

BILL NO. 3 OF 2017

A BILL

FOR AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT 1964

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Workmen's Compensation (Amendment) Act 2017.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

(3) In this Act, the Workmen's Compensation Act 1964 is referred to as the "Principal Act".

Section 3 amended

2. Section 3 of the Principal Act is amended by inserting the following new definition—

““Impairment Assessment Training” means the training of local medical practitioners by a medical consultant or physician in how to evaluate or assess the percentage of impairment or disability of workers as a result of a workplace accident, injury or disease;”

Section 13 amended

- 3. Section 13 of the Principal Act is amended by—**

- (a) deleting “and before the workman has voluntarily left the employment in which he or she was injured”; and
- (b) deleting “12 months” wherever it appears and substituting “3 years”.

Section 14 amended

4. Section 14(3) of the Principal Act is amended by inserting “in the form prescribed under Schedule 1A” after “notice”.

Section 15 amended

- 5.** Section 15(1) of the Principal Act is amended by inserting “who has completed the Impairment Assessment Training and is” after “a medical practitioner”.

New Schedule inserted

- 6.** The Principal Act is amended by inserting the following new schedule after Schedule 1 —

“SCHEDULE 1A
(*Section 14(3)*)

DEMAND NOTICE TO OBTAIN DOCUMENTS OR INFORMATION

Notice No:

To: _____

I, _____, an officer appointed under the Workmen's Compensation Act 1964 hereby require you on or before the _____ day of _____ 20 ____ to produce the following documents or information to the Ministry of Employment, Productivity and Industrial Relations:

[illegible]

Failure to comply with the requirements of this Demand Notice at the date and place specified above is an offence under section 14(3A) of the Workmen's Compensation Act 1964.

Dated at _____ this _____ day of _____ 20 _____

Signed:

Labour Inspector

Received: _____

Date: _____”

Office of the Attorney-General
Suvavou House
Suva
February 2017

WORKMEN'S COMPENSATION (AMENDMENT) BILL 2017

EXPLANATORY NOTE

(This note is not part of the Bill and is only intended to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Ministry of Employment, Productivity and Industrial Relations (**'Ministry'**) is responsible for the efficient and effective administration of the Workmen's Compensation Act 1964 (**'Act'**).
- 1.2 The Act specifies that employers provide monetary compensation to workers who are injured during and in the course of employment, and to the dependents of workers whose deaths were related to employment.
- 1.3 In the 1990's, two amendments were made to the Act affecting compensation awards. One of these amendments resulted in the increase in quantum from \$12,000 to \$24,000 for work related deaths and the other was the inclusion of compensation coverage for the disciplined forces. The most recent amendment to the Act was made in 2015 where the compensation payable was increased from \$24,000 to \$50,000.
- 1.4 The National Occupational Health and Safety Service (**'NOHSS'**) took over the administration and enforcement of the Act from the Labour Standard Service (**'LSS'**) of the Ministry in 2001. This resulted in the establishment of the Workers' Compensation Unit (**'Unit'**) within the NOHSS. This Unit is now responsible for the administration, implementation and enforcement of the provisions of the Act.
- 1.5 The Workmen's Compensation (Amendment) Bill 2017 (**'Bill'**) proposes to amend the Act to make worker friendly provisions and to better facilitate the making of compensation claims by workers in the case of injury or death. The Bill also inserts a new Schedule 1A to allow the Ministry to issue a demand notice to employers in order to obtain documents or information.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister.
- 2.2 Clause 2 of the Bill amends section 3 of the Act by inserting the definition of “Impairment Assessment Training”. Impairment Assessment Training means the training of local medical practitioners by a medical consultant or physician in how to evaluate or assess the percentage of impairment or disability of workers as a result of a workplace accident, injury or disease. The new definition clarifies the type of training local medical practitioners will have to go through, before they can assess the injuries of an injured worker.
- 2.3 Clause 3 of the Bill amends section 13 of the Act to extend the current timeframe of making compensation claims from 12 months to 3 years. The timeframe for making a proper medical analysis and the preparation of documents of certain workplace accidents, injuries and deaths in most cases extend well beyond 12 months. Therefore, extending the timeframe from 12 months to 3 years is fair and appropriate for workers as there have been cases in court where claims have been rejected as they did not meet the 12 months requirement.
- 2.4 Clause 3 of the Bill further amends section 13 of the Act by changing the requirement by the worker in giving the notice of accident to only “as soon as practicable after the happening thereof” and removing the requirement that the worker has to also give the notice of accident “before the workman has voluntarily left the employment in which he or she was injured”.
- 2.5 This amendment will be to the advantage of workers as it will allow claims to be made for workmen’s compensation even after leaving employment, however, the claim has to be made as soon as practicable after an injury.
- 2.6 Clause 4 of the Bill amends section 14(3) of the Act to make provision for the issuance of a demand notice to employers for the submission of documents or information in relation to workplace accidents, injuries and fatalities in the form prescribed under Schedule 1A. The amendment will make employers more aware of their obligations in relation to workplace accidents, injuries and fatalities. The timeframe for making compensation claims will be reduced as well, as instead of awaiting the submission of documents or information from employers, labour inspectors can issue a demand notice, which will expedite the process.

- 2.7 Clause 5 of the Bill amends section 15(1) to ensure that medical practitioners who assess the injuries of an injured worker, are those who have completed the Impairment Assessment Training. This ensures that a special pool of doctors will develop a level of specialisation in relation to workplace accidents and injuries.
- 2.8 Clause 6 of the Bill inserts a new Schedule 1A prescribing the demand notice to be issued by labour inspectors.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for employment, productivity and industrial relations.

A. SAYED-KHAIYUM
Attorney-General