



THE WORKMEN'S COMPENSATION ACT CHAPTER 88:05

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**History of the Ministry's Consultations and
Overview of the Policy on Employment Injury
Benefits**

BACKGROUND

- Review of the WCA by the Ministry dates back to the 1990's
- Priority on political agenda due to:
 - Archaic nature
 - Inadequacies
 - Representations from stakeholders
 - Effort of past governments to review

BACKGROUND – INEFFICIENCIES OF WCA

- Definitions
 - Silence on certain terms
 - Too restrictive
 - inconsistent
- Scope
 - Exclusion of certain workers
 - Application in certain situations unclear
- Penalties to be increased
- Benefits to be increased

BACKGROUND - TIMELINE

- 1997 – **Industrial Injury and Disability Benefits Bill** drafted by the Law Commission
- 2000 – Drafting instructions drafted for a new **Employment Injury and Disability Benefits Bill** to provide for:
 - Payment of benefits to all employees suffering disability or death due to employment
 - Payment of benefits to dependants
 - Social insurance scheme
 - Fund for payment of benefits

BACKGROUND - TIMELINE

- 2007 – The **Employee Compensation Bill, 2007** was developed
- Bill covered employees suffering injury, disease or disability during the course of employment
- Bill provided coverage of:
 - benefits for health
 - rehabilitative care
 - other remedies

BACKGROUND - TIMELINE

- 2011 – Trinidad consultation on review of WCA
- 2012 – Tobago consultation on review of WCA
- Dec 2012 – Policy for the repeal and replacement of the WCA by the **Employment Injury and Benefits Bill (EIBB)** approved by Cabinet
- 2015 – Comments received from stakeholders on the 4th draft of the EIBB

BACKGROUND – ILO CONVENTIONS

- Guidance obtained from the ILO Conventions on employment injury:

Convention No.	Convention Name
Convention No. 12	Workmen's Compensation (Agriculture) Convention, 1921 (Revised by Convention No. 121)
Convention No. 17	Workmen's Compensation (Accidents) Convention, 1925
Convention No. 18	Workmen's Compensation (Occupational Diseases) Convention, 1925
Convention No. 19	Equality of Treatment (Accident Compensation) Convention, 1925
Convention No. 42	Workmen's Compensation (Occupational Diseases) Convention, 1934 (revised by Convention 121)
Convention No. 102	Social Security (Minimum Standards) Convention, 1952
Convention No. 121	Employment Injury Benefits Convention, 1964

BACKGROUND – ILO REFORMS

The reforms suggested by the ILO Conventions include:

- Shift employer liability scheme to social insurance scheme;
- Extend coverage of employees;
- Extend compensable diseases and the degree of benefits;
- Index periodic disability awards for inflation;
- Funding for rehabilitation, medical and social care;
- Shift from the High Court to the Industrial Court;
- Strengthen administrative and enforcement system;
- Develop the concept of no-fault liability;
- Create an industrial injury and disability benefits fund;
- Index firms in the economy;
- Broaden the concept of medical assessment to a multi-disciplinary diagnostic assessment

THE OBJECTIVE

- To modernise the legal and regulatory framework to treat with employment injury benefits for employees.
- To ensure that all employees who suffer an injury or illness arising out of and in the course of employment are entitled to adequate and prompt compensation for their medical care and loss of earnings capacity, without having to go to court or to prove that the employer was at fault.

CONSIDERATIONS

- decent work programme
- Workers' rights
- job security of employees
- viability of employers' businesses
- the need for protection of the most vulnerable sectors of employees and employers
- the State's obligations as an active member of the ILO

POLICY PRINCIPLES

- Employers' duty of care for the safety of their employees;
- It extends to all employees in all sectors;
- Obligation to ensure the employee is not placed in a position of undue exposure to mental stress;
- Employers' liability is strict;
- Employers' liability extends to both physical and negligent infliction of psychiatric harm;
- Breach of duty of care renders the employer liable for loss of earnings and medical expenses that are reasonably foreseeable

ISSUES

- Gender Sensitivity

- Scope of Application
 - All persons in an employment relationship
 - All dependants of breadwinner

- Definitions

- Benefits
 - Medical and Allied Benefits
 - Cash benefits – 60% of previous income
 - Compensation for loss of support – 50% of previous earnings

ISSUES

- Occupational Disease
 - Standardise with OSH Act
- Medical Examination
 - Worker failing to submit to medical exam without good cause results in suspended benefits
- Compulsory Insurance
 - Insurance, NIS, combination of both, fund
- Administration and Adjudication
 - Industrial Court or High Court
- Review and Monitoring
 - OSH Agency to be tasked with review and monitoring

Thank you for your attention!