

## Who is paid compensation in case of death ?

If an employee dies as a result of an injury caused by an accident, compensation should be paid to the dependants of the employee.

## Calculating of compensation payable.

The earnings of an employee are deemed to be the monthly total income at the time of the accident. including-

- the value of any rations, living quarters or both supplied by the employer to the employee to the date of the accident or report of disease:
- allowances paid regularly: and
- Any overtime payment or other special nature remuneration of a regular nature.
- Where earnings are calculated on a weekly basis, the monthly earnings shall be calculated, as equal to four and one third times the amount of such weekly earnings.

## Compensation for occupational diseases

An employee is entitled to compensation in accordance with this Act, if the employee;

- Contracts a disease that arose out of and in the course of the employee's employment.
- An employee who contracts an occupational disease is entitled to compensation as if the disablement caused by the disease had been caused by an accident.

## Notice of occupational disease

An employer should, **within fourteen** days after receiving notice or learning of the employee's occupational disease, report such disease, on the prescribed form to the Director.

## Medical Aid

- An Employee who is injured in an accident, which necessitates the employee's conveyance to a hospital medical facility or from a hospital or medical facility to the employee's residence, should be provided with the means of transport.

- An employer should pay or refund any expenses reasonably incurred by an employee as the result of an occupational accident.

## Submission of medical report

A medical practitioner who examines an employee should within **fourteen days** after the first examination of the employee injured in an accident or within fourteen days after having diagnosed an occupational disease, furnish a medical report to the Director in the prescribed form.

## Prohibition of Contribution by employee towards cost of medical aid.

Employers are prohibited from deducting or demanding money used to provide medical Aid in accordance with the provision of this Act.

## What is the procedure of making a claim?

- The injured employee reports the accident to the employer
- The employer reports the accident to the Directorate of Occupational Safety and Health Services using the official prescribed forms (DOSH 1)
- The employer refers the employee to the doctor who treated him or her so that the doctor can assess the degree of disablement.
- In case of fatal accident, the employer returns the forms to the Directorate accompanied by the death certificate.
- The doctor assesses the worker and gives the percentage of incapacity suffered by the employee, completes the relevant forms and then the forms are returned to the Directorate.
- The Directorate calculates the work injury benefit payable to the employee based on the employees earning and degree of disablement.
- The Directorate demands payment of the compensation due to the injured employee or to the dependants of a dead employee.
- The employer or insurer pays to the Directorate the amount due as compensation.
- The dependants of a dead employee are officially identified before payment can be done.
- The Directorate then pays the injured employee or the dependants the work injury benefit money that has been paid by the employer.

# REPUBLIC OF KENYA



## Ministry of Labour Directorate of Occupational Safety and Health Services

### *Work Injury Benefit Act, 2007 (Acts No. 13 of 2007) An Outline of key provisions.*

#### Background

- The Workers Injury Benefit Act (WIBA), 2007 is an Act of Parliament to provide for compensation to employees for work related injuries and occupational diseases contracted in the course of their employment. It repealed the workmen's compensation Act cap 236.
- The Act came into operation as from 2<sup>nd</sup> June 2008.

#### Where does the Act apply?

This Act applies to all employees, including employees employed by the government, but not members of the armed forces.

#### Who administers the Act?

The Act is administered by the Director of Occupational Health and Safety Services in the Ministry of Labour.

The Director has the following main responsibilities;

- Registration of employers under the Act;
- Ensuring that all employers insure their employees against occupational accidents and diseases;
- Receiving reports of accidents and carrying out investigations into such accidents: and.
- Ensuring that employees who are injured or contract occupational diseases are compensated in accordance with the provisions of this Act.