

Tanzania

Workers Compensation Act, 2008

## Workers Compensation Regulations, 2016

Government Notice 185 of 2016

Legislation as at 27 May 2016

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Government Notice 668 of 2021.

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# Tanzania

## Workers Compensation Act, 2008

# Workers Compensation Regulations, 2016

## Government Notice 185 of 2016

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**Commenced on 27 May 2016**

*[This is the version of this document as it was from 27 May 2016 to 9 September 2021.]*

*[Made under section 94]*

### Part I – Preliminary provisions

#### 1. Title

These Regulations may be cited as the Workers Compensation Regulations, 2016 and shall come into operation on the date of publication.

#### 2. Application

- (1) These Regulations shall apply to the Fund, employers and employees in Mainland Tanzania.
- (2) Notwithstanding the provisions of sub regulation (1) and subject to section 24 (3) of the Act, these Regulations shall apply to employees working in Tanzania Zanzibar whose employers are operating their business mainly in Mainland Tanzania.

#### 3. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Workers Compensation Act;

*[Cap. 263]*

“**accreditation**” means a process whereby the qualification and capabilities of health care providers are verified for the purposes of conferring upon the privilege of participation in the Fund;

“**annual earnings**” means the annual amount which is paid by an employer to his employees during tenancy of their employment contracts and include basic salaries and other fixed allowances which are paid on monthly basis along with basic salaries and subject to sections 58, 73(1)(a), 73(5) and 73(6);

“**assessor**” means a person with special technical skills appointed by the Director General from within or outside the Fund, permanently or for a specific purpose, to assist the Director General in the performance of his duties;

“**apprentice**” means a person who works for an employer for the purpose of learning within a specific time;

“**authorized person**” means an employee of the Fund or any other person with required skills appointed by the Director General to investigate any matter that he deems necessary for the performance of his functions;

“**chairman**” means the Chairman of the Board of Trustees appointed in accordance with the First Schedule of the Act;

“**competent authority**” means a person, officer, office or body with the power under any relevant written law to do, decide or determine any matter as may be prescribed;

“**employee**” means—

- (a) any person, including an apprentice but excluding an independent contractor, who works for another person or for the state and who receives, or is entitled to receive, any remuneration; and
- (b) any other person who in any manner assists in carrying on or conducting the business of employer and who receives, or is entitled to receive, any remuneration:

Provided that the following persons are exempted from the definition of “employee” in line with the provisions of section 1(2) and section 94(1) (h) and (2) of the Act, until such time that the Minister has issued specific regulations for them upon being advised by the Board—

- (a) a person who is employed or works for an employer in the informal sector;
- (b) a person who is employed or works for an employer in the formal sector for less than thirty consecutive days including weekends and public holidays;
- (c) any person who is a member of armed forces or of any visiting force lawfully present in Mainland Tanzania;
- (d) any person who is employed or works for the Tanzania Intelligence and Security Service;
- (e) an apprentice who is not paid salary or allowance by the employer;
- (f) any class of person whom the Minister may declare not to be an employee for the purposes of these Regulations;

“**employer**” means any person, including the Government and an executive agency, who employs an employee;

“**formal sector**” means a sector which include employers and employees who have entered into a contract of employment or apprenticeship or any other contract contemplated in the definition of “an employee”;

“**Fund**” means the Workers Compensation Fund established under section 5 of the Act;

“**health care provider**” means any person, institution or agency that provides curative health services;

“**informal sector**” means the sector which include workers who work informally and who do not have employment contract or any other contract contemplated in the definition of “an employee”;

“**medical advisory panel**” means a body of Medical Practitioners composed by the Director General under section 10 of the Act;

“**nomination committee**” means a committee established by the Minister under regulation 4;

“**notice**” means notice which is either in writing or verbal;

“**occupational accident**” means an unexpected occurrence arising out of or in connection with work which may result into an employee’s injury or death;

“**occupational disease**” means a disease set out in the Third Schedule to the Act or any other disease that has arisen out of and in the course of the employee’s employment;

“**occupational injury**” means an injury sustained by an employee as a result of an occupational accident or occupational disease;

“**party**” means any person who is a party to any proceedings under the Act, and includes a person appearing for a party;

"**person**" means any word or expression descriptive of a person and includes a public body, company, or association or body of persons, corporate or unincorporated;

"**representative**" means the executor or other person lawfully appointed to take charge of the estate of a deceased employee, or any person specially appointed by the Director General to make an application on behalf of the deceased employee's dependants for compensation and in other respects to act as the representative of such employee for the purposes of these Regulations;

"**revenue**" means income of the Fund and includes contributions from employers, investment income, penalties imposed under the Act, funds from any lawful sources and any other income which is legally acquired by the Fund during a specific period of time;

"**risk exposure**" means a potential for an occurrence of accident or occupational disease that might occur in the course of employment;

"**sign**" includes the making by a person of a mark, attested by two competent witnesses testifying that such mark was made by such person in their presence, and "signature" includes a mark so made;

"**tariff**" means the sum of money equal to percentage of annual earnings of employees paid to the Fund as per requirement of these Regulations;

"**total disablement**" in relation to an employee, means temporary or permanent inability to perform the work for which he was employed or inability to perform any other suitable work as a result of an accident or occupational disease in respect of which compensation is payable;

"**workers compensation**" means financial support system established under the law to provide income protection, medical care and rehabilitation to employees for illness, injury, or death arising out of and in the course of their employment.

## **Part II – Appointment and termination of Director General, Chairman and other Members of the Board**

### **4. Nomination Committee**

- (1) Subject to section 6(2) of the Act, there shall be a Committee to be known as the Nomination Committee.
- (2) The Nomination Committee shall be comprised of—
  - (a) the Permanent Secretary of the Ministry responsible for Labour who shall be the Chairman of the Committee;
  - (b) the Permanent Secretary of the Ministry responsible for Finance;
  - (c) the Permanent Secretary of the Ministry responsible for Health;
  - (d) the Permanent Secretary of the Ministry responsible for Local Government Authorities;
  - (e) the Permanent Secretary of the Ministry responsible for Public Service;
  - (f) two experts in Social Security or insurance matters appointed by the Minister;
  - (g) an expert in labour relations matters appointed by the Minister.
- (3) The Nomination Committee shall appoint one person from amongst themselves to be the secretary.
- (4) The Nomination Committee shall appoint, as deemed suitable, a secretariat composing of not more than three (3) persons of relevant competency and experience to facilitate smooth running of its functions.
- (5) The Nomination Committee shall work on *ad-hoc* basis depending on the need for nomination.

- (6) The Fund shall pay all such allowances, fees and any other expenses incurred for the purpose of the Nomination Committee and subject to the approval of the Minister.

## 5. Functions of the Nomination Committee

- (1) The functions of the Nomination Committee shall be to invite applications, scrutinize and shortlist persons who apply for appointments as a Director General or Chairman.
- (2) The Nomination Committee shall take necessary actions to identify the best candidates for the post.
- (3) The Nomination Committee shall submit to the Minister—
  - (a) three names of persons to be forwarded to the President by the Minister to be considered for appointment as Director General;
  - (b) three names of persons to be forwarded to the President by the Minister to be considered for appointment as Chairman.
- (4) The Nomination Committee shall regulate its own proceedings and other matters in relation thereto.

## 6. Appointment of Director General and Chairman

- (1) Subject to the provisions of regulations 4 and 5, there shall be a Director General and Chairman appointed by the President in accordance with section 6(1) and paragraph 1(1)(a) of the First Schedule of the Act respectively.
- (2) The Minister may designate any officer serving in the managerial position in the Fund to act as a Director General during the occurrence of any of the following—
  - (a) resignation by the Director General;
  - (b) incapacity of the Director General by reason of health or mental problem to perform his functions;
  - (c) appointment to another post;
  - (d) termination by reason of inability to perform his functions;
  - (e) death; or
  - (f) any other reason that may render the post of a Director General vacant.

## 7. Disqualification of Director General

- (1) A person shall be disqualified for an appointment as a Director General, if he—
  - (a) is convicted and sentenced to imprisonment for any criminal offence;
  - (b) is adjudged bankrupt;
  - (c) has applied for the benefit of any law for the relief of bankrupt or insolvent debtors;
  - (d) compounds with his creditors or makes an assignment of his remuneration for their benefit; or
  - (e) proved to be physically or mentally unfit to perform his work.
- (2) Notwithstanding the provisions of sub regulation (1), no act of commission or omission by the Director General done or omitted to be done in good faith for the purpose or in pursuance of these Regulations shall be invalid by reason only of any defect in his appointment.



## 8. Appointment and termination of members of the Board

- (1) The Minister shall appoint members of the Board of Trustees, other than the Director General and Chairman, as provided for in the First Schedule of the Act.
- (2) Termination of members of the Board of Trustees shall follow procedures to vacate office as provided for in the First Schedule of the Act.

## Part III – Employer’s registration and assessment of tariffs

### 9. Registration of employer

- (1) Every employer shall, within thirty calendar days from the date of recruitment of the first employee, submit his particulars of registration to the Director General in Form WCR-1 as prescribed in First Schedule to these Regulations.
- (2) Notwithstanding the provision of sub regulation (1), existing employers and new employers up to 30<sup>th</sup> June 2016, shall be required to submit their particulars for registration to the Director General in the form set out in Form WCR-1 within such time as may be determined by the Director General.
- (3) The particulars of registration referred to under sub regulation (1) shall be submitted either electronically, manually or in any other form as may be determined by the Director General.
- (4) The Director General shall within the period not exceeding six months from the date of receipt of the particulars submitted by the employer, under sub regulation (1) and (2), verify such particulars and issue a certificate of registration.
- (5) The certificate of registration issued under sub regulation (4), shall be displayed at a conspicuous place in the workplace so that it can easily be seen.
- (6) Where the information and particulars submitted under sub regulations (1) and (2) are incorrect or insufficient, the Director General may require the employer to submit within fourteen calendar days, the information or particulars needed for completion of registration.
- (7) Particulars of registration to be availed during employers’ registration shall also include individual records of each employee for a particular employer as may be determined by the Director General.

### 10. Particulars of business

- (1) Every employer shall, within fourteen working days from the date of receipt of the certificate of registration, furnish the Director General the particulars of his business in the manner prescribed in Form WCR-2.
- (2) For the purpose of enabling the Director General to do a correct assessment under sub regulation (1), an employer shall, during the submission of business particulars, be required to submit a separate report showing itemized particulars of annual earnings for every employee.
- (3) Notwithstanding the requirements under this regulation and regulation 9(1), the employer may submit to the Director General the particulars of registration and particulars of business at the same time.

### 11. Tariff determination

- (1) The Director General, shall, with the opinion of an actuary, assess employers, or categories of employers, for tariff determination within any time and in such manner as he may determine.

- (2) In determining the tariff to be paid by the employer, the Director General shall take into consideration—
  - (a) the annual earnings of the employees;
  - (b) the degree of risk exposure of the employer; and
  - (c) such other objective basis as he may consider suitable.

## 12. Assessment of employer's degree of risk exposure

- (1) The Director General shall, in assessing an employer's degree of risk exposure, consider the following—
  - (a) compliance with National Occupational Safety and Health legislations;
  - (b) National Occupational Safety and Health Standards;
  - (c) nature of industry;
  - (d) records of accidents and occupational diseases;
  - (e) geographical and environmental factors; and
  - (f) any other factors that he may deem necessary to consider.
- (2) Notwithstanding the requirement of sub regulation (1), in the absence or deficiency of National Occupational Safety and Health standards, the Director General may, in assessing risk for exposure, consider relevant International Occupational Safety and Health Standards as he deems appropriate.
- (3) The Director General shall, from time to time, issue guidelines including specific applicable standards for conducting risk assessment.

## 13. Payment of tariff

- (1) Tariff determined under regulation 11 shall be paid on monthly basis.
- (2) Every new tariff as determined under regulation 11 shall be applicable from the first day of July following its determination and shall prevail for at least twelve months thereafter until it is amended by the next assessment of tariff under regulation 11.
- (3) The payment of tariff relating to a particular month shall be made within a period of one month after the end of the month to which the tariff relates.
- (4) The tariff shall be paid through a bank account, an agent, a financial institution, other means of payment regulated by the Bank of Tanzania or any other means as the Director General may consider suitable.
- (5) Notwithstanding the requirement of this regulation, an employer may opt to pay annual tariff—
  - (a) once at the beginning of every financial year;
  - (b) semiannually at the beginning of every six months; or
  - (c) on quarterly basis at the beginning of every quarter of financial year.
- (6) The payment prescribed in sub regulation (5) shall, prior to its execution, be communicated to the Director General in writing.
- (7) Subject to section 75(2) of the Act, where a tariff is not paid within the period prescribed under this regulation, an employer shall be liable to pay a sum not exceeding ten percentum of the unpaid amount as an interest following the date from which the payment should have been made and the amount of the interest shall be recovered as debt owing to the Fund by the employer.

#### 14. Employer's return of earnings

- (1) An employer shall, not later than the 31<sup>st</sup> day of March of each calendar year, furnish to the Director General return of earnings in a Form WCR-3 as set out the First Schedule to these Regulations.
- (2) An employer who commences business after the last day of February of a particular year shall, within seven working days after the commencement of the business, furnish to the Director General with his particulars of business in the manner prescribed in Form WCR-2.
- (3) In furnishing returns of earnings to the Director General as provided under sub regulation (1) and (2), the employer shall submit an itemized particular report of the annual earnings for every employee as provided for under regulation 10(2).

### **Part IV – Occupational accident, occupational disease or death notification procedure and provision of health care**

#### 15. Notification of accident by employee or employer

- (1) Subject to section 33(1) of the Act, an employee or any other person on behalf of an employee shall within two working days after an occurrence of the accident notify the employer of such occurrence either orally, in writing or electronically in the manner prescribed in Form WCN-1.
- (2) Notwithstanding the provision of sub regulation (1), an employee or any other person on behalf of an employee, may notify the Director General within seven working days after an occurrence of accident either orally, in writing or electronically in the manner prescribed Form WCN-1.
- (3) The employer shall, within seven working days after receipt of the notification under sub regulation (1), acknowledge the receipt of such notification.
- (4) Subject to section 34(1) of the Act, employer shall, within seven working days from the date of receipt of notification under sub regulation (1), notify the Director General in the manner prescribed in Form WCN-1 as set out in the First Schedule to these Regulations.

#### 16. Notification of occupational disease by employee or employer

- (1) Subject to section 35(1) of the Act, an employee or a trade union on behalf of an employee shall, within fourteen working days after occurrence of an occupational disease, notify the employer of such occurrence in the manner prescribed in Form WCN-1 as set out in the First Schedule to these Regulation.
- (2) Subject to section 35(3) of the Act, the notification of an occurrence of occupational disease by an employer to the Director General shall be made within seven working days after receipt of such notice from an employee or trade union or any other person on behalf of the employee in the manner prescribed in Form WCN-1 of the First Schedule to these Regulation..
- (3) Notwithstanding the provision of sub regulation (1), an employee or a trade union or any other person on behalf of an employee, may notify the Director General, in a prescribed Form WCN-1, within twenty one working days after an occurrence of occupational disease.
- (4) Subject to section 40(3) of the Act, and for the purpose of this regulation, date of “occurrence of an occupational disease” means a date when a medical practitioner diagnosed the disease for the first time and notified the employee or any other person on behalf of an employee of the diagnosis.

#### 17. Notification of death

- (1) The procedure for notifying the employer or the Director General on an occurrence of death arising out of an accident or an occupational disease shall be made in accordance with regulations 15 and 16.

- (2) Notwithstanding the provisions of sub regulation (1), notification of death to the employer or Director General shall be made within twelve months from the date of occurrence of such death.

### **18. Care and treatment pending compensation**

- (1) An employer shall be responsible for the provision of health care and treatment to an employee who has sustained injuries as a result of accident or an employee who has acquired occupational diseases pending submission and determination of the claim for compensation by the Director General in the manner prescribed under Part V of these Regulations.
- (2) Notwithstanding the provisions of sub regulation (1), where there is an arrangement by an employer for the provision of health care and treatment to an employee, such arrangement shall be used to cover the expenses to be incurred pending submission of the claim for compensation to the Director General.

## **Part V – Submission and review of claim for compensation**

### **19. Claim for compensation**

- (1) Subject to section 39(3) of the Act, an employee or any other person on behalf of an employee, shall, within twelve months from the date of occurrence of an accident, an occupational disease or death, submit a claim for compensation to the employer and furnish a copy of such claim to the Director General as prescribed in Form WCC-1.
- (2) An employer shall, within seven working days after receipt of a claim under sub regulation (1), submit such claim to the Director General in a manner prescribed in Form WCC-1 of the First Schedule to these Regulation.
- (3) A claim for compensation submitted to the employer or Director General shall be supported by relevant documents as provided for under regulation 20(6) or as may be required by the employer or the Director General.

### **20. Receipt of a claim by Director General**

- (1) The Director General shall, upon receipt of the information and particulars of the claim for compensation submitted under regulation 19, inquire the correctness of the information and particulars submitted.
- (2) Where the information and particulars submitted under sub regulation (1) are correct and sufficient, the Director General shall proceed with determination of such claim in line with Fund's procedures.
- (3) Where the information and particulars submitted under sub regulation (1) are incorrect or insufficient, the Director General may, within five working days after becoming aware of the incorrectness or inconsistency, request the employer or employee or any other person on behalf of an employee as the case may be, to furnish the information or particulars that he deems necessary for re-consideration of the claim submitted.
- (4) The information or particulars requested under sub regulation (3) shall be submitted to the Director General in Form WCC-1 as prescribed in the First Schedule to these Regulations within thirty calendar days from the date of receipt of such request.
- (5) Where information or particulars referred to under sub regulation (4) are submitted, and the Director General finds the information or particulars to be correct or sufficient, he shall proceed to determine the claim submitted and give his decision within thirty working days from date of receipt of such information or particulars.
- (6) For the purpose of this regulation information and particulars' includes a fitness to work medical examination report, medical report, Police investigation report, an occupational accident or disease

investigation report, a fire and rescue report, employer's report in support of the claim and any other information or particular as the Director General may require.

- (7) Notwithstanding the requirements of regulations [19](#), an employee, employer or any person on behalf of an employee shall not submit a claim for compensation to the Director General if an inquest is to be held or where criminal case has been instituted or is likely to be instituted in connection with the occurrence of an accident, occupational disease or death, until such inquest or criminal case is concluded.
- (8) The Director General may suspend the determination of any claim submitted under regulation [19](#) if he finds out in any manner that the matter in question is a subject of an inquest or criminal case which instituted or likely to be instituted in connection with the same accident, occupational disease or death.

## 21. Submission of medical report

- (1) The Medical Practitioner shall within fourteen calendar days after examining for the first time an employee injured in an accident or after diagnosing an occupational disease in an employee, submit an initial medical report to the employer and the Fund as prescribed in Form WCC-2A.
- (2) In submitting a claim for compensation under regulation [19\(1\)](#), an employee or any other person on behalf of an employee, shall among other things, attach a final report of the Medical Practitioner filled as prescribed in Form WCC-2B.
- (3) Where an employee at the time of an occurrence of an occupational disease was not in the service of the employer, the medical report shall be provided in the manner referred to under sub regulations (1) and (2).
- (4) Notwithstanding the requirements of this regulation, where the Director General requires a further medical report regarding an employee, the Medical Practitioner shall, within fourteen calendar days upon receipt of such request, furnish the required report in a manner requested by the Director General.

## 22. Formal hearing by Director General

- (1) Where the Director General receives a claim which in his opinion, requires a formal hearing to be held to determine such claim, the Director General shall fix a date, time and place for holding such hearing.
- (2) The Director General shall thereupon issue a notice in the prescribed form containing information as set out in Form WCC-3A to be sent to the parties in order to attend such hearing.
- (3) Every party to the hearing shall appear in person or may be represented by—
  - (a) a legal practitioner;
  - (b) a member of his family;
  - (c) Employer's Organization or Trade Union;
  - (d) officers mentioned under section 42(3) of the Act who are—
    - (i) the chief inspector and all inspectors appointed in accordance with section 5 of the Occupational Health and Safety Act; and  
*[Act No. 5 of 2003]*
    - (ii) the Labour Commissioner, Deputy Labour Commissioner and Labour Officers appointed in accordance with section 43 and 44 of the Labour Institutions Act; or  
*[Cap. 300]*
  - (e) any other person with a level of the Director General.

### 23. Assessors in formal hearing

- (1) The Director General may, before holding a formal hearing, appoint as assessors, two persons with technical skills on the matter in question, to act in an advisory capacity in a formal hearing so as to assist him in determining such matter.
- (2) A person shall not be appointed as an assessor under this regulation or, if appointed, no person shall sit as an assessor if,—
  - (a) he is an employee of, or associated in any pecuniary manner with, the employer of the employee concerned;
  - (b) he has, in connection with the injury or death out of which the formal hearing arises, given professional assistance or advice in regard to the accident or question in dispute to any party to the inquiry or to any person who may become liable for the payment of compensation under these Regulations to such employee.
- (3) An assessor appointed under sub regulation (1), shall cross examine any witness who testifies in such hearing, and shall, before concluding the hearing, give his opinion.
- (4) The Director General shall consider the opinion given by the assessor under sub regulation (3), but such opinion shall not bind the findings of the Director General.

### 24. Powers of Director General in respect of witnesses

- (1) The Director General may, when he thinks necessary or at the request of any interested party to the hearing, issue summons to any person who may be able to give material information concerning the subject of any investigation or formal inquiry held by that person under these Regulations or whom he suspects or believes has in his possession or custody or under his control, any book, document or any other evidence which has any bearing on the investigation or formal inquiry, to appear before him at a time and place specified in such summons, to be interrogated, cross examined or to produce such book, document and the Director General may retain for further examination any book or document so produced.
- (2) A summons issued under sub regulation (1) shall be in the form set out in Form WCC-3B of the First Schedule and signed by the Director General.
- (3) Subject to section 44 of the Act, the Director General may call and administer an oath to any person who is summoned as a witness under sub regulation (1).
- (4) Subject to sub-regulation (3), the Director General and any assessor may cross-examine such person or require such person to produce any relevant book, document or any other evidence which is in his possession or under his control.
- (5) Where a person who has been duly summoned under sub regulation (1), fails without sufficient cause to attend the hearing at the time and place specified in the summons, such person shall be guilty of an offence.
- (6) If any person, having been duly summoned under sub regulation (1), or any person called under the provisions of sub regulation (3), fails to—
  - (a) remain in attendance until excused by the Director General from further attendance or refuses to be sworn as a witness; or
  - (b) answer fully and satisfactorily to the best of his knowledge and belief, all lawfully questions put to him; or
  - (c) produce any book, document or any other evidence in his possession or custody or under his control when lawfully required to do so,shall be guilty of an offence.

- (7) In connection with the cross-examination of any person by, or the production of any book, document or other evidence before the Director General, the law relating to privilege, as applicable to a witness summoned to give evidence or produce any book, document or any other evidence before a court of law, shall apply.
- (8) Any witness who gives false testimony concerning any matter which is material to any question pending in any investigation or formal inquiry or intended to be raised in the investigation or inquiry shall be guilty of an offence.
- (9) The formal hearing shall be conducted in public unless the Director General decides otherwise.

## 25. Non appearance of parties

Where any party to the formal hearing fails to appear at the time and place fixed for such hearing, the Director General may in his discretion—

- (a) proceed with the hearing and determine the matters in dispute and make an order; or
- (b) postpone or adjourn the hearing and cause a notice to be sent to the parties notifying them of the postponement or adjournment and of the time and place he had fixed for the holding or continuing of the formal hearing:

Provided that, where the Director General has determined the matter in dispute under paragraph (a), in the absence of the parties, he may set aside the order and re-open the formal hearing on good cause shown within twenty one working days from the date on which the order was made or may make such further orders as he deems fit.

## 26. Criteria for consideration of claims

- (1) The Director General shall, when determining claims for compensation, consider the following issues—
  - (a) whether the accident, occupational disease or death occurred in the actual discharge of the employee's duties;
  - (b) whether the employee sustained injuries or died as a result of an accident or occupational disease;
  - (c) whether there was a serious or wilful misconduct on the part of the employee;
  - (d) whether the employee has been disabled as a result of occurrence of an accident or occupational disease where death has not occurred;
  - (e) whether the accident is specifically attributable to the nature of the employee's duty unless proved otherwise;
  - (f) whether the employee has a written contract of employment with the employer;
  - (g) whether the employer has notified the Director General of any change in particulars, including particulars for new employees or terminated employees, as required under Section 71(3) of the Act.,
  - (h) whether employees' annual earnings were incorporated in the employer's return of earnings submitted to the Director General for tariff assessment in accordance with regulations 11(2) and 14(3);
  - (i) whether past due employees' contributions were remitted by the employer; and
  - (j) whether employer of an employee referred to under regulation 2(2) has paid the necessary contributions to the Fund.



- (2) Notwithstanding the provision of sub regulation (1), claims of compensation submitted in accordance with the accidents or diseases contracted outside or within Tanzania shall be considered upon—
  - (a) issuance of a work permit by a foreign country;
  - (b) approval of the employer to attend such work;
  - (c) issuance of a Medical Practitioner's report; or
  - (d) proof of any other issue that may be required by the Director General in relation to the claim.

## **27. Findings and decision of Director General on formal hearing**

- (1) The findings of the Director General shall be pronounced immediately or within five working days after the conclusion of the hearing.
- (2) The Director General shall give his decision to conclude a formal hearing within thirty working days after its commencement.
- (3) Where the Director General fails to conclude the hearing within the prescribed time, he shall extend hearing for further thirty working days.
- (4) The Director General, shall, after the conclusion of the formal hearing, within seven days, serve the parties with a copy of his decision or order in a form set out in Form WCC-4 of the First Schedule to these Regulations.
- (5) Notwithstanding the requirements under sub regulation (2) and regulation 20(2) and (5), where the Director General fails to conclude any claim submitted for compensation, he shall notify a person who submitted a claim the gives reasons for his failure to do so.

## **28. Review of decision by Director General**

- (1) The Director General may, is he finds there is a reason to review the decision made by him upon a claim submitted for compensation, he may review such decision on the grounds set out under section 79 of the Act.
- (2) An employee, employer or any person on behalf of an employee who is not satisfied with a decision of Director General, may, within twenty one working days from the date of receipt of such decision, apply for review to the Director General in the manner prescribed in Form WCC-5 of the First Schedule to these Regulations.
- (3) An application for review under sub regulation (2) shall be made on the grounds specified under section 79 of the Act.
- (4) The review by the Director General shall be conducted and concluded within thirty calendar days from the date of receipt of the application by an aggrieved party.

## **29. Appeals to the Minister and application for revision**

- (1) Any person aggrieved by the decision of the Director General may appeal to the Minister against such decision within thirty working days from the date of receipt of such decision in the manner prescribed in Form WCC-6.
- (2) The Minister's decision should be made within thirty working days from the date of receipt of the appeal, upon failure of which the aggrieved party may file the matter to the Labour Court.
- (3) A person aggrieved by a decision of the Minister, may within sixty working days make an application for revision to the Labour Court in accordance with the Labour Court Rules.



### 30. Records in relation to claims

- (1) The Director General shall keep or cause to be kept records in relation to any claim submitted for compensation.
- (2) An employee, employer or any other person on behalf of an employee may, at any time obtain copies of records referred under sub regulation (1), upon payment of a prescribed fee to be fixed by the Director General.

## Part VI – Benefits payable by the Fund

### 31. Benefits

- (1) The Fund shall compensate an employee who sustains injuries as a result of an accident or an occupational disease or dependants of an employee who dies as a result of such accident or occupational disease.
- (2) Subject to Part VI and VII of the Act, compensation benefits provided by the Fund shall be—
  - (a) provision of medical aid;
  - (b) payment for temporary disablement;
  - (c) payment for permanent disablement;
  - (d) payment for the dependants of the deceased;
  - (e) payment for constant attendant care grants;
  - (f) payment for funeral grants; or
  - (g) payment for rehabilitation.
- (3) Notwithstanding the provisions of sub regulations (1) and (2), compensation benefits shall exclude cases where—
  - (a) there is serious or willful misconduct of the employee except for those circumstances described under section 19 (2) of the Act;
  - (b) there is an intentional act of the employee to commit an accident which should be proved by the employer;
  - (c) the benefits are sought as a result of natural catastrophes;
  - (d) the benefits are sought as a result of terrorist attacks; and
  - (e) the employee is under the effect of drugs or alcohol.
- (4) The payment for rehabilitation benefits shall start at such time that the Minister has issued specific regulations for them upon being advised by the Board.
- (5) Notwithstanding the provisions of sub regulation (2), payment of temporary disablement and permanent disablement shall be reduced by the amount of salary and allowances, if any, paid by the employer to his employee after disablement.

### 32. Beneficiaries

- (1) The benefits listed under regulation 31 shall be provided to the following—
  - (a) an employee; or

- (b) in case of dependant—
  - (i) a spouse who, at the time of the death of the employee, was married to the employee according to the law of marriage;
  - (ii) if there is no spouse referred to in item (i), a person with whom the employee was at the time of employee's death living as a husband and wife;
  - (iii) a child of the employee or of the employee's spouse, under the age of eighteen years;
  - (iv) a child over eighteen years of the employee or the employee's spouse, and a parent or any person who the Director General believes was acting in the place of a parent, a brother, a sister, a half brother or half sister, a grandparent or grandchild of the employee; or
  - (v) any other person who at the time of the death of the employee was wholly or partly financially dependent on the employee.
- (2) For the purpose of this regulation 'beneficiary' means an employee or dependant of an employee as provided for under sub regulation (1).

## **Part VII – Determination and payment of compensation**

### **33. Determination of compensation**

The determination of compensation shall be in the manner provided under Parts VI and VII of the Act, where the Director General has, in the manner provided for under Part V of these Regulations, accepted a claim for compensation submitted by an employer, employee or any other person on behalf of the employee.

### **34. Payment of compensation**

- (1) The payment of benefits referred to under Part VI of these Regulations shall be as shown under regulations [35](#), [36](#), [38](#), [40](#) and [41](#).
- (2) Notwithstanding the provisions of sub regulation (1), payment for compensations of claims in relation to conveyance, medical aid and rehabilitation shall be done in accordance with the guidelines issued from time to time by the Director General.

### **35. Provision of medical aid and rehabilitation**

- (1) The provision of medical aid and rehabilitation to an employee who sustains injuries arising out of an accident or occupational disease, shall, in accordance with the requirement under regulation [18\(1\)](#) and [\(2\)](#), be a responsibility of an employer or through the facilitation of the employer, of any other arrangement that provides the same benefit.
- (2) Notwithstanding the provisions of sub regulation (1), for the purpose of ensuring consistency and control of provision of medical aid or rehabilitation, the Fund shall accredit health care providers who shall provide medical aid to employees except with the leave of the Director General, where medical aid or rehabilitation may be provided by any other health care provider.
- (3) Where an employee, employer or any person on behalf of an employee incurs medical expenses in providing medical aid or rehabilitation services to an employee injured as a result of an accident or occupational disease, such employee, employer or any other person on behalf of an employee, shall submit a claim to the Director General for the refund of the costs incurred.
- (4) The refund referred under sub regulation (3) shall be effected only when it is proved that—
  - (a) the services received are in line with the services provided by the Fund;

- (b) the services could not be provided through the accredited Health Care Providers; and
- (c) the procedures for the provision of services under the circumstances were adhered to.

### **36. Compensation for temporary total or partial disablement**

- (1) Subject to section 46(1) and the Fourth Schedule of the Act, the compensation for temporary total or partial disablement shall be calculated on the basis of the percentage of disablement as appropriately determined after occurrence of an accident or occupational disease.
- (2) The compensation for temporary total disablement shall be calculated on the basis of seventy percent of an employee's monthly earning at the time of occurrence of an accident or occupational disease subject to a minimum of shillings 275,702.83 per month and a maximum amount of shillings 3,685,852.69 per month.
- (3) The compensation for temporary partial disablement shall be calculated on the portion of the amount under sub regulation (2) subject to a maximum amount of shillings 3,685,852.69 per month.

### **37. Consideration of claim for temporary total or partial disablement**

- (1) An employee, employer or any other person on behalf of an employee shall not submit a claim for compensation for temporary total or partial disablement if such disablement lasts for a period not exceeding three days.
- (2) An employee shall be considered to be temporarily, totally or partially disabled for a period not exceeding twenty four months and where the disablement continues, the Director General may treat the disablement to be permanent disablement when the extended time elapses as provided under section 46(9) of the Act.

### **38. Compensation for permanent disablement**

- (1) The compensation for permanent disablement shall be calculated in accordance with provision of regulation 36(1) and in manner set out in the Fourth Schedule of the Act.
- (2) The compensation to an employee who has sustained a permanent disablement of one hundred percent shall be calculated on the basis of seventy percent of such employee's monthly earning at the time of an occurrence of an accident or occupational disease, subject to a minimum of shillings 275,702.83 per month and a maximum amount of shillings 3,685,852.69 per month.
- (3) The compensation to an employee who has been less than one hundred percent permanently disabled shall be calculated on the portion of the amount under sub regulation (2) subject to a maximum amount of shillings 3,685,852.69 per month.

### **39. Mode of payment**

- (1) Payments of compensation for temporary total or partial disablement shall be effected on monthly basis or at such other intervals as the Director General may determine but not exceeding a period of one month.
- (2) The Director General may, upon receipt of a request from an employee, an employer or any other person on behalf of an employee, pay such compensation in a manner as he may determine.
- (3) Subject to regulation 51, an employee who has suffered one hundred percent permanent disablement shall be paid compensation as provided for under regulation 38 and section 48(4) of the Act, and such payment shall lapse at the end of the month in which such employee dies.

#### 40. Funeral grants, constant attendant care grants, medical costs, conveyance costs and rehabilitation benefits

- (1) Funeral grants, constant attendant care grants, reasonable medical costs, reasonable conveyance costs and rehabilitation benefits shall be determined by the Director General through guidelines issued from time to time or other means as considers suitable by him from time to time.
- (2) Notwithstanding the provisions of sub regulation (1), guidelines for rehabilitation benefits may be issued only after the Minister has issued specific Regulations to cover them as per provisions of Regulation 31 (4).

#### 41. Compensation for dependants

- (1) Where an employee dies as a result of injuries arising out of accident or occupational disease, his dependants, if any, shall be paid compensation as follows, where—
  - (a) the employee leaves a spouse or person who lived with the employee as husband and wife without being legally married at the time of his death—
    - (i) a lump sum based on twice the monthly pension provided under section 48(4)(a) of the Act, subject to a minimum of shillings 551,405.66 and maximum of shillings 7,371,705.38; or
    - (ii) a monthly pension based on the forty percent of the monthly pension provided for under section 48(4)(a) of the Act, subject to a minimum of shillings. 110,281.13 per month and maximum of shillings 1,474,341.08 per month:

Provided that payment for spouses referred to under this regulation shall be effected upon issuance, for the case of spouses who were legally married, a certified copy of marriage certificate and for the case of spouses who were not legally married but lived as a husband and wife, a proof from relevant Government authorities proving that the spouses lived together under one roof for a period of not less than two years and that they acquired a reputation of the husband and wife or any other proof as may be required by the Director General.
  - (b) the employee leaves a child who is under the age of eighteen years or over the age of eighteen years but is unable to earn income owing to physical or mental disability as a dependant:
    - (i) a monthly pension based on twenty percent of the monthly pension as stated under section 48(4)(a) of the Act, provided that the Director General approves such payment to be effected to the latter subject to a minimum of shillings 55,140.57 per month and maximum of shillings 737,170.54 per month;
    - (ii) where an employee at the time of death leaves no person referred to under sub regulation (1)(a) or such person later dies, determination of compensation under sub regulation (1)(b)(i) shall take into consideration the requirements of section 52(c) of the Act.
  - (c) the employee leaves no spouse or child as a dependant but leaves as a dependant a person referred under section 52(1)(d) of the Act, compensation—
    - (i) not exceeding forty percent of the monthly pension as provided under section 48(4)(a) of the Act, shall be paid for the dependant who wholly depended upon the deceased subject to a minimum of shillings 110,281.13 per month and maximum of shillings 1,474,341.08 per month;
    - (ii) for the dependants who partially depended upon the deceased, shall be paid a lump sum amount equal to the percentage of dependency to be determined by the Director General as a portion of twice the employee's monthly pension that would have been

payable to the employee had the employee been totally permanently disabled but subject to a maximum of shillings. 7,371,705.38.

- (2) A dependant of an employee shall be entitled to compensation if the employee had not received any payment for compensation until his death.
- (3) Notwithstanding the provision of sub regulation (2), the dependant of the deceased shall not be entitled to payment of compensation if such employee received compensation provided for under section 48(4) (a) and (b) of the Act prior to his death.

#### **42. Employer's duty on payment of compensation**

- (1) In effecting payment of compensation to an employee or any person on behalf of an employee, the Director General shall furnish a report of such payment at such times and in a manner to be determined by the Director General to the employer so as to enable the latter be aware of the payment effected to his employees or dependants of his employees.
- (2) The employer shall from time to time, inform the Director General on any information regarding an employee or dependant of an employee that may enable the Fund to suspend or discontinue payment or provision of the benefits listed under regulation 31(2) to such employee or dependant of an employee.
- (3) The information referred to under sub regulation (2) shall include a report of death of an employee or dependant of an employee, cessation of employment of an employee, transfer of an employee or any other information that may be useful to the Fund with regard to payment of compensation.

#### **43. Medical examination for a pensioner**

- (1) The Fund shall, from time to time, require an employee who receives pension as a result of disablement arising out of accident or occupational disease to do a medical examination through an arrangement determined by it so as to ascertain the progress of the employee with regard to the degree of disablement.
- (2) The result of examination referred under sub regulation (1) may lead to an increase, reduction, suspension or cessation of the payment of pension.

### **Part VIII – Accreditation of health care providers**

#### **44. Power to grant accreditation**

- (1) Subject to section 14 (c) of the Act, the Board shall have powers to grant accreditation to health care providers.
- (2) In accrediting health care providers, the Board shall take into account the categories of such providers as established by the Ministry responsible for Health.
- (3) Notwithstanding the provisions of this regulation, the Board may commission a third party service provider to enter into arrangement with the health care provider to cover medical aid expenses for employees who sustain injuries or occupational disease in accordance with the terms and conditions to be agreed between the Fund and the service provider.

#### **45. Health care providers**

Subject to regulation 44, there shall be accredited health care providers include the—

- (a) medical centers;
- (b) hospitals;
- (c) health centers;

- (d) dispensaries;
- (e) pharmacies;
- (f) essential drug medical stores; and
- (g) specialized firms such as physiotherapy and rehabilitation centers.

#### **46. Condition for accreditation**

- (1) The general requirements and conditions for accreditation of the health care provider shall include —
  - (a) registration by competent authority required by law including a valid operational license from the Ministry responsible for health in case of hospitals, health centers, dispensaries and other health facilities under the Ministry's supervision;
  - (b) for private health care providers, compliance with the provisions of the Private Hospital (Regulation) Act and its subsidiary legislations;  
*[No. 6 of 1977]*
  - (c) the acceptance of the information system requirements and regular transfer of information including but not limited to, reporting mechanisms established by the Fund and maintenance of accurate records of all patients, services rendered and health outcomes resulting from those services and health expenditures on patient care;
  - (d) acceptance of accreditation fees as shall be determined by the Director General and approved by the Board from time to time; and
  - (e) acceptance of the terms and conditions of payment by the health care providers which shall be determined by the Board from time to time.
- (2) Notwithstanding the requirements of sub regulation (1), the Director General shall, upon approval by the Board, determine the procedures, guidelines, terms and conditions of accreditation of health care providers for the Fund.

#### **47. Powers of Director General in relation to health care providers**

For the purpose of managing accredited health care providers, the Director General shall, with the approval of the Board—

- (a) register all accredited health care providers;
- (b) inspect health care providers for compliance in accordance with the agreed terms and conditions;
- (c) accept or decline the application for accreditation by a health care provider; and
- (d) revoke, re-accredit, suspend or re-instate a health care provider.

#### **48. Choice of health care provider by employee**

- (1) The employee shall have a right to receive health services from any accredited health care provider.
- (2) Notwithstanding the provision of sub regulation (1), the employee is required to abide the health care provision referral protocols and procedures to be determined by the Director General from time to time.

#### **49. Quality assurance**

The Fund shall develop and implement a performance monitoring system for the purpose of ensuring provision of quality services by an accredited health care provider.

## Part IX – General provisions

### 50. Appointment of an actuary

The Board shall at an interval of three years or at any other interval as the Authority may direct, appoint an actuary in accordance with the Public Procurement procedures to carry out the valuation of the Fund.

### 51. Cessation of payment of pension

- (1) Payment of pension under these Regulations to an employee who sustained injuries as a result of an accident or occupational disease shall cease when the employee resumes work with full pay or qualifies for payment of an old age or invalidity pension upon reaching retirement age or death whichever comes first.
- (2) Where an employee resumes work with less monthly earning or qualifies for an old age or invalidity pension which is less than what is provided by the Fund, the Fund shall pay the difference to the employee subject to the maximum amount of compensation payable under these Regulations.

### 52. Disposal of unclaimed money

- (1) Where any money payable under the Act to any person other than the Director General are not claimed by the person entitled thereto within two months after being effected, the Director General shall issue a four months' notice in a manner to be determined by the Director General inviting such person to collect the money so unclaimed within the prescribed time.
- (2) Where no person appears to collect the money within the time stipulated in sub regulation (1), the money so unclaimed shall be treated as other income of the Fund.

### 53. Employees' rights

An employer or trade union shall be required to display at a conspicuous place employees' rights provided in the Second Schedule of these Regulations.

### 54. Compensation for apprentice

- (1) The payment for compensation shall be effected to an apprentice who is paid salary or allowance by the employer from which contributions are remitted to the Fund.
- (2) Notwithstanding the provisions of sub regulation (1), claim of compensation by an apprentice shall be determined in accordance with regulation 26(1).

### 55. Compensation for the excepted employees

Employers of the excepted employees shall be required to have insurance arrangement in place to provide protection to employees in case of contingencies involving occupational accidents, diseases and deaths.

### 56. Fees, allowance and other payments

The Director General, shall, from time to time and with the approval of the Board, determine fees, allowances and other payments of a medical practitioner, an authorized person, an assessor, a witness or any person who renders services to the Fund.

### 57. Powers to make investigations or inspections

- (1) The Director General may, in writing, authorize any competent person either generally or specifically to investigate any matter falling within his purview and to report to him upon any

such matter, and any person so authorized shall have the power to require and take affidavits or declarations as to any matter to which the investigation or report relates, or to take any other declarations required under these Regulations, and in all cases to administer oaths and attest declarations.

- (2) Upon the production of the written authority referred to in sub regulation (1), such person may, with a prior notice, and at all reasonable times, enter upon any land, works, premises or other place, and may question any employer or other person and inspect any part of the land, works, premises or other place or any books or documents which may contain information required for the purposes of these Regulations and take copies of or extracts from such books or documents.
- (3) Any person who obstructs any person authorized under sub regulation (1) in the lawful exercise of his functions under this regulation or who makes or subscribes to any statement, knowing it is false, or who refuses to answer any questions or produce any document, shall be guilty of an offence.
- (4) The Director General may, upon consultation with the Board, exercise any powers mentioned in this regulation, and whenever the Director General is exercising such powers, all the provisions of this regulation shall apply.

#### **58. Register of accidents**

Every employer shall be required to keep a register of accidents, occupational diseases or death as stipulated in guidelines issued from time to time by the Director General.

#### **59. Duty to keep records**

The Director General shall keep all records of the Fund in accordance with the applicable laws and guidelines in relation to records management.

#### **60. Penalties**

Any person who is convicted of an offence where no penalties have been provided under these Regulations, shall, on conviction be liable for a fine not exceeding five hundred thousand shillings or to imprisonment for term not exceeding six months or both.

#### **61. Revocation of GN. No. 106 of 2011**

The Workers Compensation (Appointment of Director General) Regulations, 2011 is hereby revoked.

### **First Schedule (Made under regulation 3)**

#### **Forms**

*[Editorial note: The forms have not been reproduced.]*



**Second Schedule (Made under regulation 53)****Employees' rights**

No.	Employees rights	Clarification
1.	Right to adequate and equitable compensation (sections 19 (1), 22 (1) and (2) and 29)	Employee who suffers disablement resulted from an accident or who contracts diseases which arises out of and in the course of employment is entitled to an adequate and equitable compensation.  Whereby the accident or disease leads to the death of an employee, his/her dependant(s) is or are entitled to compensation.
2.	Right to rehabilitation (sections 3(b) and 69)	Where an employee suffers accident or contracts occupational diseases, with the consent of the employee, the Director General may provide clinical, vocational and social rehabilitation in order to assist in restoring the employee's health, independence and participation in the society to the maximum extent practicable.
3.	Right to medical aid ( sections 19(3) and 62 (1))	Whereby in case an employee suffers diseases or injury arising out of and in the course of employment, the employee will be entitled to receive medical aid from the Director General for the period of not more than two years from the date of an accident or of diagnosis and notification of an occupational disease contracting diseases.
4.	Right to claim compensation to the Director General (section 39(1) and 40(1))	An Employee or his/her representative shall have the right to lodge claim for compensation within twelve months after the date of accident, diagnosis of the Occupational disease or date of death to the Director General.
5.	Right to be transferred for medical services (sections 61(1) and (2))	Where an employee sustains injuries resulting out of accident or occupational disease, the injured employee shall have the right to be transferred from the scene of accident to the hospital or to the medical practitioner and from the medical practitioner to the employee's residence.
6.	Display of employees rights (sections 77 and 78)	An Employer or trade union shall display employees' rights and procedures to be followed in order to claim compensation under this Act at a conspicuous place so as to be easily read or seen.
7.	Right to information (section 91)	An employee or a dependant of the deceased is entitled, at his own cost and with the approval of the Director General, to get a copy of any document relating to the accident, injury or occupational diseases and claim for compensation involving the employee or dependant of the employee as the case may be.

No.	Employees rights	Clarification
8.	Right to sue the Board of Trustees of the Workers Compensation Fund (section 12 (2) (a))	An employee has the right to sue for any breach of statutory duty or any grievances directly or indirectly caused by the Board of Trustees.
9.	Right to appeal (section 80 (1) and(2))	An employee who is aggrieved by the decision of the Director General may, within thirty working days from the date of receiving the decision, appeal to the Minister.
		An employee aggrieved by the decision of the Minister, may make an application for revision to the Labour Court in accordance with the Labour Court Rules.
10.	Right to be given reasons for appeal decision (section 88)	An employee has a right to be given reasons of the decision reached by the Director General or authorized person.
11.	Right to sue the employer for any civil liability.(section 30(1) and (2))	An employee or a dependant of the deceased has a right to sue the employer for any civil liability in respect of an occupational injury or disease resulting in the disablement or death of an employee if the injury or disease was caused by negligence, breach of statutory duty or any other wrongful act or omission of the employer, or any person for whose act or omission the employer is responsible, or of any other person.