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No. 4 of 2008

First Session Ninth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to provide for the payment of compensation in
respect of members of the Teaching Service who
suffer injury or die in circumstances arising out of
and in the course of employment with the State

Explanatory Notes

(These notes form no part of the Bill but are intended only to indicate its general purport)

The purpose of this Bill is to provide for the payment of compensation in respect of members of the Teaching Service who suffer injury or die in circumstances arising out of and in the course of employment with the State.

Clause 1 of the Bill seeks to provide the short title of this Act, for which this is the Bill.

Clause 2 of the Bill seeks to provide the interpretation section for the Bill.

Clause 3 of the Bill seeks to provide for the State to be liable to pay compensation where a teacher suffers injury arising out of and in the course of his employment.

Clause 4 of the Bill seeks to provide for the persons who are entitled to make a claim for compensation.

Clause 5 of the Bill seeks to provide for the establishment of a Compensation Committee.

Clause 6 of the Bill seeks to provide for the seal of the Committee.

Clause 7 of the Bill seeks to provide for the meetings of the Committee and its quorum.

Clause 8 of the Bill seeks to provide that a member shall disclose his interest in any matter before the Committee.

Clause 9 of the Bill seeks to provide for acting appointments where a member of the Committee is unable to perform his duties.

Clause 10 of the Bill seeks to provide for the resignation from the Committee and revocation of appointment of a member of the Committee.

Clause 11 of the Bill seeks to provide for the publication in the *Gazette* of the appointment of the members of the Committee.

Clause 12 of the Bill seeks to provide for the office of the Committee to be situated in Port-of-Spain.

Clause 13 of the Bill seeks to provide the functions and jurisdiction of the Committee.

Clause 14 of the Bill seeks to provide for the making of the rules of the Committee and the rules of evidence.

Clause 15 of the Bill seeks to provide for the staff of the Committee.

Clause 16 of the Bill seeks to provide for the right of appeal by a party who is aggrieved by a determination of the Committee.

Clause 17 of the Bill seeks to provide for compensation that may have been otherwise awarded to a teacher or his beneficiary in respect of the same injury or death.

Clause 18 of the Bill seeks to provide for the Committee to submit an annual report of its operations to the Minister.

Clause 19 of the Bill seeks to provide for the transitional provision prior to the coming into operation of this Bill.

Clause 20 of the Bill seeks to provide for a teacher not to be disqualified from any other entitlements in relation to personal injury or death of a teacher.

Clause 21 of the Bill seeks to provide for the Minister to amend Schedule II to increase the benefits listed therein by Order.

Clause 22 of the Bill seeks to provide for the commencement of this Bill.

BILL

AN ACT to provide for the payment of compensation in respect of members of the Teaching Service who suffer injury or die in circumstances arising out of and in the course of employment with the State

[, 2008]

ENACTED by the Parliament of Trinidad and Tobago as Enactment follows:—

1. This Act may be cited as the Teaching Service Short title (Compensation) Act, 2008.

Interpretation

2. In this Act—

“claim” means an application for compensation made under this Act and “claimant” has the corresponding meaning;

“Committee” means the body of persons constituting the Compensation Committee established under section 5;

“Minister” means the member of the Cabinet to whom responsibility for education is assigned and “Ministry” has the corresponding meaning;

“permanent partial disablement” means such disablement of a permanent nature which reduces the earning capacity of a teacher at the time the disablement was sustained;

“permanent total disablement” means such disablement of a permanent nature which incapacitates a teacher for all work which he was capable of performing at the time the disablement was sustained;

“personal injury” means permanent partial disablement or permanent total disablement;

“teacher” has the meaning assigned to it in the Education Act;

“Teaching Service” has the meaning assigned to it in the Education Act.

Chap. 39:01

Liability to pay
compensation**3. (1) Where a teacher—**

(a) suffers personal injury;

(b) dies instantly; or

(c) dies as a result of personal injury sustained,

in circumstances arising out of and in the course of his employment with the State, the State shall be liable to pay compensation in accordance with this Act.

(2) Any award of compensation under this Act shall be a charge on the Consolidated Fund.

4. (1) Notwithstanding section 3, the following ^{Claims for compensation} persons are entitled to make a claim for compensation under this Act:

- (a) a teacher who suffers personal injury;
- (b) a person entitled under any written law to make a claim on behalf of a teacher who is so incapacitated by reason of personal injury that he is unable to make a claim himself;
- (c) a named beneficiary of a teacher who died in circumstances set out in section 3 (1)(b) or (c); or
- (d) in the absence of the named beneficiary referred to at paragraph (c), the holder of a grant of Probate or Letters of Administration.

(2) A claim shall be made in respect of personal injury or death arising after the coming into force of this Act, in accordance with the rules made under section 14.

(3) The time during which a claim may be made shall be in respect of:

- (a) death, within four years of the date on which the death of the teacher occurred; or
- (b) personal injury, within one year of the date on which such personal injury was sustained.

(4) In all proceedings before the Committee, the claimant may appear in person or may be represented by any named person or an attorney-at-law.

(5) In the case of a teacher to whom section 3(1)(b) or (c) applies, a beneficiary shall be named in accordance with the form as set out in Schedule I.

(6) Where any information pertinent to the named beneficiary changes, it is the responsibility of the teacher to register this information.

(7) The Minister may make regulations in respect of keeping records for the purposes of subsections (5) and (6).

Committee

5. (1) A Compensation Committee shall be established for the purposes of performing the functions detailed under this Act.

(2) The chairman, secretary and other members of the Committee shall be appointed by the President by instrument in writing, for a period of three years on such terms and conditions as the President may determine.

(3) The Committee shall comprise—

Act No. 21 of 1986

(a) an attorney-at-law whose name is on the Roll of Attorneys-at-law in accordance with the Legal Profession Act, having at least seven years experience and who shall be the chairman;

(b) an attorney-at-law whose name is on the Roll of Attorneys-at-law in accordance with the Legal Profession Act and who shall be secretary to the Committee;

Chap. 29:50

(c) a medical practitioner registered under the Medical Board Act with at least seven years experience;

(d) a medical practitioner registered under the Medical Board Act or other suitably qualified person with at least four years experience in the field of occupational safety and health; and

(e) a person who has at least three years experience in the business of accident and health claims.

(4) At the expiration of his term of office, a member of the Committee shall be eligible for reappointment.

6. (1) The Committee shall have a seal which shall be judicially noticed and shall be kept in the custody of the secretary. ^{Seal of the Committee}

(2) The seal shall be affixed by the secretary in the presence of one other member, and any document purporting to bear the seal of the Committee shall, unless the contrary is proved, be received in evidence and be deemed to be such a document without further proof.

7. The Committee shall meet at such times as may be necessary to deal promptly and expeditiously with all matters within its charge, and three members shall constitute a quorum. ^{Meetings and quorum}

8. A member of the Committee who has any interest in a matter before the Committee shall disclose such interest and shall be disqualified from all sittings on such matter. ^{Disclosure of interest}

9. (1) Where a member of the Committee is unable to perform his duties by reason of— ^{Acting appointments}

- (a) illness;
- (b) absence from Trinidad and Tobago;
- (c) the provisions of section 8; or
- (d) any other circumstance,

the President may appoint another person to act in place of such a member during the period of his inability to perform his duties, and such acting member shall hold the qualifications required under section 5(3).

(2) A person appointed to act under this section shall perform all the functions as the substantive member and shall do so under the same terms and conditions as those enjoyed by the substantive member.

Resignation from the
Committee and
revocation of
appointment

10. (1) A member of the Committee may resign his office by giving to the President one month's notice of his resignation in writing, which shall take effect from the date of receipt of such notice by the President.

(2) The President may revoke the appointment of a member of the Committee where the member—

- (a) is absent from three consecutive meetings without the written approval of the Minister or without reasonable cause;
- (b) is guilty of misconduct that may bring the Committee into disrepute;
- (c) is disqualified from the practise of his profession; or
- (d) is unable to perform his functions for any other reason.

Publication in
Gazette

11. The appointment and acting appointments of members to the Committee and the revocation of appointments or resignation from the Committee shall be published in the *Gazette*.

Office of the
Committee

12. The office of the Committee shall be situated in Port-of-Spain and the address shall be published in the *Gazette* and in one daily newspaper in circulation in Trinidad and Tobago.

Functions and
jurisdiction of the
Committee

13. (1) The functions of the Committee shall be to—

- (a) receive, investigate, hear and determine claims for compensation filed in accordance with this Act and the rules of the Committee made under section 14;
- (b) make such orders for compensation in accordance with Schedule II; and
- (c) discharge any other responsibility that is required by this Act.

Schedule II

(2) Where it is proved that a teacher suffered personal injury or died in circumstances arising out of

and in the course of his employment with the State, the Committee shall, subject to subsections (3) and (4), make an order for the award of compensation in accordance with Schedule II and shall give reasons in writing for the award of, or the refusal to award compensation.

(3) In hearing a claim, the Committee shall determine—

- (a) whether the personal injury to, or death of the teacher was caused, and to what extent, by his participation in any type of illegal activity and whether any compensation is payable under the circumstances; and
- (b) the proportion of contributory negligence if any, on the part of the teacher and shall apportion compensation accordingly.

(4) The Committee shall, in determining the quantum of compensation, take into account any payment gratuitously made to a teacher or a claimant by the State in respect of the same personal injury or death.

(5) For the purposes of undertaking its functions, the Committee shall have the same powers as a court of civil jurisdiction under the Summary Courts Act.

Chap. 4:20

14. (1) The Committee shall—

Committee rules
and rules of evidence

- (a) make and publish in the *Gazette* rules to regulate its procedure for—
 - (i) the initiation of claims; and
 - (ii) the conduct of its business;
- (b) publish in the *Gazette* and one daily newspaper in circulation in Trinidad and Tobago the location and time of its sittings.

(2) Notwithstanding section 13(5), the Committee may—

- (a) in the hearing and determination of any matter before it, act without regard to

technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the Evidence Act; and

Chap. 7:02

(b) inform itself on any matter in such manner as it thinks just and may take into account opinion, evidence and such facts as it considers relevant and material, but in any such case the parties to the proceedings shall be given the opportunity, if they so desire, of adducing evidence in that regard.

Staff

15. The staff of the Committee shall be selected by the Permanent Secretary of the Ministry from among employees of that Ministry.

Right of appeal

16. (1) A party who is aggrieved by a determination of the Committee under section 13, is entitled to appeal to the Court of Appeal in accordance with Rules of Court, within six weeks of that determination.

(2) On hearing an appeal under subsection (1), the Court of Appeal has power—

(a) if it appears to it that a new hearing should be held, to set aside the order appealed against, and order that a new hearing be held; or

(b) to order a new hearing on any question without interfering with the finding or decision upon any other question; and

(c) to make such finding or other order as the circumstances of the case require.

Compensation
otherwise
awarded

17. In awarding compensation for injury or death under this Act, the Committee shall take into account any damages awarded to a teacher or his beneficiary, in respect of the same injury or death.

18. (1) The Committee shall submit to the Minister an Annual report annual report of its operations during the preceding year and such report shall be submitted not later than three months of the anniversary date of the appointment of the Committee.

(2) The Minister shall within three months of the receipt of the Report, lay it in Parliament.

19. All claims in respect of personal injury or death of Transition a teacher occurring prior to the coming into operation of this Act, shall continue in force as if they were made under this Act.

20. Nothing in this Act shall be construed in a manner Other entitlements that would disentitle or disqualify a teacher from making a claim in respect of personal injury or death, in accordance with—

- (a) the National Insurance Act, the National Insurance Medical Expenses Regulations Chap. 32:01 and the National (Employment Injury) (Payment of Medical Expenses) Order;
- (b) the Education Act, the Teachers' Pensions Chap. 32:02 Act and any other relevant legislation; or
- (c) any other legislation that may confer benefits relating to personal injury or death of a teacher.

21. The Minister may by Order, amend Schedule II to Amendment of Schedule II increase the benefits listed therein.

22. This Act shall be deemed to have come into Commencement operation on January 1, 2005.

SCHEDULE I

(Section 4)

THE TEACHING SERVICE (COMPENSATION) ACT, 2008

Teachers' Compensation Beneficiary Form

Name of Teacher

Registration No.

Address

Name of Beneficiary

Address of Beneficiary

Identification Number of Beneficiary

Date

.....
Witness

.....
Teacher's

SCHEDULE II

(Section 13)

Benefits which shall be granted in respect of injury or death arising out of and in the course of employment—

- (a) Compensation for death arising out of and in the course of employment
 - (i) an amount equal to three years gross salary at the date of death; and
 - (ii) such entitlement as is provided under the relevant Acts governing the provision of superannuation benefits to teachers or any other relevant legislation;
- (b) Compensation for permanent total disablement, or permanent partial disablement
 - (i) the same percentages of the amount of (a)(i) above as those included under the Second Schedule to the Workmen's Compensation Act; and

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Passed in the Senate this day of , 2008

Clerk of the Senate

I confirm the above.

President of the Senate

No. 4 of 2008

FIRST SESSION
NINTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to provide for the payment of compensation in respect of members of the Teaching Service who suffer injury or die in circumstances arising out of and in the course of employment with the State

First time

Second time

Third time
