



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

WORKERS' COMPENSATION ACT 2016

Introduced by:

HON. MINISTER JOHN M. SILK

Approved:

HON. SPEAKER KENNETH A. KEDI /s/

NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
37TH CONSTITUTIONAL REGULAR SESSION, 2016



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WORKERS' COMPENSATION ACT 2016

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1 NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
2 37TH CONSTITUTIONAL REGULAR SESSION, 2016



3 Republic of the Marshall Islands
4 *Jepilpilin Ke Ejukaan*

WORKERS' COMPENSATION ACT 2016

5 **A BILL FOR AN ACT to provide for compensation and rehabilitation of workers**
6 **in respect to work related injuries or fatalities**

7 **BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS**

8 **§101. Short title.**

9 This Act may be cited as the Workers' Compensation Act 2016.

10 **§102. Purpose**

11 The purpose of this Act is to provide for the compensation and
12 rehabilitation of workers in respect of work related injuries or fatalities.

13 **§3. Interpretation.**

14 In this Chapter, unless the context requires:

15 "Administrator" means the Administrator of the Marshall Islands Social
16 Security Authority or a designee;

17 "Adoption" or "adopted" refers to a legal and customarily adoption prior to
18 the time of the injury;

19 "Carrier" includes stock corporations or mutual associations from which
20 any employer has obtained workers' compensation insurance or
21 guaranty insurance in accordance with the provisions of this Chapter;

22 "Child", has the same meaning under section 103(h) of the MISSA Act;

1 "Board" means the Board of Directors established under section 107 of the
2 MISSA Act;

3 "Republic" means the Republic of the Marshall Islands;

4 "Compensation" means the payment for medical services and supplies, the
5 disability benefits payable to an employee or to his or her
6 dependents, and such other payments arising from the injury of an
7 employee as provided for in this Chapter;

8 "Date of Disability" means the date after which an employee can no longer
9 earn the wages he or she was earning at the time of the injury
10 resulting in the disability. The date of disability is not necessary the
11 date of injury;

12 "Death" when used as a basis for a right to compensation under this
13 Chapter, mean only death resulting from an injury;

14 "Disability" has the same meaning under section 103(p) of the MISSA Act;

15 "Disability benefits" means the money allowance payable periodically to an
16 employee or to his or her survivors as provided for under Section 137
17 of the Marshall Islands Social Security Act;

18 "Employee" has the same meaning under section 103(s) of the MISSA Act;

19 "Employer" has the same meaning under section 103(t) of the MISSA Act;

20 "Independent" means any person who renders service for a specified
21 recompense for a specified result, under the control of his principal as
22 to the result of his work only and not as to the means by which such
23 result is accomplished;

24 "Injury" means accidental injury or death arising out of and in the course of
25 employment, and such occupational disease or infection as arises
26 naturally out of such employment or as naturally or unavoidably
27 results from such accident or injury. The term includes an injury
28 caused by the wilful act of a third person inflicted upon any
29 employee in the course of his or her employment.

30 "Parent" has the same meaning under section 103(ff) of the MISSA Act;

31 "Person" means an individual, partnership, corporation, association,
32 governmental entity or agency including local government, or any
33 other entity.

34 "Spouse" has the same meaning under section 103(nn) of the MISSA Act;

1 “Wages” means the money rate at which the service rendered is
2 recompensed under the contract of hiring in force at the time of the
3 injury; including the reasonable value of board, rent, housing,
4 lodging, or other similar advantages received from the employer, and
5 gratuities received in the course of employment from other than the
6 employer.

7 §4. Coverage.

8 (1) Compensation shall be payable under this Chapter in case of
9 disability or death of an employee, but only if the disability or death
10 results from an injury sustained while engaged in employment.

11 (2) If a worker who has been hired in the Republic receives personal
12 injury by accident arising out of and in the course of his employment,
13 he or she shall be entitled to compensation according to the law of the
14 Republic even though such injury was received outside the Republic.

15 (3) Any person who may be injured in performing service for the
16 Government in any voluntary or unpaid capacity under the
17 authorized direction of a public officer or employee, and who shall
18 not have secured payment of his hospital and medical expenses from
19 Government or under any other provision of law and shall both have
20 secured payment thereof from any third person, shall be paid his
21 reasonable hospital and medical expenses by the Government.

22 (4) No compensation shall be payable under this Chapter to the
23 employee if the injury was proximately caused by the intoxication of
24 the employee or by the wilful intention of the employee to injure or
25 kill himself, herself or others.

26

27 §5. Liability for Compensation.

28 (1) Every employer shall be liable for and shall secure payment of such
29 compensation as may be required under Sections 8, 9, and 10.

30 (2) Compensation shall be payable irrespective of fault as to the injury.

31 (3) In the case of an employer who is a subcontractor or jobber in the
32 construction or garment manufacturing industries the contractor or
33 fisheries industry shall be liable for and shall secure payment of such
34 compensation to employees of the subcontractor unless the
35 subcontractor has secured such payments.

§6. Exclusiveness of Liability.

Where the conditions of compensation exist, the right to recover such compensation, pursuant to the provisions of this Chapter, is against the employer or against any other employee of the employer acting within the scope of such other employee's employment; provided that, if an employer fails to secure payment of compensation as required by this Chapter, an injured employee, or his or her legal representative in case death resulted from the injury, may elect to claim compensation under this Chapter, or to maintain an action at law or for damages account of such injury or death. In such action, the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, nor that the employee assumed the risk of his or her employment, nor that the injury was due to the contributory negligence of the employee.

§7. Disability Benefits:

- (1) Time for Commencement, Maximum Amount.
 - (a) If an injury causes disability, a disability benefit payment shall be made for one week in advance on the fourth day after the date of disability.
 - (b) Disability benefits shall not exceed \$140 per week

§8. Medical Services and Supplies.

- (1) The employer shall furnish to the injured employee such remedial treatment, care, and attendance under the direction of a qualified physician or surgeon or other recognized practitioner, nurse or hospital, as the nature of the injury or the process of recovery may require, including medicines, crutches, artificial limbs and other apparatus and vocational rehabilitation services.

If the employer refuses to provide, after request by the injured employee, or neglects to provide, having knowledge of the injury, treatment and services required by the injury, the injured employee may do so and shall be entitled to recover from the employer the amount expended.

No such claim for medical or surgical treatment shall be valid and enforceable, as against such employer, unless within 20 days following the first treatment, the physician giving such treatment

1 shall furnish to the employer and the Administrator a report of such
2 injury and treatment on a form prescribed by the Board. The
3 Administration may, however, excuse the failure to furnish such
4 report within 20 days when he finds it to be in the interest of justice
5 to do so, and he may, upon application by a party in interest, make
6 award for the reasonable value of such medical or surgical treatment
7 so obtained by the employee.

8 If at any time during such period the employee unreasonably refuses
9 to submit to medical or surgical treatment, the Administrator may, by
10 order, suspend the payment of further compensation during such
11 time as such refusal continues.

12 (2) Whenever, in the opinion of the Administrator, a physician has not
13 impartially estimated the degree of permanent disability or the extent
14 of temporary disability of any injured employee, the Administrator
15 shall have the power to cause such employee to be examined by a
16 physician selected by the Administrator and to obtain a report
17 containing the physician's estimate of such disabilities. If the report of
18 the second physician shows that the estimate of the first physician
19 has not been impartial from the standpoint of such employee, the
20 Administrator shall have the power, at his discretion, to charge the
21 cost of such examination to the employer.

22 (3) Any fees and other charges for treatment or service shall be limited
23 such charges as prevail in the same community for similar treatment
24 of injured persons.

25 (4) The liability of an employer for medical treatment as herein provided
26 shall not be affected by the fact that his employee was injured
27 through the fault or negligence of a third party, not in the same
28 employment. The employer shall, however, have a cause of action
29 against such third party to recover any amounts paid by him for such
30 medical treatment in like manner as provided in section 34 of this
31 Chapter.

32 §9. Disability Benefits.

33 Disability benefits shall be paid to the employee as follows:

34 (1) Permanent Total Disability.

1 In case of total disability, adjudged to the permanent, sixty-six and
2 two thirds (66-2/3) percent of this average weekly wages shall be paid
3 to the employee during the continuance of such total disability.

4 Loss of both hands, or both arms, or both feet, or both legs, or both
5 eyes, or of any two thereof shall, in the absence of conclusive proof to
6 the contrary, constitutes permanent total disability. In all other cases,
7 permanent total disability shall be determined in accordance with the
8 facts.

9 (2) Temporary Total Disability.

10 In case of temporary total disability, sixty-six and two-thirds (66 –
11 2/3) percent of the average weekly wages shall be paid to the
12 employee during the continuance thereof.

13 (3) Permanent Partial Disability.

14 In case of permanent partial disability, the disability benefits shall be
15 sixty-six and two-thirds (66-2/3) percent of the average weekly wages,
16 which shall be in addition to disability benefits for temporary total
17 disability or temporary partial disability paid in accordance with
18 subsection (b) or subsection (e) of this section respectively and shall
19 be paid to the employee as follows:

- 20 (a) Arm lost 280 weeks disability benefits;
- 21 (b) Leg lost, 248 weeks disability benefits;
- 22 (c) Hand lost, 212 weeks disability benefits;
- 23 (d) Foot lost, 172 weeks disability benefits;
- 24 (e) Eye lost, 140 weeks disability benefits;
- 25 (f) Thumb lost, 51 weeks disability benefits;
- 26 (g) First finger lost, 28 weeks disability benefits;
- 27 (h) Great toe lost, 26 weeks disability benefits;
- 28 (i) Second finger lost, 18 weeks disability benefits;
- 29 (j) Third finger lost, 17 weeks disability benefits;
- 30 (k) Toe other than great toe lost, 8 weeks disability benefits;
- 31 (l) Fourth finger lost, 7 weeks disability benefits;
- 32 (m) Loss of hearing. Disability benefits for loss of hearing of one
33 ear, 52 weeks, or of both ears, 200 weeks.

- 1 (n) Phalanges. Disability benefits for loss of more than one
2 phalange of a digit shall be the same as for lost of the entire
3 digit. Disability benefits for loss of the first phalange of a digit
4 shall be one-half (1/2) of the disability benefits for the loss of
5 the entire digit.
- 6 (o) Amputated arm or leg. Disability benefits for an arm or leg, if
7 amputated at or above the elbow or the knee, shall be the same
8 as for a loss of an arm or leg, but, if amputated between elbow
9 and the wrist or the knee and the ankle, disability benefits
10 shall be the same as for the loss of a hand or foot.
- 11 (p) Binocular vision or percent of vision. Disability benefits for
12 loss of binocular vision or for 80 percent or more of the vision
13 of an eye shall be the same as for loss of the eye.
- 14 (q) Two or more digits. Disability benefits for loss of two or more
15 digits, or one or more phalanges of two or more digits, of a
16 hand or foot shall be proportioned to the loss of the hand or
17 foot.
- 18 (r) Total loss of use. Disability benefits for permanent total loss of
19 use of a member shall be the same as for loss of the member.
- 20 (s) partial loss or loss or loss of use. Disability benefits for
21 permanent partial loss or loss of use of the member.
- 22 (t) Disfigurement. The Administrator shall award proper and
23 equitable disability benefits for serious facial or head
24 disfigurement.
- 25 (u) Other cases. In all other cases of permanent partial disability
26 the disability benefits shall be two-thirds (2/3) of the difference
27 between the employee's average weekly wages and his wage
28 earning capacity thereafter in the same employment or
29 otherwise, payable during the continuance of such partial
30 disability; provided that, disability benefits shall be subject to
31 reconsideration as to the degree of such impairment by the
32 Administration on his own motion or upon application of any
33 party in interest.
- 34 (v) In any case in which there shall be loss, or loss of use of more
35 than one member or parts of more than one member set forth
36 in paragraphs (1) to (19) of this subsection, not amounting to
37 permanent total disability, the award of disability benefits

1 shall be for the loss of, or loss or use of each such member of
2 part thereof, which awards shall run consecutively, except that
3 where the injury affects only two one more digits of the same
4 hand or foot, paragraph (17) of the subsection shall apply.

5 (4) An award for disability may be made after death of the injured
6 employee. Any disability benefits to which any deceased claimant
7 would be entitled under this subsection (c) shall, despite death
8 arising from contributing causes other than the injury, be payable to
9 and for the benefit of the following persons:

10 (a) If there be a surviving spouse, and no child of the deceased, to
11 such spouse.

12 (b) If there be a surviving spouse, and surviving child or children
13 of the deceased, one half (1/2) shall be payable to the surviving
14 spouse and the other half to the surviving child or children.

15 (c) If there be a surviving child or children of the deceased, but no
16 surviving spouse, then to such child or children.

17 (5) Temporary partial disability. In case of temporary partial disability
18 resulting in a decrease of earning capacity the disability benefits shall
19 be two-thirds (2/3) of the difference between the injured employee's
20 average weekly wages before the injury and his wage earning
21 capacity after the injury in the same or another employment.
22 Disability benefits are to be paid during the continuance of such
23 disability, but no longer than five years.

24 (6) Injury increasing disability.

25 (a) If an employee receives an injury which of itself would only
26 cause permanent partial disability but which, combined with a
27 previous disability does in fact cause permanent total
28 disability, the employer shall provide compensation only for
29 the disability caused by the subsequent injury; provided,
30 however, that in addition to compensation for such permanent
31 partial disability and after the cessation of the payments for
32 the prescribed period of weeks, the employee shall be paid the
33 remainder of the compensation that would be due for
34 permanent total disability. Such additional compensation in
35 bi-weekly installments and at the same rate as the disability
36 benefits paid for the subsequent injury shall be paid out of the
37 Special Disability Fund established in Section 9.

1 (b) In all other cases in which, following a previous disability, an
2 employee receives an injury which is not covered by
3 paragraph (1) of this subsection, the employer shall provide
4 compensation only for disability caused by the subsequent
5 injury. In determining disability benefits for the subsequent
6 injury or death resulting therefrom, the average weekly wages
7 shall be such sum as will reasonably represent the earning
8 capacity of employee at the time of subsequent injury.

9 (7) The wage earning capacity of an injured employee in cases of partial
10 disability under subsection (3) (u) of this section and subsection (e) of
11 this section shall be determined by his or her actual earnings if such
12 actual earnings or if his or her actual earnings do not fairly and
13 reasonably represent his or her wage earning capacity, the
14 Administrator may, in the interest of justice, fix such wage earning
15 capacity as shall be reasonable, having due regard for the nature of
16 the injury, the degree of physical impairment, the employee's usual
17 employment, and any other factors or circumstances in the case
18 which may affect the capacity of the employee to earn wages in a
19 disabled condition including the effects of disability as it may extend
20 into the future.

21 (8) In cases under subsection (3) (u) and subsection (e) of this section,
22 upon the determination of the Administration that it is in the best
23 interest of an injured employee entitled to disability benefits, the
24 Administrator may approved agreed settlements of the interested
25 parties discharging the liability of the employer for such disability
26 benefits, despite the provisions of Section 16 (b) and Section 17 of this
27 Chapter; provided, that the sum so agreed upon shall be payable in
28 installments and shall be subject to commutation under Section 15 (j);
29 and provide, further, that if the employee shall die from causes other
30 than the injury after the Administration has approved an agreed
31 settlement as provided for herein, the sum so approved shall be
32 payable in manner prescribed in this section, to and for the benefit of
33 the persons enumerated in subsection (d) of this section.

34 (9) Where in the determination of the disability benefit there is
35 inconsistent with section 137 of the MISSA, this Act shall prevail.

§10. Compensation for Death.

If the injury causes death, the disability benefits shall be payable in the amounts and to or for the benefit of the persons following:

- (1) Reasonable funeral expenses not exceeding \$1,200;
- (2) If there be a surviving spouse and no child or the deceases, to such surviving spouse 35 percent of the average wages of the decease until such time as the surviving spouse remarries, with two years' disability benefits in one sum upon remarriage; and, if there be a surviving child children of the deceased, the additional amount of 15 percent of such wages for each child. In the case of the death or remarriage of such surviving spouse, if there be one surviving child of the deceases employee, such child shall have his or her disability benefits increased to 35 percent of such wages; and if there be more than one surviving child of the deceased employee, to such children, in equal parts, 35 percent of such wages, increased by 15 percent of such wages for each child in excess of one; provided, that the total amount payable shall in no case exceed two-thirds (2/3) of such wages;
- (3) If there be one surviving child of the deceased, but no surviving spouse, then for the support of such child 35 percent of the wages of the deceased. If there be more than one surviving child of the deceased, but no surviving spouse, then for the support of such children, in equal parts, 35 percent of such wages increased by 15 percent of such wages for each child in excess of one. The total amount payable under this section shall in no case exceed two-thirds (2/3) of such wages;
- (4) If there be no surviving spouse or child or if the amount payable to a surviving spouse and to children shall be less in the aggregate than sixty-six and two-thirds (66-2/3) percent of the average wages of the deceased, then an amount no greater than the difference between two-thirds (2/3) of such wages and the amount, if any, payable as hereinbefore provided to the surviving spouse and the surviving child or children shall be apportioned in the following percentages of such wages and in descending order of priority to:
 - (a) grandchildren, fifteen (15) percent for each;
 - (b) brother and sisters, fifteen (15) percent for each;

- 1 (c) parents, if dependent upon the deceases at the time of the
2 injury, twenty-five (25) percent for each;
- 3 (d) grandparents, if dependent upon the deceased at the time of
4 the injury, twenty-five (25) percent for each.

5 **§11. Determination of Pay.**

6 Except as otherwise provided in this Chapter, the average weekly wage of
7 the injured employee at the time of the injury shall be taken as the basis
8 upon which to compute disability benefits and shall be determined as
9 follows:

- 10 (1) If the injured employee shall have worked in the occupation in which
11 he or she was working at the time of the injury, whether for the same
12 or another employer, during a substantial portion of the twelve
13 calendar months immediately preceding the injury, the average
14 annual earnings shall consist of 313 times the average daily wage or
15 salary (for a six day worker) or 261 times the average daily wage or
16 salary (for a five day worker), which the employee shall have earned
17 in such employment during the days when so employed.
- 18 (2) If the injured employee shall not have worked in such occupation
19 during a substantial portion of the immediately preceding twelve
20 calendar months, his or her average annual earnings shall consist of
21 313 times (for a six day worker) and 261 times (for a five day worker)
22 of the average daily wage or salary which an employee of the same
23 occupation working a substantial portion of the immediately
24 preceding twelve calendar months in the same or in a similar
25 occupation in the same or a neighboring place shall have earned in
26 such employment during the days when so employed.
- 27 (3) If either of the foregoing methods of arriving at the average annual
28 earnings of the injured employee cannot reasonably and fairly be
29 applied, such average annual earnings shall be such sum as shall
30 reasonably represent the annual earning capacity of the injured
31 employee in the occupation in which he or she was working at the
32 time of the injury, and of other employees of the same or most similar
33 occupation working in the same or neighboring locality or other
34 employment of such employee, including the reasonable value of the
35 services of the employee if engaged in self-employment.

- 1 (4) The average weekly wages of an employee shall be one fifty-second
2 (1/52) part of the employee's average annual earnings.
- 3 (5) If it be established that the injured employee was a minor when
4 injured, and that under normal conditions the employee's wages
5 would be expected to increase during the period of disability, that
6 fact may be considered in arriving at the average weekly wages.

7 **§12. Guardian for Minor or Incompetent.**

8 The Administration may require the appointment of a guardian or any other
9 representation, by a court of competent jurisdiction, for any person who is
10 mentally incompetent or a minor. The guardian or representative shall
11 receive the disability benefits payable to such person under this Chapter and
12 shall exercise the powers granted to, or perform the duties required of, such
13 person under this Chapter.

14

15 **PART 2. PROCEDURE FOR CLAIMS AND COMPLIANCE.**

16 **§13. Notice of Injury or Death.**

- 17 (1) Notice of an injury or death for which compensation is payable under
18 this Chapter shall be given within 30 days after the date of such
19 injury or death both to the Administrator and to the employer.
- 20 (2) Such notice shall be in writing; shall contain the name and address of
21 the employee and a statement of the time, place, nature, and cause of
22 the injury or death, and shall be signed by the employee or by some
23 person on his behalf, or in case of death, by any person claiming to be
24 entitled to compensation for such death or by a representative of such
25 person.
- 26 (3) Notice shall be given to the Administration by personal delivery or
27 by first class mail, addressed to the Administrator's office; and to the
28 employer by personal delivery or by sending it by first class mail,
29 postage prepaid, addressed to the employer at its last known place of
30 business or electronic email to all his or her available webmail based
31 addresses. If the employer is a partnership, such notice may be given
32 to any partner, or if a corporation, such notice shall be given to any
33 agent or officer thereof upon whom legal process may be served or

1 who is in charge of the business in the place where the injury
2 occurred.

3 (4) Failure to give such notice shall not bar any claims under this
4 Chapter if:

5 (a) the employer (or the employer's agent in charge of the business in the
6 place where the injury occurred) or the carrier had knowledge of the
7 injury or death, and the Administrator determines that the employer
8 or carrier has not been prejudiced by failure to give such notice; or

9 (b) the Administrator excuses such failure on the ground that for some
10 satisfactory reason such notice could not be given; or

11 (c) the objection to such failure is not raised before the Administrator at
12 the first hearing of a claim for compensation in respect to such injury
13 or death.

14 **§14. Time for Filing of Claims.**

15 (1) The right to compensation under this Chapter shall be barred unless a
16 claim therefore is filed within one year after the injury, and the right
17 to compensation for death shall be barred unless a claim therefore is
18 filed within one year after death; provided, that if payment of
19 compensation has been made without an award on account of such
20 injury or death, a claim may be filed within one year after the date of
21 the last payment. Such claim shall be filed with the Administrator.

22 (2) Notwithstanding the provisions of subsection (a) of this section,
23 failure to file a claim within the period prescribed in such subsection
24 shall not be a bar to such right unless objection to such failure is
25 made at the first hearing of such claim.

26 (3) If a person who is entitled to compensation under this Chapter is
27 mentally incompetent or a minor, the provisions of subsection (a) of
28 this section shall not be applicable so long as such person has no
29 guardian or other authorized representative, but shall be applicable,
30 in the case of a person who is mentally incompetent or a minor, from
31 the date of appointment of such guardian or other representative; or
32 in the case of a minor, where no guardian is appointed before he or
33 she becomes age, from the date he or she becomes age.

§15. Payment of Compensation.

- (1) Compensation under this Chapter shall be paid promptly and directly to the person entitled thereto, without an award, except where liability to pay compensation is controverted by the employer.
- (2) Disability benefits shall be paid in bi-weekly installments, excepts where the Administrator determines that payment in installments should be made monthly or at some other interval.
- (3) Upon making the first payment, and upon suspension of payment for any cause, the employer shall immediately notify the Administrator in accordance with a form prescribed by the Board, that payment of disability benefits has begun or has been suspended, as the case may be.
- (4) If the employer controverts the right to compensation the employer shall file with the Administrator, on or before the 14th day after the employer has knowledge of the alleged injury or death, a notice in accordance with a form prescribed by the Board stating that the right to compensation is controverted, the name of the claimant, the name of employer, the date of the alleged injury or death, and the grounds upon which the right to compensation is controverted.
- (5) If any installment of disability benefits payable without an award is not paid within 15 days after it becomes due, as provided in subsection (b) of this section, there shall be added to such unpaid installment an amount equal to 10 percent thereof, which shall be paid at the same time as, but in addition to such instalment, unless notice is filed under subsection (d) of this section, or unless such nonpayment is excused by the Administrator after a showing by the employer that, owing to conditions over which the employer had no control, such installment could not be paid within the period prescribed for the payment.
- (6) If any disability benefits, payable under the terms of an award, are not paid without 10 days after become due, there shall be added to such unpaid disability benefits an amount equal to 20 percent thereof which shall be paid at the same time as, but in addition to, such disability benefits unless review of the compensation order making such award is had as provided in section 22.

- 1 (7) Within 15 days after final payment of compensation has been made,
2 the employer shall send to the Administrator a notice, in accordance
3 with a form prescribed by the Board, stating that such final payment
4 has been made, the total amount of compensation paid, the name of
5 the employee, and of any other person to whom compensation has
6 been paid. If the employer fails to notify the Administrator within
7 such time, the Administrator shall assess against such employer a
8 civil penalty in the amount of \$100.
- 9 (8) The Administrator may at any time in a case in which payments are
10 being made without an award, and shall in any case where right to
11 compensation is controverted, or where payments of compensation
12 have been stopped or suspended, upon receipt of notice from any
13 person entitled to compensation, or from the employer that the right
14 to compensation is controverted, or that payment of compensation
15 has been stopped or suspended, make such investigation, causes such
16 medical examinations to be made, or hold such hearings, and take
17 such further action as he or she considers will properly protect the
18 rights of all parties.
- 19 (9) The Administration may require any employer to make a deposit
20 with a carrier to secure the prompt and convenient payment of such
21 compensation. Payments upon any awards shall be made from such
22 deposits by the Carrier upon order of the Administrator.
- 23 (10) Whenever the Administrator determines that it is in the interest of
24 justice, the liability of the employer for compensation or any part
25 thereof, as determined by the Administrator, may be discharged by
26 the payment of a lump sum equal to the present value of future
27 compensation payments commuted, computed at four (4) percent
28 true discount compounded annually. The probability of death of the
29 injured employee or other person entitled to disability benefits before
30 the expiration of the period during which he or she is entitled to
31 disability benefits shall be determined in accordance with American
32 Experience Table or Mortality or such table as the Commission may
33 deem appropriate, and the probability of the remarriage of the
34 surviving spouse shall be determined in accordance with the
35 remarriage tables of the Dutch Royal Insurance Institution or such
36 other table as the Board may deem appropriate. The probability of
37 the happening of any other contingency affecting the amount or
38 duration of the disability benefits shall be disregarded.

- 1 (11) An employer, who has made advance payments of compensation,
2 shall be entitled to reimbursement out of any unpaid installment or
3 installments of compensation due.
- 4 (12) Any recipient with disability payments under this Chapter shall give
5 receipts for such payments to the employer for inspection by the
6 Administrator, whenever required by the employer.
- 7 (13) The total disability benefits for either injury or death payable under
8 this Chapter to one employee for one occurrence of injury shall in no
9 event exceed the sum of Forty Thousand Dollars (\$40,000).

10 **§16. Invalid Agreements.**

- 11 (1) No agreement by an employee to pay any portion of a premium paid
12 by the employer to a carrier or to contribute to a benefit fund or
13 department maintained by such employer for the purpose of
14 providing compensation as required by this Chapter shall be valid,
15 and any employer who makes a deduction for such purpose from any
16 pay of any employee entitled to the benefits of this Chapter shall be
17 guilty of a misdemeanor and upon conviction thereof shall be
18 punished by a fine of not more than One Thousand Dollars (\$1,000).
- 19 (2) No agreement by any employee to waive the right to compensation
20 under this Chapter shall be valid.

21 **§17. Assignment and Exemptions from Claims of Creditors.**

22 No assignments, release, or commutation of compensation due or payable
23 under this Chapter, shall be valid, except as provided by this Chapter, and
24 such from compensation shall be exempt from all claims of creditors and
25 from levy, execution, and attachment or other remedy for recovery or
26 collection of a debt, which exemption may not be waived.

27 **§18. Compensation a Lien Against Assets.**

28 Any person entitled to compensation under the provisions of this Chapter
29 shall have a lien against the assets of the carrier or employer for such
30 compensation without limit or amount, and shall, upon insolvency,
31 bankruptcy, or reorganization in bankruptcy proceedings and priority in the
32 distribution of assets of such carrier or employer, or both.

1 **§19. Collection of Defaulted Payments.**

2 In case of default by the employer in the payment of compensation due
3 under any award of compensation for a period of 30 days after the
4 compensation is due and payable, the person to whom such compensation is
5 payable may, within one year after such default, make application to the
6 Administrator for a supplementary order declaring the amount of the
7 default. After investigation, notice, and hearing, as provided in Section 20,
8 the Administrator shall make a supplementary order declaring the amount
9 of the default, if any which shall be filed in the same manner as the
10 compensation order. In case the payment in default is an installment of the
11 award, the Administrator may, at his or her discretion, declare the whole of
12 the award as the amount in default. The applicant may file a certified copy
13 of such supplementary payment in default as an installment of the award,
14 the Administrator may, at his or her discretion, declare the whole of the
15 award as the amount in default. The applicant may file a certified copy of
16 such supplementary order with the clerk of the Republic Superior Court.
17 Such supplementary order of the Administrator shall be final, and the court
18 shall, upon the filing of the copy, enter judgment for the amount declared in
19 default by the supplementary order, if such supplementary order is in
20 accordance with law. Review of the judgment so entered may be had as in
21 civil suit for damages at common. Final proceedings to execute the
22 judgment may be had by writ of execution. No fee shall be required for
23 filing the supplementary order not for the entry of judgment thereon, and
24 the applicant shall not be liable for the cost in a proceeding for review of the
25 judgment unless the court shall otherwise direct. The court shall modify
26 such judgment to conform to any later compensation order upon
27 presentation of a certified copy thereof to the court.

28 **§20. Procedure in Respect of Claims.**

- 29 (1) Subject to the provision of Section 14, a claim for compensation may
30 be file with the Administrator in accordance with regulations
31 prescribed by the Board at any time after the first four days following
32 any injury, or at any time after death, and the following
33 Administrator shall have full power and authority to hear and
34 determine all questions in respect of such claim.
- 35 (2) Within 10 days after such claim is filed, the Administrator, in
36 accordance with regulations prescribed by the Board, shall notify the
37 employer and any other person (other than the claimant), whom the

- 1 Administrator considers an interested party, that a claim has been
 2 filed. Such notice may be served personally upon the employer, or
 3 other person, or sent to such employer or person by registered email.
- 4 (3) The Administrator shall cause to be made such investigations as he or
 5 she considers necessary in respect of the claim, and upon application
 6 of any interested party shall order a hearing thereon .If the hearing on
 7 such claim is ordered, the Administrator shall give the claimant and
 8 other interested parties at least 10 days notice of such hearing, served
 9 personally upon the claimant and other interested parties by
 10 registered mail, and shall within 20 days after such hearing is had, by
 11 order, reject the claim or make an award in respect of the claim. If no
 12 hearing is held within 20 days after notice is given as provided in
 13 subsection (b) of this section, the Administrator shall, by order, reject
 14 the claim or make an award in respect of the claim.
- 15 (4) At such hearing the claimant and the employer may each present
 16 evidence in respect of such claim and may be represented by any
 17 person authorized in writing for such purpose.
- 18 (5) The order rejecting the claim or making award (referred to in this
 19 Chapter as a compensation order) shall be filed in the office of the
 20 Administrator, and a copy thereof shall be transmitted to the
 21 claimant and to the employer by delivery to them in person or by
 22 registered mail sent to their last known addresses.
- 23 (6) An award of disability benefits may be made after the death of an
 24 injured employee.
- 25 (7) An injured employee claiming or entitled to compensation shall
 26 submit to such physical examination, by a medical officer of the
 27 Department of Public Health, or by a qualified physician designated
 28 or approved by Board, as the Administrator may require. The place
 29 or places of such examination shall be reasonably convenient for the
 30 employee. Such physician or physicians as the employee, employer,
 31 or carrier may select and apply for may participate in an examination
 32 if the employee, employer, or carrier so requests. Proceedings shall be
 33 suspended and no compensation shall be payable for any period
 34 during which the employee refuses to submit such examination.

1 **§21. Presumption.**

2 In any proceedings for the enforcement of a claim for compensation under
3 this Chapter, it shall be presumed, in the absence of substantial evidence to
4 the contrary:

- 5 (1) that the claim comes within the provisions of this Chapter;
- 6 (2) that sufficient notice of such claim has been given;
- 7 (3) that the injury was not proximately caused by intoxication of the
8 injured employee;
- 9 (4) that the injury was not occasioned by the willful intention of the
10 injured employee to injure o kill himself or herself or other.

11 **§22. Review of Compensation Order.**

12 (1) A compensation order shall become effective when filed in the office
13 of the Administrator as provided in Section 20, and unless an appeal
14 to the Board is instituted as provided in subsection (2) of this section,
15 shall become final at the expiration of the 15th day thereafter.

16 (2) Within 15 calendar days of the filing of a compensation award in the
17 office of the Administrator, any party in interest may file a notice of
18 appeal with the Board. The payment of the amounts required by an
19 award shall not be stayed pending final decision in any such
20 proceedings unless upon application for an interlocutory injunction
21 the court, on hearing, after not less than three days notice to the
22 parties in interest and the Administrator, allows the stay of such
23 payments, in whole or in part, where irreparable damage would
24 otherwise ensure to the employer. The order of the court allowing
25 any such stay shall contain a specific finding, based upon evidence
26 submitted to the court and identified by reference thereto, that such
27 irreparable damage would result to the employer, and specifying the
28 nature of the damage.

29 (3) Any person filing a notice of appeal as provided in subsection (b) of
30 this Section shall at the same time file a written statement of objection
31 to the Administrator's decision. Any parties in interest may file an
32 opposing statement within 5 business days of service upon them of
33 the appellant's statement. Oral argument before the Board shall be
34 permitted upon the written request of any party in interest to the
35 appeal, or upon the Board's own request, and shall be confined to the

1 written statements in support of or in opposition to the
2 Administrator's decision. A majority of the authorized number of
3 directors of the Board of Directors of the MISSA shall be a quorum,
4 and a decision of the Board must be supported by a majority of the
5 directors then in office. For the purpose of reviewing the
6 Administrator's decision, the Board shall consider only the record
7 which was before the Administrator; provided, the Board may
8 consider additional facts if they are supported by substantial
9 evidence, could not upon reasonable inquiry have been discovered
10 earlier, and could materially have affected the Administrator's
11 decision had they been known to the Administrator at the time the
12 decision was rendered. Within 15 business days of the filing of the
13 notice of appeal, the Board shall issue a written decision supported
14 by written findings of fact and conclusions of law. The decision of the
15 Board shall be a final administrator decision subject of judicial
16 review.

- 17 (4) If any employer or its offices or agents fails to comply with a final
18 order of the Board making award, any beneficiary of such award or
19 the Administrator may apply to the Republic Superior Court for
20 enforcement of the order. If the court determines that the order was
21 made and served in accordance with law and that such employer or
22 his or her officers or agents have failed to comply therewith, the court
23 shall enforce the order by injunction or other proper process.
- 24 (5) The provision of the Administrative Procedure Act shall apply in any
25 proceedings for suspending, setting aside, or enforcing a
26 compensation order. In the event of any inconsistency between the
27 provisions of this Chapter and the provisions of the Administrative
28 Procedure Act, the provisions of this Chapter shall prevail. Except for
29 a proceeding to suspend payments pending a final decision, no court
30 proceeding may be brought until all available administrative
31 remedies have been exhausted.

32 §23. Modification of Awards.

33 Upon his or her own initiative, or upon the application of any party in
34 interest, on the ground of a change in conditions or because of a mistake in a
35 determination of fact by the Administrator, the Administrator may, at any
36 time prior to one year after the date of the last payment of compensation,
37 whether or not a compensation order has been issued, or at any time prior to

1 one year after the rejection of a claim, review a compensation case in
2 accordance with the procedure prescribed in Section 20, and in accordance
3 with the provisions of such section issue a new compensation order which
4 may terminate, continue, reinstate, increase or decrease such compensation
5 or award of compensation. Such new order shall not affect any
6 compensation previously paid, except that an award increasing the
7 disability benefits may be made effective from the date of injury; and if any
8 part of the disability benefits due or to become due is unpaid, an award
9 decreasing the disability benefits may be made effective from the date of the
10 injury, and any payment made prior to the time of the award in excess of
11 such decreased rate shall be deducted from any unpaid disability benefits,
12 in such manner and by such method as may be determined by the
13 Administrator with the approval of the Board.

14 **§24. Procedure Before the Administrator.**

- 15 (1) In making an investigation or inquiry or conducting a hearing the
16 Administrator shall not bound by common law or statutory rules of
17 evidence or by technical or formal rules of procedure, except as
18 provided by this Chapter, but may make such investigation or
19 inquiry, or conduct such hearing in such manner as to best ascertain
20 the rights of the parties. Declarations, whether oral or written, of a
21 deceased employee concerning the injury in respect of which the
22 investigation or inquiry is being made or the hearing conducted shall
23 be received in evidence and shall, if corroborated by other evidence,
24 be sufficient to establish the injury.
- 25 (2) Hearings before the Administrator shall be open to the public and
26 shall be recorded. The Board shall by regulation provide for the
27 preparation of a record of the hearings and other proceedings before
28 the Administrator.

29 **§25. Witnesses.**

30 No person shall be required to attend as a witness in any proceeding before
31 the Administrator at a place outside the Republic; but the testimony of any
32 witness may be taken by deposition or interrogatories according to the rules
33 of practice of the Republic Superior Court.

1 **§26. Witness Fees.**

2 Witnesses summoned in a proceeding before the Administrator or whose
3 depositions are taken shall receive the same fees and mileage as witnesses in
4 the High Court.

5 **§27. Cost in Proceedings Brought Without Reasonable Grounds.**

6 If the court having jurisdiction of proceedings in respect of any claim or
7 compensation order determines that the proceedings in respect to such
8 claim or order have been instituted or continued without reasonable
9 ground, the costs and attorneys' fees of such proceedings shall be assessed
10 against the party who so instituted or continued such proceedings.

11 **§28. Powers of the Administrator.**

- 12 (1) The Administrator shall have the power to preserve and enforce
13 order during proceedings before her or him; to issue subpoenas for,
14 to administer oaths to, and to compel the attendance and testimony
15 of witnesses, or for the production of books, papers, documents, and
16 other evidence, or the taking of depositions before any designated
17 individual competent to administer oaths; to examine witnesses; and
18 to do all things conformable to law which may be necessary to enable
19 the effective discharge of the Administrator's duties.
- 20 (2) If any person in proceedings before the Administrator disobeys or
21 resists any lawful order or process, or misbehaves during a hearing at
22 or so near the place thereof as to obstruct the same, or neglects to
23 produce, after having been ordered to do so, any pertinent book,
24 paper, or document, or refuses to appear after having been
25 subpoenaed, or upon appearing refuses to take the oath as a witness,
26 or after having taken the oath, refuses to be examined according to
27 law, the Administrator shall certify the facts to the Republic's High
28 Court which shall thereupon in a summary manner hear the evidence
29 and if in the judgment of the court, the evidence so warrants, punish
30 such person in the same manner and to the same extent as for
31 contempt committed before the court, or commit such person upon
32 the same conditions as if the doing of the forbidden act had occurred
33 with reference to the process of or in the presence of the court.

1 **§29. Fees for Legal or Other Services.**

2 No claim for legal services or for any other services rendered in respect of a
3 claim or award for compensation, to or on account of any person, shall be
4 valid for more than fifteen (15) percent of the total award of disability
5 benefits and unless approved by the Administrator, or if proceedings for
6 review of the order of the Administrator in respect of such claim or award
7 are had before any court, unless approved by such court. Any claim so
8 approved shall, in the manner and to the extent fixed by the Administrator
9 or such court, be a lien upon such disability benefits.

10 **§30. Record of Injury or Death.**

11 Every employer shall keep a record of any injury to an employee. Such
12 record shall contain such information of disease, other disability or death in
13 respect of such injury as the Board may b regulation require, and shall be
14 available for inspection by the Administrator or by other government
15 authorities at such times and under such conditions as the Board may by
16 regulation prescribe.

17 **§31. Reports.**

18 (1) Within 10 days of the date of any injury or death, or of the date that
19 the employer has knowledge of such injury or of a disease o infection
20 in respect to such injury, the employer shall send to the administrator
21 a report setting forth:

- 22 (a) the name, address, and business of the employer;
23 (b) the name, address, and occupation of the employee;
24 (c) the cause and nature of the injury or death or of the disease or
25 infection arising from such injury;
26 (d) the year, month, day and hour, and the particular locality
27 where the injury or death occurred; and such other
28 information as the Administrator may require.

29 A copy of such report shall be sent at the same time to the employee.

30 (2) Additional reports in respect of such injury and of the condition of
31 such employee shall be sent by the employer to the Administrator at
32 such times and in such manner as the Board may prescribe.

- 1 (3) Any report provided for in subsections (a) or (b) shall not be evidence
2 of any fact stated in such report in any proceeding in respect of any
3 injury or death concerning which the report is made.
- 4 (4) The employer may comply with the obligations of this Section by
5 mailing any required report, with a copy thereof, first class postage
6 prepaid, to the Administrator within the appropriate time limit
7 prescribed in subsection (a) or (b).
- 8 (5) Any employer who fails or refuses to send any report required of it
9 by this Section shall be subject to a civil penalty not to exceed \$500 for
10 each such failure or refusal.
- 11 (6) Where the employer or the carrier has been given notice, or the
12 employer (or his or her agent in charge of the business in the place
13 where the injury or death of an employee occurs) fails, neglects, or
14 refuses to file a report thereof as required by the provisions of
15 subsection (a) of this section, the limitations in subsection (a) of
16 section 14 of this Chapter shall not begin to run against the claim of
17 the injured employee or the employee's survivors entitled to
18 compensation, or in favor of either the employer other carrier, until
19 such report shall have been furnished.

20 **§32. Penalty for Misrepresentation.**

21 Any person who wilfully makes any false or misleading statement or
22 representation for the purpose of obtaining any benefit or payment under
23 this Chapter or for the purpose of evading liability for any benefit or
24 payment under this Chapter shall be guilty of a misdemeanor and on
25 conviction thereof shall be punished by a fine of not more than One
26 Thousand Dollars (\$1,000) or by imprisonment not to exceed one year, or
27 both.

28 **§33. Security of Compensation.**

29 (1) Every employer shall secure the payment of compensation under this
30 Chapter by insuring and keeping insured the payment of such
31 compensation with an insurer granted by a certificate of authority to
32 transact general casualty insurance in the Republic. However, the
33 Republic Government may make compensation payments under the
34 provision of this Chapter from the Government Employee's Self-

1 Insurance fund referred to in Section 51 and need not otherwise
2 secure compensation.

3 (2) An employer who pays more than one-half the cost of medical
4 insurance for an employee as a benefit of employment shall be
5 required to secure the payment of medical services and supplier
6 provided for in Section 8 of this Act only to the extent that such
7 payment is not secured by the aforementioned medical insurance.

8 **§34. Compensation For Injuries Where Third Persons are Liable.**

9 The claim of an employee for compensation does not affect his or her claim
10 or right of action for all damages proximately resulting from such injury or
11 death against any person other than the employer. Any employer who pays,
12 or becomes obligated to pay compensation, may likewise make a claim or
13 bring an action against such third person and may recover in the same suit,
14 in addition to the total amount of compensation, damages for which he or
15 she was liable including all salary, wage, pension, or other emolument paid
16 to the employee or to the employee's survivors.

17 If the employer shall recover from such other third person damages in
18 excess of the compensation already paid or awarded to be paid under this
19 Chapter, then any such excess shall be paid to the injured employee, or
20 other person entitled thereto, less the employer's expenses, including
21 reasonable attorneys fees, and cost of action.

22 In the absence of a written agreement that provides otherwise, an alleged
23 third party tortfeasor, named in a suit by an injured employee or on behalf
24 of a deceased employee, may not obtain indemnification, reimbursement, or
25 contribution from an employer in excess of the amounts for which this
26 Chapter mandates the employer compensate the injured or deceased
27 employee.

28 **§35. Compensation Notice.**

29 Every employer who has secured compensation under the provisions of this
30 Chapter shall keep posted in a conspicuous place in or about each of its
31 places of business, typewritten or printed notices, in accordance with a form
32 prescribed by the Board, stating that such employer has secured the
33 payment of compensation in accordance with the provisions of this Chapter.
34 Such notices shall contain the name and address of the carrier with whom

1 the employer has secure the payment of compensation and the date of the
 2 expiration of the policy.

3 **§36. Substitution of Carrier for Employer.**

4 In any case where the employer is not a self-insurer, in order that liability
 5 for compensation imposed by this Chapter may be most effectively
 6 discharged by the employer, and in order that the administrator of this
 7 Chapter in respect to such liability may be facilitated, the Board shall by
 8 regulation provided for the discharge, by the carrier for such employer, as it
 9 considers proper in order to effectuate the provisions of this Chapter. For
 10 such purposes:

- 11 (1) notice to or knowledge by an employer of the occurrence of the injury
 12 shall be deemed notice to or knowledge by the carrier;
- 13 (2) jurisdiction over the employer by the Administrator, the Board, or
 14 any court under this Chapter shall be sufficient to confer jurisdiction
 15 over the carrier, and
- 16 (3) any requirement by the Administrator, the Board, or any court under
 17 any compensation order, finding, or decision shall be binding upon
 18 the carrier in the same manner and to the same extent as upon the
 19 employer.

20 **§37. Insurance Policies.**

- 21 (1) Every policy or contract of insurance issued under authority of this
 22 Chapter shall contain:
 - 23 (a) A provision to carry out the provisions of section 36, and A
 24 provision that the insolvency or bankruptcy of the employer or
 25 the employer's discharge in any insolvency of bankruptcy
 26 proceedings, or both, shall not relieve the carrier from
 27 payment of compensation for disability or death sustained by
 28 an employee during the period covered by such policy or
 29 contract.
 - 30 (b) No contract or policy of insurance issued by a carrier under
 31 this Chapter shall be cancelled prior to the date specified in
 32 such contract or policy for its expiration until at least 30 days
 33 after a notice of cancellation has been sent to the Administrator

1 and to the employer in accordance with the provision of
2 subsection (c) of Section 13.

3 **§38. Certificate of Compliance with the Law.**

4 Within 30 days of the effective date of this Act every employer shall file with
5 the Administrator a certificate that payment of compensation to the
6 employer's employees is secured as required in Section 33 of this Chapter.

7 **§39. Penalty for Failure to Secure Payment of Compensation.**

8 (1) Civil Penalty.

9 The Administrator shall assess against any employer required to
10 secure the payment of compensation under this Chapter who fails to
11 secure such compensation a civil fine of not more than One Hundred
12 Dollars (\$100) per day for each day such failure continues.

13 (2) Criminal Penalty.

14 (a) In addition to the other penalties provided for in this Chapter,
15 any employer required to secure payment of compensation or
16 required to make payment such compensation under this
17 Chapter, who fails to do so, shall be guilty of a misdemeanor
18 and, upon conviction thereof, shall be punished by a fine of
19 not more than One Thousand Dollars (\$1,000) or by
20 imprisonment for not more than one year, or both. Where such
21 employer is a corporation, the president, secretary, and
22 treasure thereof shall be liable for imprisonment as provided
23 herein, and shall be jointly and severally liable personally for
24 such fine and for any compensation or other benefit which
25 may accrue under this Chapter in respect to any injury which
26 may occur to any employee of such corporation during such
27 time as it fails to secure the payment of compensation as
28 required by Section 33 of this Chapter.

29 (b) Any employer who knowingly transfers, sells, encumbers,
30 assigns, or in any other manner dispose of, or who conceals,
31 secretes, or destroys property belonging to such employer,
32 after one of its employees has been injured within the purview
33 of this Chapter, with the intent to avoid the payment of
34 compensation under this Chapter to such employee or
35 survivors of such employee, who are entitled to compensation,

1 shall be guilty of a misdemeanor and, upon conviction thereof,
 2 shall be punished by a fine of not more than One Thousand
 3 Dollars (\$1,000), or by imprisonment for not more than one
 4 year, or both. Where such employer is a corporation, the
 5 president, secretary, and treasurer thereof shall be liable for
 6 imprisonment as provided for herein, and shall be jointly and
 7 severally liable personally for such fine.

- 8 (3) This Section shall not excuse or diminish any other liability of the
 9 employer under this Chapter.

11 **PART 3. WORKERS COMPENSATION BOARD.**

12 **§48. Administration.**

- 13 (1) Except as otherwise specifically provided, the Workers'
 14 Compensation Board shall administer the provision of this Chapter,
 15 and for such purpose the Board may:
- 16 (a) make rules and regulations in conformance with this Chapter,
 17 including any requirements it's reasonably determines are
 18 necessary to assure timely payment of compensation and
 19 reporting by insurance carriers of compensable injuries;
 - 20 (b) select technical assistants, medical advisors, offices, and
 21 employees, as its deems necessary; and make from appropriate
 22 funds such expenditure (including expenditures for personal
 23 services, rent, law books of reference, periodicals, and
 24 printing, binding and other necessities) as it deems necessary
 25 for the proper administration of this Chapter.
 - 26 (c) The Board of Directors of the MISSA shall serve as the
 27 Workers' Compensation Board. Whenever possible persons
 28 employed by the MISSA shall also render services to the
 29 Workers' Compensation Board. If any member of the Board is
 30 removed from office or for any reason ceases to act as a
 31 member, all of his or her official records and papers shall be
 32 transferred to the Board. No member nor any business
 33 associate of a member shall appear as attorney in any
 34 proceedings under this Chapter, and no member shall act in

1 any such case in which he or she has an interest, or when he or
2 she is employed by any party in interest or related to any party
3 in interest by consanguinity or affinity within the third degree
4 as determined by the common law.

5 (2) The Workers' Compensation Administrator shall be same as the
6 Administrator of the MISSA or his or her designee, approved by a
7 majority vote of the Board. The term of a designated Administrator
8 shall be four years. The Administrator shall maintain and keep open
9 a Workers' Compensation office during reasonable business hours.

10 **§49. Investigations by the Board.**

11 (1) The Board shall make studies and investigations with respect to
12 safety provisions, and causes of injuries in employment covered by
13 this Chapter, and shall from time to time make to the Nitijela and to
14 employers and carriers recommendations of means to prevent such
15 injuries.

16 (2) In making such studies and investigations, the Board may:

17 (a) Cooperation with any agency charged with the duty of
18 enforcing any law securing safety against injury in any
19 employment covered in this Chapter, or with any agency
20 engaged in enforcing any laws to assure safety for employees;
21 and

22 (b) permit any such agency to have access to the records of the
23 Board. In carrying out the provisions of this section, the Board
24 or any officer or employee of the Board is authorized to enter
25 at any reasonable time upon the premises, tracks, wharf, dock,
26 or to enter any building, where an employment covered by
27 this Chapter is being carried on, and to examine any tool,
28 appliances, or machinery used in such employment.

29 **§50. Special Disability Fund.**

30 (1) A Special Disability Fund is established in the Republic for the
31 purpose of making payments in accordance with the provisions of
32 subsection (f) of Section 9 of this Chapter. Such Fund shall be
33 administered in accordance with the provisions of the MISSA Act.

34 (2) Payments into the Fund shall be made as follows:

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(a) Each employer shall contribute Ten Thousand Dollars (\$10,000) for the death of an employee of such employer resulting from injury where the Administrator determines that there is no person entitled, under this Chapter, to disability benefits for such death.

(b) Each insurer providing security for payment of workers' compensation claims under this Chapter shall annually pay 2% (two percent) of the total premium paid for such security during the preceding year. Except, in any year in which the Special Disability Fund has sufficient monies to meet its actuarially predicted obligations, the Board may waive these payments by insurers.

(c) All amounts collected as fines and penalties under the provisions of this Chapter shall be paid into the Fund.

(4) The Administrator shall deposit any monies paid into the Fund into such depository banks as the Board may direct. The Board may invest any portion of the funds which is not needed for current requirements in bonds or notes of the United States or Republic or of any insured Bank of the Republic.

(5) Neither the Republic nor the MISSA shall be liable in respect of payments authorized under Section 7 in an amount greater than the money or property deposited in or belonging to such Fund.

However, should the Board find that the present obligations of the Fund exceed the Fund balance; the Board shall immediately report such deficit to the Nitijela.

(6) The account for the Fund shall be subject to audit in accordance with established auditing procedures of the Republic which resembles the United States auditing codes, but the action of the Board in making payments from such fund shall be final and not subject to review.

(7) Should the Board determine, based on the Fund balance and the actuarially predictable obligations of the Fund, that an excess of funds exists in the Fund, then the Board may release such excess funds to the General Fund of the Republic.

1 **§51. RMI Government Self-Insurance Fund.**

2 (1) The Nitijela may establish, out of any money in the General Fund not
3 otherwise appropriated, a fund sufficient to secure compensation
4 payments under this Chapter in respect of employees of the
5 Government, its agencies and instrumentalities, including any public
6 corporation.

7 (2) The Secretary of Finance shall be the custodian of such fund and may
8 disburse monies from such fund only upon the order of the Board.
9 The Secretary of Finance shall deposit any monies appropriated or
10 paid into such fund into such depository banks as the Board may
11 designate, and may invest any portion of the funds which in the
12 opinion of the Board is not needed for current requirements, in bonds
13 or notes of the Republic or United States or of any insured Bank in
14 the Republic.

15 (3) The account for such fund shall be subject to audit in accordance with
16 established auditing procedures of the Republic, but actions of the
17 Board in making payments from such fund shall be final and not
18 subject to review.

19 (4) With respect to Republic employees, the Administrator may
20 authorize direct compensation payments from such fund or, if its
21 deems desirable, insure and keep insured the payment of such
22 compensation with any stock company or mutual company or
23 association.

24 **§52. Annual Report.**

25 The Board shall report to the Nitijela at the beginning of each calendar year
26 a report of the administration of this Chapter for the preceding fiscal year,
27 including a detailed statement of receipts of and expenditures from the
28 funds established or authorized in Section 50 and 51. Annually the Board
29 shall advise the Nitijela of needed changes in the laws of the Republic
30 regarding compensation of workers for injuries sustained while working
31 and shall provide data from other jurisdictions on amounts of compensation
32 payable therein.

1 **§53. Effects of Unconstitutionality.**

2 If any part of this Chapter is adjudged unconstitutional by the courts, and
3 such adjudication has the effect of invalidating any payment of
4 compensation under this Chapter, the period intervening between the time the
5 injury was sustained and the time of such adjudication shall not be
6 computed as a part of the time prescribed by this Chapter for the
7 commencement of any action against the employer in respect of such injury;
8 but the amount of any compensation paid under this Chapter on account of
9 such injury shall be deducted from the amount of damages awarded in such
10 action in respect of such injury.

11 **§54. Compensation Rates.**

12 Nothing in this chapter shall prevent an employer or employee from
13 purchasing insurance coverage in addition to that coverage required by this
14 chapter.

15 **§55. Reserved.**

16 **§57. Transitional provision.**

17 This Chapter shall be implemented after one year from the date of
18 certification of this law.

19 **§58 Severability.**

20 If any provision of this Act or any rule, regulation, or promulgated
21 hereunder, or the application of any such provision, rule, regulation, or
22 order to any person or circumstances shall be held invalid by a court of
23 competent jurisdiction, the remainder of this Act or any rules, regulation,
24 rules or order to persons or circumstances other than those to which it is
25 held invalid, shall not be affected thereby.

26 **§59. Effective Date.**

27 This act shall be effective on the date of certification pursuant to the
28 Constitution and the Rules of Procedures of the Nitijela, and subject to other
29 sections of this Chapter.
30

NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
37TH CONSTITUTIONAL REGULAR SESSION, 2016

WORKERS' COMPENSATION ACT 2016

BILL SUMMARY

This Bill proposes to provide for the compensation and rehabilitation of workers in respect of work related injuries or fatalities.

The bill requires every employer to provide a secure payment for medical services and supplies, disability benefits and compensation for death (in injuries causing death).

This Bill is the result of series of consultations seeking to improve the first bill that was introduced in Nitijela in 2012. On March, 2012 – Honorable John Silk introduced the Nitijela Bill No.19, the Workers Compensation Bill, 2012, which provides for a voluntary workman's compensation and rehabilitation law in the RMI. The bill went through consultation and reported to the Nitijela, but was referred for further consultation. A Special Committee on Workers Compensation was appointed by the Office of the Speaker to consult with the relevant stakeholders and report the findings to the Nitijela.

Base on the findings and recommendation of the special committee, the Worker's Compensation law of the Commonwealth of the Northern Marianas Islands was identified. The Special Committee identified that workers compensation program issued to some employers in the RMI are based on the CNMI workers compensation law (Program). The Special Committee recommends that the Workers Compensation Scheme be administered and managed by the MISSA similar to the CNMI's Workers Compensation program.

Under the Bill, the Worker's Compensation Program will be established under the Disability program of MISSA. The Bill requires every employer, especially private sector (including SOEs) to secure payment either with insurance carriers or other arrangements, while the Government workers will have the RMI Government Self-Insurance Fund which will be established under this proposal law to secure

1 payments of worker's compensation. The total compensation to be awarded to any
2 one employee is \$40,000.

3

1 NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
2 37TH CONSTITUTIONAL REGULAR SESSION, 2016

WORKERS' COMPENSATION ACT 2016

3 SIGNATURES

4 DATE: *AUG 22 16* INTRODUCED BY *HON.SEN MATTLAN ZACKHRAS* */S/*
5 *Print Name* *Signature*
6