

**FEMI JOHNSON & COMPANY LIMITED**  
*Incorporated Insurance Brokers Rc7415*



**Review of the  
1987 Workmen's Compensation Decree**

February 2005



member,  
Nigerian Corporation of  
Registered Insurance Brokers

**1987 Workmen's Compensation Decree**



*Objectives of the Decree*

Govern the basic issues relating to compensation for Workmen who have sustained injuries in the course of employment.

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*Definition of a Workman*

**Any person who has entered into, or, is working under a contract of service  
or**

**apprenticeship with an employer whether by way of manual labour, clerical  
work or otherwise, and whether the contract is expressed or implied, is oral  
or in writing.**

Public Servants in State and Federal establishments together with members of  
the Nigerian Police Force are regarded as workmen

Officers of the Nigerian Army, Navy and Air Force are however excluded.

Public Servants first engaged outside Nigeria are also excluded.



## *Definition of a Workman... contd*

### Sub-Contracted Persons

- Where the Workman is on subcontract to a Principal (with the Employer's permission), such Principal is liable to compensate as if he was the direct employer.

The following are not deemed as Workmen under the decree

- ⌘ Persons employed under a contract of service or collective agreement approved for exemption
- ⌘ Persons employed for purposes other than the employers' trade or business
- ⌘ An outworker
- ⌘ A member of the Employers family dwelling in his house
- ⌘ A person engaged in Agricultural or Handicraft work by an employer/firm who normally engages less than 10 people

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***Conditions for Compensation***

An employer is liable to pay compensation

- ⌘ **If the injury arises out of and in the course of the employment**
- ⌘ **If the injury incapacitates the workman for more than three consecutive days**
- ⌘ **If the workman did not wilfully misconduct himself**

Where the injury is deemed to have occurred in connection with the employers business, the workman is entitled to compensation regardless of whether

- ⌘ It was in contravention of a statutory or other regulation applicable to his employment
- ⌘ In contravention of instructions from his employer
- ⌘ He was acting without instructions from the employer

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## *Steps to recover compensation*

- ⌚ Notice of Accident is to be given as soon as possible and application for compensation to be made not later than 6 months after the accident.
- ⌚ Where death occurs, the employer should notify a labour officer within 7 days. The labour officer is to notify the dependants of the deceased
- ⌚ The employer is responsible for the arrangement of immediate medical examination by a medical practitioner. The workman is obliged to attend anytime the medical practitioner so requires (the workman's claim will be suspended if he refuses to attend the examination)
- ⌚ The workman is entitled to have, at his own expense, his own medical practitioner present during the examination.
- ⌚ The employer and employee may agree in writing on the compensation to be paid, provided it is not less than what is payable under the Decree.
- ⌚ Where the workman is unable to read/understand the language used in expressing the agreement, it shall not be binding on him except a labour officer has explained the contents to him, he understood it and a certificate to this effect endorsed by the labour officer.

**1987 Workmen's Compensation Decree**

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## *Amount of Compensation Payable*

### **Death**

☞ 42 months earnings

### **Permanent Total Incapacity**

☞ 54 months earnings

### **Permanent Total Incapacity requiring the assistance of constant help**

☞ 54 months earnings plus an additional 25%

### **Temporary Total Incapacity**

☞ 24 months basic pay distributed as follows

- Full basic pay for 6 months
- If the workman has not resumed duties thereafter, 50% of his basic pay for an additional period of 3 months
- A further 25% of basic pay is allowed for the final period of 15 months

### **Medical & Transport Expenses**

☞ Unlimited amounts but must have been incurred reasonably



*Amount of Compensation Payable... contd*

**Medical Expenses**

The employer shall defray any reasonable expenses incurred by the Workman following accidents relating to his employment

- within Nigeria **or**
- outside Nigeria (but with the approval of the State or Federal Medical Officer)

Such expenses may include

- Medical, Surgical and Hospital treatment, skilled Nursing services and supply of medicines and surgical dressings
- Supply, Maintenance, Repair and Renewal of Non-articulated Artificial limbs and apparatus
- Traveling expenses incurred in the course of receiving Medical treatment

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## *Definition of Earnings*

Earnings include

- a) **Wages paid to the Workman by the employer and the value of any food, fuel or quarters supplied to the workman by the employer if as a result of the accident the workman is deprived of such food, fuel or quarters and**
  
- b) **Any overtime payments or other special remuneration for work done, whether by way of bonus or otherwise, if of constant character or for work habitually performed**

Earnings does not include

- ⌘ Remuneration for intermittent overtime
- ⌘ Casual payments of a non-recurrent nature
- ⌘ Any ex-gratia payment whether given by the employer or other person
- ⌘ The value of any travelling concession
- ⌘ Contributions paid by the employer towards any Pension or Provident fund
- ⌘ A sum paid to a workman to cover any special expenses entailed on him by the nature of his employment

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## *Occupational Diseases*

The Minister may order the extension of this Decree to cover Death or Incapacity caused by any specified diseases, and compensation shall be payable as if the disease was a personal injury caused by an accident arising in the course of the employment

provided that

- The disease is due to the nature of employment
- The Minister may specify any disease which, unless certified by a medical practitioner or the employer can prove to the contrary, shall be deemed to be due to the nature of his employment
- If the disease had been contracted gradually so that 2 or more employers are liable, then, the total amount shall not exceed the amount payable if only one employer was responsible.



## *Compulsory Insurance*

Every Employer shall insure every Workman employed by him against injury or death arising out of and in the course of employment.



## *Conclusion*

Non-Compliance with the stipulations of this Decree will render the Employer liable to court proceedings at the instance of the employee or other interested parties.

Jurisdiction to entertain issues under this Decree is vested with the High Court or any other court competent to entertain civil matters.