

ACT OF JANUARY 23, 1968 ON THE BENEFITS PAYABLE IN RESPECT  
OF INDUSTRIAL ACCIDENTS

Dziennik Ustaw P.R.L. [Journal of Laws] No. 3, 1968, item 8

Chapter 1

GENERAL PROVISIONS

**Art. 1.** 1. The benefits specified in this Act are payable to the employee of a socialized enterprise, who has suffered personal injury caused by an industrial accident, and to the employee's (pensioner's) family, if he dies as a result of an industrial accident.

2. No title to benefits specified hereinafter arises if the employer has proved that the sole cause of the industrial accident was the employee's acting in breach of safety and work hygiene regulations, by gross negligence or intentionally.

3. The Council of Ministers shall specify by order which causes of accidents referred to in paragraph 2 do not constitute a basis to claim benefits under the present Act. In such instances benefits are payable under the regulations on:

- 1) Sickness Insurance,
- 2) General pensions Scheme for Employees and Their Families,
- 3) Pensions Scheme for Miners and Their Families,
- 4) Pensions Scheme for Railway Employees and Their Families.

**Art. 2.** 1. In this Act, an industrial accident, hereinafter referred to as "accident" means a sudden event brought about by an external cause, which occurred in connection with work:

1) in the course of, or in connection with, executing regular operations or orders of persons to whom the employee is subordinated because of being employed,

2) in the course of, or in connection with, acting in the interests of the employer, even without an instruction,

3) in the course of storing, cleaning, repairing or carrying tools in the workplace, even if these are supplied by the employee himself.

2. It is also considered to be an industrial accident if the employee sustained injury on the way from the enterprise to the place where he had been ordered by the employer to exercise his functions in the period of being at the employer's disposal, provided he was being transported in a vehicle which either belongs to or is regularly used by the employer.

3. The Chairman of the Labour, Wages and Salaries Board shall specify by order which other personal injuries sustained by employees are to be treated in the same way as the accidents defined in par. 1.

Chapter 2

THE DISABLEMENT PENSION

**Art. 3.** The worker who has become a disabled person as a result of an accident and has been assigned to one of the disablement groups is entitled to a disablement pension.

**Art. 4.** 1. The monthly disablement pension rates of a worker who is

neither employed, nor has an income from other sources are as follows:

- 1) 100 per cent of previous wages/salary for workers assigned to the disablement group I,
- 2) 90 per cent of previous wages/salary for workers assigned to the disablement group II,
- 3) 65 per cent of previous wages/salary for workers assigned to the disablement group III.

2. The worker assigned to the disablement group I is also entitled to an extra allowance to the pension amounting to zł 300 per month.

3. The disablement pension is calculated on the basis of the average wages/salary of the worker, assessed following the regulations on general pensions scheme for employees and their families, less the earned income tax and pension contribution.

4. The Council of Ministers shall establish by order the minimum assessment basis for disablement and family pensions, and the instances when lump sums to be specified are to be taken as a basis.

**Art. 5.** 1. The worker assigned to the disablement group I, who has taken up a remunerative employment or receives an income from other sources, shall be entitled to a disablement pension as provided in Art. 4.1.1., however, without the extra allowance specified in Art. 4.2.

2. The worker assigned to the disablement group II or III who has taken up a remunerative employment or receives an income from other sources, shall be entitled to a disablement pension pursuant to Art. 4.1.2. or 4.1.3, but the pension plus the earnings or income cannot exceed the full sum of earnings calculated in accordance with Art. 4.3.

3. The disablement pension for persons referred to in par. 2 shall not be lower than the disablement pension in case of an accident in the course of employment, as provided in regulations quoted in Art. 1.3.2 - 4, with regard to a person employed at a gainful occupation, or who receives an income from other sources.

4. The Council of Ministers shall establish by order detailed principles of reducing disablement pensions in pursuance of par. 2.

### Chapter 3

#### FAMILY PENSIONS

**Art. 6.** A family pension is payable on the death — resulting from an accident — of an employee/pensioner to persons who fulfil the requirements for obtaining a family pension under the Acts quoted in Art. 1.3.2-4.

**Art. 7.** 1. The family monthly pension amounts to the following percentage of the pension due to the deceased employee/pensioner were/was he assigned to the disablement group II (art. 4.1.2) at the time of his death, if the number of the persons entitled is

- 1) one — 00 per cent,
- 2) two — 75 per cent,
- 3) three or more — 85 per cent.

2. The person entitled to a family pension and assigned to the disablement group I shall be given an extra allowance to the pension amounting to zł 200 per month.

**Art. 8.** 1. The right to a family pension in respect of an employee/pensioner

who died as a result of an accident is suspended for the period when the person concerned has a gainful employment or receives an income from other sources, according to the principles specified in the General Pensions Scheme for Employees and Their Families.

2. Regarding the widow of an employee/pensioner who died as a result of an accident when executing mining operations or another work of equal standing, if she has a gainful employment or receives an income from another source, she does not lose her right to a family pension, provided she fulfils the requirements for a family pension under the General Pensions Scheme for Employees and Their Families.

3. The widow of an employee/pensioner who died as a result of an accident specified in par. 2, who does not meet the requirements for a family pension under the General Pensions Scheme for Employees and Their Families, and who has a gainful employment or receives an income from other sources, shall be paid a family pension reduced by 15 per cent.

#### Chapter 4

##### SUPPLEMENTS TO SICKNESS BENEFITS

**Art. 9.** 1. The employee who sustained injury in an accident and gets a social insurance sickness benefit while being given medical treatment in a hospital or a sanatorium, is entitled to a supplement to the sickness benefit, which amounts to 10 per cent of the sickness benefit assessment basis. He is not eligible for the said supplement if the social insurance sickness benefit equals his salary less the earned income tax and pension contribution.

2. The restrictions imposed by Art. 1.2. are not applicable to the supplements specified in par. 1.

**Art. 10.** 1. The employee who sustained injury in an accident and — as a result — has been assigned to the disablement group I or II is entitled to a recompensive supplement payable for the period of medical treatment by the employer. The recompensive supplement corresponds to the difference between the social insurance sickness benefit plus the supplement specified in Art. 9.1, and the wages of the employee prior to the accident less the earned income tax and a pension contribution. On the other hand, the worker assigned to the disablement group III is entitled to a recompensive supplement which corresponds to the difference between the social insurance sickness benefit plus the supplement, and 80' per cent of his wages prior to the accident, less the earned income tax and a pension contribution.

2. The employer is obliged to pay the recompensive supplement specified in par. 1 within 14 days after the employee produced the relevant document granting him a disablement pension.

#### Chapter 5

##### SINGLE COMPENSATION PAYABLE IN RESPECT OF THE EMPLOYEE'S INJURY OF PERMANENT NATURE OR IN CASE OF HIS DEATH

**Art. 11.** 1. The employee who as a result of an accident has sustained an injury of permanent nature incapacitating him for work in 80 per cent, is entitled to a single compensation of zł 40,000 payable by the employer. At lower incapacity percentages the compensation is proportionally reduced.

2. When an employee dies as a result of an accident, his family is entitled

to a single death benefit of zł 20,000, irrespective of any funeral grant or any allowance payable pursuant to special regulations. When the family consists of more than two persons entitled to a family pension, the said benefit is increased by zł 5,000 per each new entitled member of the family.

3. The Council of Ministers may increase the amounts specified in par. 1 and 2, or authorize competent Ministers to grant higher benefits than those provided in par. 1 and 2, in some specially justifiable cases.

4. The Council of Ministers shall specify the groups of workers exposed to special risks, and the amounts of benefits to which they are entitled in cases referred to in par. 1 and 2.

## Chapter 6

### RECOMPENSIVE ALLOWANCE

**Art. 12.** 1. The employee who as a result of accident has sustained an injury involving the loss of his earning capacity assessed to be at least 25 per cent, but has not been assigned to any disablement group, is entitled for a period of 3 years to a recompensive allowance payable by the enterprise that was employing him at the time of the accident. The recompensive allowance amounts to the difference between 90 per cent of his average wages/salary prior to the accident and his average earnings after the accident, not to exceed, however, 15 per cent of his wages/salary prior to the accident, provided that:

1) the employee is employed with average monthly earnings lower than 80 per cent of those received prior to the accident,

2) the reduction in earnings is of a permanent nature and has obviously been caused solely by the impaired physical and mental faculty.

2. The liability to pay the recompensive allowance specified in par. 1 rests on the enterprise employing the worker at the time of the accident, even if the worker entered another employment subsequently.

3. The employee loses his right to a recompensive allowance if he has terminated the contract of employment in a manner that disrupts the continuity of employment, or if the employer terminated the contract of employment through the worker's fault.

4. The employer is not liable to pay a recompensive allowance if he proves that the worker's earnings have decreased because the worker has not been properly performing his duties.

5. Average wages/salary, referred to in par. 1, are calculated following Art. 4.3.

6. The Council of Ministers may lay down conditions and rules of paying — if requested by the employee — a lump sum grant instead of the monthly recompensive allowance specified in par 1.

## Chapter 7

### COMPENSATION FOR OBJECTS LOST OR DAMAGED AS A RESULT OF AN ACCIDENT

**Art. 13.** The employee who sustained injury, or — if he dies as a result of the accident — his family, are entitled to a compensation payable by the employer for losses in the form of personal belongings being lost or damaged in connection with the accident. The amount of compensation shall be

established by the manager of the enterprise in consultation with the works council.

## Chapter 8

### PROCEDURE FOR MAKING CLAIMS

**Art. 14.** 1. The right to benefits specified in Art. 3, 6 and 9 and their amounts are determined by the competent bodies of the Social Insurance Board; as regards the workers covered by the Pensions Scheme for Railway Employees and Their Families — by competent railway authorities.

2. The benefits dealt with in Art. 10-13 are payable by the employers.

**Art. 15.** 1. The benefits specified in this Act are granted on the basis of establishing concomitant circumstances and causes of industrial accidents.

2. The Council of Ministers shall lay down — by order — rules and procedure for establishing concomitant circumstances and causes of industrial accidents and the appellate procedure in such cases.

**Art. 16.** 1. The benefits in Art. 3, 6 and 10 - 13 are awarded and paid if claimed by the persons entitled, the benefits specified in Art. 9 — *ex officio*.

2. Decisions and rulings re. benefits specified in Art. 3, 6 and 9 are subject to such appeals as in the cases of pensions, allowances and other social insurance benefits.

3. If the employer refuses to pay all or part of the benefits specified in Art. 10 - 13, the interested party may make a claim to the works (local) arbitration committee to settle the dispute.

4. The interested party may make a claim to have the dispute settled by the unit supervisory to the employer-enterprise:

1) the works (local) arbitration committee could not arrive at an unanimous decision, or was incompetent to settle the dispute because of functions performed by the employee,

2) in absence of a competent works (local) arbitration committee.

The supervisory unit issues a decision in consultation with the district or general management of the relevant Trade Union.

5. An appeal may be lodged by either party to the District Social Insurance Court from a decision of the works (local) arbitration committee issued pursuant to par. 3, as well as from a decision issued pursuant to par. 4, within 30 days on receipt of the decision in question. An appeal from a decision of the District Social Insurance Court lies as provided in the Social Insurance Courts Act.

**Art. 17.** The Council of Ministers shall lay down by order:

1) detailed procedure of establishing the title to recompensive benefits, principles of their calculation, payment, and discontinuation of their payment (Art. 12), detailed principles re. the payment of single compensation (Art. 11), and compensation for objects lost or damaged as a result of an accident (Art. 13),

2) the bodies competent to ascertain an injury of permanent nature (Art. 11 and 12), procedure to be followed in such cases and the principles of co-operation between employers-enterprises and the bodies referred to in the Act.

## Chapter 8

## REFUND OF BENEFITS PAID BY THE SOCIAL INSURANCE BOARD

**Art. 18.** 1. A socialized enterprise whose employee sustained injury in an accident is obliged — on the basis of relevant decision of the competent branch of the Social Insurance Board — to refund to the Board an equivalent of disablement pensions and sickness benefits and supplements thereto, as well as funeral grants.

2. The enterprise may lodge an appeal from the decision referred to in par. 1 within 14 days on its receipt to the Supervisory Committee of the relevant branch of the Social Insurance Board.

3. The Supervisory Committee issues a decision whereby the decision appealed against is either upheld, or amended, or annulled and superceded by a new decision.

4. The decisions not appealed against within the prescribed time, and the decisions taken by supervisory committees, are legally valid and there is no further appeal from them.

5. The refund specified in par. 1 shall be effected following the procedure for collection of social insurance contributions.

**Art. 19.** 1. The Council of Ministers shall specify by order:

1) the instances in which the Social Insurance Board is not to make claims dealt with in Art. 18.1, or will make claims limited in scope,

2) the instances in which the amounts to be refunded may be reduced, or the enterprise may be exempted from refunding.

2. The Council of Ministers shall specify from which financial means the amounts due pursuant to Art. 18 are to be refunded, and the instances when they are to be reimbursed from the funds of the supervisory unit.

## Chapter 10

## TRANSITORY AND FINAL PROVISIONS

**Art. 20.** The pensions specified in Art. 4.5.3, Art. 7 and Art. 8, with pertinent supplements, except those referred to in Art. 4.2 and Art. 7.2, including family allowances, cannot exceed the earnings specified in Art. 4.3.

**Art. 21.** 1. The Council of Ministers shall extend and adapt — by order to come into force not later than on Jan. 1, 1969 — the provisions of this Act to cover the cases in which temporary disability to work, permanent injury, disablement, or death of the employee were the result of an occupational disease specified in the General Pensions Scheme for Employees and Their Families.

2. The Council of Ministers shall define by order referred to in par. 1:

1) the nature, range and conditions of qualifying for benefits under this Act in cases specified in par. 1,

2) the bodies whose findings are a basis for awarding such benefits, principles and procedure to be followed in such cases and in appeals.

3. In the period preceding the regulations referred to in par. 1 coming into force, the persons who suffered from occupational diseases and their families are entitled to benefits under the Acts mentioned in Art. 1.3. The persons entitled to benefits may claim from a socialized enterprise a compensation of damages arising as a result of an occupational disease, if the disease was caused by the enterprise having infringed its duties imposed by the

regulations on the Workers' Health and Life Protection. The compensation of damage shall be limited to the amount by which the relevant civil law damages exceed the benefits pursuant to Art. 1.3.

**Art. 22.** The benefits prescribed under this Act and awarded accordingly constitute — on the part of the socialized enterprise — a full compensation for all the damage suffered by the employee and his family as a result of an industrial accident or occupational disease mentioned in Art. 21.

**Art. 23.** 1. The Council of Ministers shall state — by order — the date of the provisions of Art. 10-12 taking effect, not later, however, than Jan. 1, 1969.

2. In the period prior to the regulations referred to in par. 1 coming into force, the persons entitled to compensation in connection with accidents may claim from a socialized enterprise only:

1) the difference between earnings specified in Art. 4.3 and social insurance benefits plus the supplement mentioned in Art. 9,

2) single compensations provided in Art. 445 and 446 of the Civil Code, and

3) supplementary pensions for workers not assigned to any disablement group,

— provided the disease, disability to work, or death of the employee were caused by the enterprise having infringed its duties imposed by the regulation on the Workers' Health and Life Protection. The compensation of damage shall be limited to the amount by which the relevant civil law damages exceed the social insurance benefits.

**Art. 24.** 1. The Council of Ministers shall specify how and when the insurance contract — taken by the enterprise—against the employer's civil liability in case of industrial accidents and accident insurance of the employees are to expire.

2. The Council of Ministers may specify the principles and terms of enterprises taking up accident insurance and insurance against civil liability in case of industrial accidents.

**Art. 25.** Implementary regulations provided under this Act shall be issued in consultation with the Central Council of Trade Unions.

**Art. 26.** In matters not regulated under this Act, the provisions of Articles 4, 5, 7, 12, 13, 17, 18, 29 - 37, 40.1, 41 - 44, 49- 52, 60 - 64, 66 - 69, 74- 92 and 1,20 of the General Pensions Scheme for Employees and Their Families Act of Jan. 23, 1968 (Journal of Laws No. 3, item 6) are applicable respectively.

**Art. 27.** The Act shall come into force from the day of its promulgation and be applicable to the accidents which occurred on or after Jan. 1, 1968.