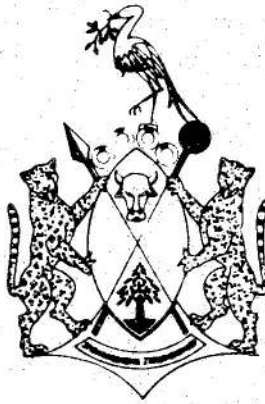


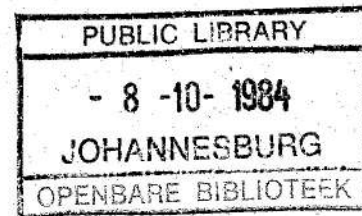
**IRIPHABLIKI  
YECISKEI**

**REPUBLIC OF  
CISKEI**

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**GOVERNMENT  
GAZETTE**



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**DEPARTMENT OF MANPOWER UTILISATION**

**GOVERNMENT NOTICE No. 58**

**IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS  
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY  
PUBLISHED FOR GENERAL INFORMATION:—**

**WORKMEN'S COMPENSATION AMENDMENT ACT, 1984**

**ACT NO. 24 OF 1984**

# WORKMEN'S COMPENSATION AMENDMENT ACT, 1984

## ACT

To amend the Workmen's Compensation Act, 1982.

(English text signed by the President. Assented to on 27 July 1984.)

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:—

*Amendment of section 2 of Act 11 of 1982.*

1. Section 2 of the Workmen's Compensation Act, 1982 (hereinafter referred to as the principal Act) is hereby amended —
  - (a) by the deletion of paragraph (c) of the definition of "annual wages";
  - (b) by the deletion of the definition of "machinery"; and
  - (c) by the insertion after the definition of "reserve fund" of the following definition:  
"revision board" means a board constituted in terms of section 25 (4) (a);

*Amendment of section 3 of Act 11 of 1982.*

2. Section 3 of the principal Act is hereby amended —
  - (a) by the deletion of paragraph (d) of subsection (1); and
  - (b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:  
"(b) persons whose earnings calculated in the manner set forth in section 40 exceed eighteen thousand rand a year which rate of earnings may be altered by the President by proclamation in the *Gazette* with effect from a date specified in the proclamation;"

*Amendment of section 13 of Act 11 of 1982.*

3. Section 13 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:  
"(1) The Minister may, subject to the provisions of this section, appoint, for such period and on such conditions as he may in any particular case determine, so many persons (representing workmen and employers respectively) as he may deem necessary as assessors who shall in the manner prescribed assist the revision board in the hearing of any objection lodged with the Commissioner in terms of section 25."

*Amendment of section 14 of Act 11 of 1982.*

4. Section 14 of the principal Act is hereby amended by the insertion of the following paragraph after paragraph (b) of subsection (2):  
"(c) in the prescribed manner apply unclaimed moneys for the general welfare of workmen."

*Substitution of section 15 of Act 11 of 1982.*

5. The following section is hereby substituted for section 15 of the principal Act:  
"Power of Commissioner to acquire and to alienate property and to borrow money.  
15. (1) Subject to the approval of the Treasury, the Commissioner may —
  - (a) borrow money if, in his opinion, it is necessary to do so in order to meet any unforeseen contingency; or
  - (b) purchase or otherwise acquire property required wholly or partly for the purposes of this Act and alienate any property so acquired: Provided that all property so acquired other than motor vehicles, shall be held in the name of the Commissioner in trust for the accident fund.  
(2) Subject to the approval of the Minister, the Commissioner may deal with and allocate motor vehicles acquired under subsection (1) (b) as he deems fit and in the best interests of the accident fund: Provided that the requirements set out by the Department of Transport in respect of subsidised vehicles from time to time shall bind the Commissioner in the allocation of subsidised vehicles under his control."

*Substitution of Section 25 of Act 11 of 1982.*

6. The following section is hereby substituted for section 25 of the principal Act:  
"Objections and appeals against decisions of the Commissioner.  
25. (1) Any decision of the Commissioner on any matter referred to in section 14 (1) (c), (e), (f), (g), (h), (i), (j) or (k) or on any other matter that may be prescribed shall, subject to the provisions of this section and of section 26, be final.  
(2) Any person affected by a decision of the commissioner may, within sixty days of such decision, lodge with the commissioner in the prescribed manner an objection against such decision.  
(3) (a) On receipt of the objection the commissioner shall arrange for a formal hearing by the revision board, the time and place of which shall be fixed by the commissioner in consultation with the presiding officer of the revision board. The Commissioner shall forth-

WORKMEN'S COMPENSATION AMENDMENT ACT, 1984

- with give notice in the prescribed manner to the objector or his duly authorised attorney or representative and the employer of the time and place of such formal hearing.
- (b) If the commissioner considers that the attendance of any witness, including the objector and the employer, is necessary in order to enable the revision board to decide any question arising out of the claim, he shall issue a subpoena for the attendance of such persons: Provided that the presiding officer of the revision board may at any stage during the formal hearing, but before a decision is reached, order the commissioner to subpoena any witness whose attendance that board considers necessary to decide a question.
- (c) Upon receiving a request from any person for the subpoenaing of a witness, the commissioner shall issue such a subpoena.
- (4) (a) An objection lodged in terms of the foregoing provisions shall be considered and determined by a revision board consisting of a magistrate appointed by the Minister as presiding officer assisted by two assessors appointed or designated under section 13 to be selected by the Minister for the purpose, of whom one shall be an assessor representing workmen and one an assessor representing employers: Provided that the revision board may, if it deems it expedient, invite any medical assessors appointed under section 13 (5) to sit in an advisory capacity.
- (b) The provisions of sections 56, 57 and 58 shall *mutatis mutandis* apply to the consideration of any such objection.
- (c) The commissioner or any person authorised by him may appear at the formal hearing in support of his decision against which an objection was lodged in terms of the foregoing provisions: Provided that if any employer individually liable would be liable for the payment of the compensation and cost of medical aid should the objection in terms of section 25 (2) be upheld, he as a party concerned shall also be allowed to give evidence or cause evidence to be given on his behalf.
- (5) After consideration of an objection the revision board shall confirm any decision in respect of which the objection was lodged or give such other decision as in its opinion is equitable: Provided that any matter of law arising for decision before the revision board and any question as to whether a matter for decision is a matter of fact or law shall be decided by the presiding officer of the revision board and the assessors shall have no voice in such decision.
- (6) In any proceedings under this section the revision board may make such order as to costs and the payment thereof as it deems fit.
- (7) (a) Any decision given by the revision board in accordance with the provisions of subsection (5) shall be final and not subject to review or appeal in any court of law on any grounds whatsoever, save review or appeal as hereinafter provided in this subsection.
- (b) Any person, including the commissioner as the person in control of the accident fund and any employer individually liable affected by a decision referred to in paragraph (a) may appeal to the Supreme Court on any question as to —
- (i) the interpretation of this Act or any other law;
  - (ii) whether an accident causing the disablement or death of a workman was attributable to his own serious and wilful misconduct;
  - (iii) whether the amount of any compensation awarded is so excessive or so inadequate that the award could not reasonably have been made; or
  - (iv) the right to additional compensation in terms of section 42.
- (c) Subject to the provisions of this subsection, such appeal shall be

WORKMEN'S COMPENSATION AMENDMENT ACT, 1984

noted and prosecuted as if it were an appeal from a judgement of a magistrate's court in a civil matter and all rules applicable to such last mentioned appeal shall *mutatis mutandis* apply to an appeal under this section.

- (d) Any decision referred to in paragraph (a) may be reviewed by the Supreme Court on the application of any person, including the commissioner as the person in control of the accident fund and any employer individually liable affected by such decision, if it appears that the revision board in giving its decision exceeded its powers or refused to exercise powers which it was bound to exercise, or exercised its powers in an arbitrary or *mala fide* or grossly unreasonable manner.
- (e) Such application for review shall be lodged within twenty-one days of the decision in question.
- (8) Except where the commissioner otherwise orders, no obligation to pay any assessment, compensation or other amount to the commissioner or the accident fund or any periodical payments to or in respect of a workman in terms of a decision of the commissioner shall be suspended or deferred by reason of the fact that an objection has been lodged against such decision under subsection (2) or that any appeal has been lodged or application has been made for review under subsection (7) but if, as a result of any such objection or review, the amount payable in terms of the original decision is varied, the person who made the payment shall be entitled to a refund or be liable to pay the additional amount, as the case may be —".

*Substitution for section 26 of Act 11 of 1982.*

7. The following section is hereby substituted for section 26 of the principal Act:

*"Commissioner or presiding officer of revision board may state case for Supreme Court.*

- 26. (1) The Commissioner or the presiding officer of the revision board may of their own motion or at the request of an interested party to any proceedings under this Act, state a special case on any question of law in connection with any matter arising in such proceedings, for the decision of the Supreme Court and every interested party shall have the right to appear in person or by counsel at the hearing of such special case.
- (2) In any case so stated the commissioner or the presiding officer of the revision board shall set forth —
  - (a) the facts which were established; and
  - (b) the view of the law which he has adopted in relation to those facts.
- (3) Whenever the commissioner or the presiding officer of the revision board has any doubt as to the correctness of any decision given by the Supreme Court on any question of law in connection with this Act, he may submit that decision to the Appellate Division of the Supreme Court of Ciskei and cause the matter to be argued before it, in order that it may determine the said question for future guidance."

*Amendment of section 31 of Act 11 of 1982.*

8. Section 31 of the principal Act is hereby amended by the substitution for the word "compensation" of the word "benefits".

*Amendment of section 37 of Act 11 of 1982.*

9. Section 37 of the principal Act is hereby amended —

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:  
"(a) compensation for temporary total disablement shall be periodical payments during such temporary disablement at a rate of seventy-five per cent of the monthly earnings of the workman up to six hundred rand of such earnings and fifty per cent of his monthly earnings in excess of six hundred rand up to one thousand three hundred rand of such earnings: Provided that the periodical payment shall not be less than thirteen rand per month or the rate of the workman's earnings at the time of the accident, whichever is the lesser."; and
- (b) by the substitution in subsection (3) for the words "one thousand" of the words "one thousand three hundred".

WORKMEN'S COMPENSATION AMENDMENT ACT, 1984

*Amendment of section 38 of Act 11 of 1982.*

10. Section 38 of the principal Act is hereby amended —
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:  
“(a) Where the degree of disablement is thirty percent, a lump sum equal to fifteen times the monthly earnings of the workman up to six hundred rand of such earnings.”; and
  - (b) by the substitution for paragraph (c) of subsection (1) of the following paragraph:  
“(c) where the degree of disablement is one hundred percent a monthly pension equal to seventy-five percent of the monthly earnings of the workman up to six hundred rand of such monthly earnings plus fifty percent of his monthly earnings in excess of six hundred rand up to one thousand three hundred rand of such earnings: Provided that the pension payable shall not be less than thirteen rand per month or the rate of the workman's earnings at the time of the accident, whichever is the lesser.”; and
  - (c) by the substitution in subsection (2) for the words “one thousand” of the words “one thousand three hundred”.

*Amendment of section 39 of Act 11 of 1982.*

11. Section 39 of the principal Act is hereby amended —
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:  
“(a) If the workman leaves a dependant, a widow or invalid widower and no children, a lump sum not exceeding twice the workman's monthly earnings or six hundred rand, whichever is the lesser, and a monthly pension equal to forty per cent of the pension which would have been granted to the workman under section 38 (1) if he were permanently and totally disabled.”; and
  - (b) by the substitution for subsection (2) of the following subsection:  
“(2) The commissioner may at his discretion pay out of the accident fund or, as the case may be, direct the employer individually liable to pay, an allowance not exceeding six hundred and fifty rand towards the necessary burial expenses of the workman.”.

*Amendment of section 40 of Act 11 of 1982.*

12. Section 40 of the principal Act is hereby amended —
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:  
“(a) include —
    - (i) the value of any food or quarters supplied by the employer; and
    - (ii) any overtime payments or other special remuneration.”; and
  - (b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:  
“(b) exclude any casual payments, sums paid by an employer to a workman to cover any special expense imposed on the workman by the nature of work, or any *ex gratia* payments to the workman, whether made by the employer or any other person.”; and
  - (c) by the deletion of subsection (5).

*Amendment of section 42 of Act 11 of 1982.*

13. Section 42 of the principal Act is hereby amended —
- (a) by the substitution for subsection (4) of the following subsection:  
“(4) If the commissioner is not satisfied that the accident was due to any such negligence or defect as is referred to in subsection (1), he shall refer the application to the revision board who shall deal with such an application *mutatis mutandis* in accordance with the procedure prescribed in section 25 (4) (a) and (5) as if it were an objection referred to in subsection (2) of that section.”; and
  - (b) by the substitution for subsection (5) of the following subsection:  
“(5) In any proceedings under this section the revision board may make such order as to costs and the payment thereof as it deems fit.”.

*Insertion of section 42 A in Act 11 of 1982.*

14. The following section is hereby inserted in the principal Act after section 42:
- |   |   |
|---|---|
| <i>“Increase of compensation awarded before a certain date.</i> | 42. All monthly pensions payable under section 38 or 39 of this Act at the commencement of the Workmen's Compensation Amendment Act, 1984, or awarded subsequently, in respect of accidents which happened before such commencement, shall with effect from such commencement be increased by fifteen per cent.”. |
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*Substitution of section 46 of Act 11 of 1982.*

15. The following section is hereby substituted for section 46 of the principal Act:
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| <i>“Advances against compensation.</i> | 46. In anticipation of an award of compensation, the commissioner may, where in his opinion the interest or pressing need of the workman warrants it, |
|--|---|

## WORKMEN'S COMPENSATION AMENDMENT ACT, 1984

make or order an advance against compensation not exceeding five hundred rand in all to be made to or on behalf of the workman on such conditions as the commissioner may think fit."

*Amendment of section 53 of Act 11 of 1982.*

16. Section 53 of the principal Act is hereby amended by the substitution for the proviso to subsection (3) of the following proviso: "Provided that the right to benefits under this Act shall elapse if the accident does not come to the notice of the employer or of the commissioner for the payment of the said benefits within twelve months of the date of the accident."

*Substitution of section 96 of Act 11 of 1982.*

17. The following section is hereby substituted for section 96 of the principal Act:

*"Penalties.*

96. (1) Every person convicted of an offence under section 71 (3), shall be liable on conviction to a fine not exceeding five hundred rand or in default of payment to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.

(2) Every person convicted of an offence under this Act, shall, where no penalty is specially provided for such offence, be liable on conviction to a fine not exceeding two hundred rand or in default of payment to imprisonment for a period not exceeding three months, or both such fine and such imprisonment."

*Short title and commencement.*

18. This Act shall be called the Workmen's Compensation Amendment Act, 1984, and shall come into operation on a date to be fixed by the President by proclamation in the *Gazette*: Provided that the amendments effected by sections 2, 8, 9, 10 and 11 shall not apply with reference to accidents which occurred prior to the date so fixed.

# **OFFICE OF THE PRESIDENCY**

## **PROCLAMATION NO. 11 OF 1984**

by the President of the Republic of Ciskei

### **WORKMEN'S COMPENSATION AMENDMENT ACT, 1984 (ACT 24 OF 1984): DATE OF COMMENCEMENT**

Under and by virtue of the powers vested in me by section 18 of the Workmen's Compensation Amendment Act, 1984, I declare that the said Act shall come into operation on 1 September 1984.

Given under my Hand and the Seal of the Republic of Ciskei on this Twenty eighth day of August One thousand Nine hundred and Eighty-four.

**L L SEBE  
PRESIDENT**

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**DEPARTMENT OF MANPOWER UTILISATION**

**GOVERNMENT NOTICE No. 58**

**WORKMEN'S COMPENSATION AMENDMENT ACT, 1984**

**(ACT NO. 24 OF 1984)**

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**OFFICE OF THE PRESIDENCY**

**PROCLAMATION NO. 11 OF 1984**

**WORKMEN'S COMPENSATION AMENDMENT ACT, 1984 (ACT 24 OF 1984):  
DATE OF COMMENCEMENT**

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