

TEACHING SERVICE (COMPENSATION) ACT

CHAPTER 39:04

Act
16 of 2008

Current Authorised Pages

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Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

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CHAPTER 39:04

TEACHING SERVICE (COMPENSATION) ACT

16 of 2008. **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.**

Commencement. [1ST JANUARY 2005]

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

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;
Ch. 39:01. “teacher” has the meaning assigned to it in the Education Act;
“Teaching Service” has the meaning assigned to it in the Education Act.

3. (1) Where a teacher—

- (a) suffers personal injury;
- (b) dies instantly; or
- (c) dies as a result of personal injury sustained,

Liability to pay compensation.

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 persons are entitled to make a claim for compensation under this Act:

Claims for compensation.

- (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.

Schedule I. (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).

Compensation 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.

Ch. 90:03. (3) The Committee shall comprise—
(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;

Ch. 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.

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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 practice 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

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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. Schedule II.

- (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 summary jurisdiction.

- 14.** (1) The Committee shall—
- (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

Committee rules and rules of evidence.

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(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 by the State to a teacher or his beneficiary, in respect of the same injury or death.

Annual report.

18. (1) The Committee shall submit to the Minister an 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.

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(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 a teacher occurring prior to the coming into operation of this Act, shall continue in force as if they were made under this Act. Transition.

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

(a) the National Insurance Act, the National Insurance (Medical Expenses) Regulations and the National Insurance (Employment Injury) (Payment of Medical Expenses) Order; Ch. 32:01.
Sub. Leg.

(b) the Education Act, the Teachers' Pensions Act and any other relevant legislation; or Ch. 39:01.
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(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 increase the benefits listed therein. Amendment of Schedule II.

Section 4.

SCHEDULE I

THE TEACHING SERVICE (COMPENSATION) ACT, CH. 39:04

TEACHERS' COMPENSATION BENEFICIARY FORM

Name of Teacher

Registration No.

Address

Name of Beneficiary

Address of Beneficiary

Identification Number of Beneficiary

Date

.....
Witness

.....
Teacher's Signature

Section 13.

SCHEDULE II

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

- | | |
|---|--|
| <p>(a) Compensation for death arising out of and in the course of employment</p> | <p>(i) an amount equal to three years gross salary at the date of death; and</p> <p>(ii) such entitlement as is provided under the relevant Acts governing the provision of superannuation benefits to teachers or any other relevant legislation;</p> |
| <p>(b) Compensation for permanent total disablement, or permanent partial disablement</p> | <p>(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</p> |

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- (ii) such entitlement as is provided under the relevant Acts governing the provision of superannuation benefits to teachers or any other relevant legislation;

- (c) All necessary injury leave as may be certified by a medical practitioner registered under the Medical Board Act or a Medical Board Ch. 29:50.
leave with full pay;

Claims in respect of benefits for death or injury which are not under the jurisdiction of the committee—

- (d) Those claims which are occasioned by or have occurred through the following circumstances
 - (i) war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion and revolution; and
 - (ii) suicide or attempted suicide, venereal disease, the influence or effect (temporary or otherwise) of alcohol, or of drugs not prescribed by a medical practitioner registered under the Medical Board Act. Ch. 29:50.
