protection against discrimination.---There shall be no discrimination on the basis of sex, religion, sect, colour, caste, creed, ethnic back ground in considering and disposing of issues relating to compensation, in the event of injury or, death, to the workers or, their legal heir, as the case may be.

43. Removal of difficulties.---If any difficulty arises, in giving effect to any provisions of this Act, the Government may, by notification in the official Gazette, make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

44. Repeal.---The Workmen's Compensation Act, 1923 (Act No. VIII of 1923); and Employers' Liability Act, 1938 (Act No. XXIV of 1938) are hereby repealed in its application to the Province of the Khyber Pakhtunkhwa.

45. Savings.--- (1) Notwithstanding the repeal of the said Acts, everything done, orders passed, action taken, obligation, liability, penalty or punishment incurred, enquiry or proceeding commenced, officer appointed or person authorized, jurisdiction or power conferred, rule made or notification issued, under any of the provisions of the said Acts, continue in force and may be deemed to have been done, passed, taken, incurred, commenced, appointed, authorized, conferred, made or issued under the provisions of this Act.

(2) Any document referring to the repealed Acts shall be construed as referring to the corresponding provisions of this Act.

[SCHEDULE-I]
[See sections 2 (1) and 4]
**LIST OF INJURIES DEEMED TO RESULT IN
PERMANENT TOTAL DISABLEMENT**

Sl. No.	Description of injuries	Percentage of loss of earning capacity
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye-sight is essential	100
5.	Very sever facial disfigurement	100
6.	Absolute deafness	100
7.	If a worker become physically incapacitated to perform any laborious act in consequence of injury caused to him other than the injuries mentioned in this schedule	100

**LIST OF INJURIES DEEMED TO RESULT IN
PERMANENT PARTIAL DISABLEMENT**

Amputation cases--Upper limbs (either arm)

1.	Amputation through shoulder joint	90
2.	Amputation below shoulder with stump less than 8 from tip of acromion	80
3.	Amputation from 8" from tip of acromion to less than 4-1/2" below tip of olecranon	70
4.	Loss of a hand or of the thumb and four fingers of one hand or amputation from 4-1/2" below tip of olecranon	60
5.	Loss of thumb	30
6.	Loss of thumb and its metacarpal bone	40
7.	Loss of four fingers of one hand	50
8.	Loss of three fingers of one hand	30
9.	Loss of two fingers of one hand	20
10.	Loss of terminal phalanx of thumb	20

Amputation cases-Lower limbs

11.	Amputation of both feet resulting in end-bearing stumps	90
12.	Amputation through both feet proximal to the metatarso-phalangeal joint	30
13.	Loss of all toes of both feet through the metatarso-phalangeal joint	40
14.	Loss of all toes of both feet proximal to the proximal interphalangeal joint	30
15.	Loss of all toes of both feet distal to the proximal inter phalangeal joint	20
16.	Amputation at hip	90
17.	Amputation below hip with stump not exceeding 5" in length measures from tip of great trochanter	80
18.	Amputation below hip with stump exceeding 5" in length measured from tip of great trochanter but not beyond middle thigh	70

19.	Amputation below middle thigh to 3-1/2" below knee	60
20.	Amputation below knee with stump exceeding 3-1/2" but not exceeding 5"	50
21.	Amputation below knee with stump exceeding 5"	40
22.	Amputation of one foot resulting in end-bearing	30
23.	Amputation through one foot proximal to the metatarso-phalangeal joint	30
24.	Loss of all toes of one foot through the metatarso-phalangeal joint	20

Other Injuries

25.	Loss of one eye, without complications, the other being normal	40
26.	Loss of vision of one eye without complication or disfigurement of eyeball, the other being normal	30

Fingers of right/left hand index finger

27.	Whole	14
28.	Two phalanges	11
29.	One phalanx	9
30.	Guillotine amputation of tip without loss of bone	5

Middle finger

31.	Whole	12
32.	Two phalanges	9
33.	One phalanx	7
34.	Guillotine amputation of tip without loss of bone	4

Ring or little finger

35.	Whole	7
36.	Two phalanxes	6
37.	One phalanx	5
38.	Guillotine amputation of tip without loss of bone	2

Toes of right or left foot great toe

39.	Through metatarso-phalangeal joint	14
40.	Part, with some loss of bone	3

Any other toe

41.	Through metatarso-phalangeal joint	3
42.	Part, with some loss of bone	1

Two toes of one foot, excluding great toe

43.	Through metatarso-phalangeal joint	5
44.	Part, with some loss of bone	2

Three toes of one foot, excluding great toe

45.	Through metatarso-phalangeal joint	6
46.	Part, with some loss of bone	3

Four toes of one foot, excluding great toe

47.	Through metatarso-phalangeal joint	9
48.	Part, with some loss of bore	3

SCHEDULE-II
[See section 2(1) (o)]

**List of persons who, subject to the provisions of section 2(1) (o),
are included in the definition of workers**

The following persons are workers within the meaning of section 2(1) (o) and subject to the provisions of that section, that is to say, any person who is-

- (i) employed, otherwise than on a railway, in connection with the operation or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity; or
- (ii) employed in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been employed in any manufacturing process, as defined in clause (g) of section 2 of Factories Act, 1934, or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used; or
- (iii) employed in any place to which section 5 of Factories Act, 1934, has been applied or for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, twenty or more persons have been so employed; or
- (iv) employed in the manufacture or handling of explosives in any premises wherein, or within, the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed; or
- (v) employed, in any mine as defined in clause (f) of section 3 of the Mines Act, 1923, in any mining operation, or in any kind of work incidental to or connected with any mining operation or with the mineral obtained, or in kind or work whatsoever below ground:

Provided that any excavation in which on no day of the preceding twelve months more than fifty persons have been employed or explosives have been used and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause; or

- (vi) employed in loading and unloading of goods in the mechanically propelled vehicles; or
- (vii) employed in the construction, repair or demolition of-
 - (a) any building or structure; or
 - (b) any dam or embankment, which is twenty feet or more in height from its lowest to its highest point; or
 - (c) any road, bridge, or tunnel; or

- (viii) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard for the same; or
- (ix) employed, in the construction, working, repair or demolition of any aerial ropeway, canal pipe-line, or sewer; or
- (x) employed in the service of any fire brigade; or
- (xi) employed upon a railway as defined in clause (4) of section 3, and sub-section (1) of section 148 of the Railways Act, 1890, either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or
- (xii) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service, or employed in any occupation ordinarily involving out-door work in the Posts and Telegraphs Department; or
- (xiii) employed as treasurer clerks performing out-door duties in the Pakistan Posts and Telegraphs Department; or
- (xiv) employed in connection with operations for winning natural petroleum or natural gas; or
- (xv) employed in any occupation involving blasting operations; or
- (xvi) employed in the making of any excavation in which on any one day of the preceding twelve months more than ten persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet; or
- (xvii) employed in the operation of any ferry boat capable of carrying more than ten persons; or
- (xviii) employed on any estate which is maintained for the purpose of growing cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed; or
- (xix) employed in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas; or
- (xx) employed in a lighthouse as defined in clause (d) of section 2 of the Lighthouse Act, 1927 ; or
- (xxi) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or
- (xxii) employed in the training, keeping or working of elephants or wild animals; or
- (xxiii) employed in the tapping of palm trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forest fires; or

- (xxiv) employed in operations for the catching or hunting of elephants or other wild animals;
or
- (xxv) employed as a driver; or
- (xxvi) employed in the handling or transport of goods in, or within the precincts of,-
 - (a) any warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed; or
 - (b) any market in which on any one day of the preceding twelve months fifty or more persons have been so employed; or
- (xxvii) employed in any occupation involving the handling and manipulation of radium or x-rays apparatus, or contract with radio-active substances; or
- (xxviii) employed as drivers, cleaners, conductors and checkers by Road Transport Service as defined in sub-section (7) of section 2 of the Road Transport Workers Ordinance, 1961 (XXVIII of 1961).

Explanation.- In this schedule, “ the preceding twelve months” relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.

SCHEDULE-III
(See section 3)
List of occupational diseases

Occupational Disease	Employment
PART - A	
Anthrax	Any employment-
	(a) involving the handling of wool, hair, bristles or animal carcasses or parts of such carcasses, including hides, hoofs and horns; or
	(b) in connection with animals infected with anthrax; or
	(c) involving the loading, unloading or transport of any merchandise.
Compressed air illness or its sequelae.	Any process carried on in compressed air.
Poisoning by lead tetra-ethyl	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes.	Any process involving exposure to nitrous fumes.
PART -B	
Lead poisoning or its sequelae (excluding poisoning by lead tetra-ethyl).	Any process involving the use of lead or any of its preparations or compounds except lead tetra-ethyl.
Phosphorus poisoning or its sequelae.	Any process involving the use of phosphorus or its preparations or compounds.
Mercury poisoning or its sequelae.	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelae of such poisoning.	Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues.
Chrome ulceration or its sequelae	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations.

Arsenical poisoning or its sequelae.	Any process involving the production, liberation or utilization of arsenic or its compounds.
Pathological manifestations due to.- (a) radium and other radioactive substances; (b) X-rays,	Any process involving exposure to the action of radium, radio-active, substances, or X-rays.
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.
Silicosis	Any process involving the grinding, clearing, fettling, casting and crushing of stones.

SCHEDULE-IV
(See section 4)

Compensation payable in certain cases

Amount compensation for		Half-monthly payment as compensation for temporary disablement
Death	Permanent total disablement	
1	2	3
Rs. 300000/-	Rs. 300000/-	1/2 of the monthly wages during the period of disablement or a period of one year reckoned from the date of injury whichever is less and there after only in cases of chronic lung diseases 1/3 of the monthly wages during the period of disablement or for a period of 5 years, reckoned from the date of injury, whichever is less.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar