

## **National Board of Industrial Injuries (Arbejdsskadestyrelsen)**

### TRANSLATION/COMPILATION

## **ACT ON PROTECTION AGAINST THE CONSEQUENCES OF INDUSTRIAL INJURIES**

Compilation of the Act on Protection against the Consequences of Industrial Injuries, cf. Consolidated Act No. 943 of October 16, 2000, with amendments resulting from section 4 of Act No. 1329 of December 20, 2000, section 1 of Act No. 488 of June 7, 2001, section 4 of Act No. 503 of June 7, 2001, and section 14 of Act No. 428 of 6 June 2002. The text takes effect only on July 1, 2002, in respect of section 33 and section 42(1).

### **Chapter 1**

#### *Scope of the Act*

#### *Persons Protected*

#### **1. (1)**

Any person who is engaged for wages or as unpaid assistant in the services of an employer to carry out permanent, temporary or casual work in this Kingdom shall be protected under this Act against the consequences of industrial injuries, cf. section 9. The same shall apply to members of the employer's family where - according to the nature and extent of their work in the employer's business - such members can be regarded as being in the same position as other workers. The employer's husband or wife shall be protected only where a wage contract was entered under which the last wage payment prior to the industrial injury was subject to PAYE taxation in accordance with the Tax at Source Act.

#### (2)

Sailors employed on Danish vessels shall have the same legal status as persons engaged to carry out work in this Kingdom.

#### (3)

A liveborn child that contracted a disease prior to its birth as a consequence of its mother's work during pregnancy shall be protected under this Act against the consequences of such disease.

#### (4)

Where it is later established that influence on the parents prior to conception or after the delivery had injurious effects on foetus or child, such injuries shall be assessed under this Act in accordance with section 10.

#### **2.**

The protection shall comprise all work carried out for the employer, including work in the employer's business, whether with a view to profit or not, in the employer's personal household, and when carrying out personal services for the employer and the employer's family.

#### **3.**

The provisions of this Act shall also apply to persons -

- (i) carrying out civic or municipal duties;
- (ii) attending to positions of trust in connection with the employees' working conditions in the business;

- (iii) attempting to save human life, prevent accidents or forestall major material or cultural losses, where the attempt - though not regarded as work within the meaning of section 1 - was nevertheless made in connection with such work; and
- (iv) attempting to save human life in this Kingdom, where such attempt is not a natural part of their work.

**4. (1)**

The Minister for Employment shall lay down rules and regulations determining to what extent this Act shall apply to persons covered by Parts II and III of the Act on Social Services.

**(2)**

The Minister for Employment may lay down rules and regulations determining to what extent this Act shall apply to persons who are present in a place of education or work as part of their education, training, or trainee service, etc.

**(3)**

The head of the National Board of Industrial Injuries shall lay down rules governing the application of this Act to persons posted abroad for temporary work in the services of an employer.

*The Employer Liable to Provide Protection*

**5. (1)**

Any employers employing in their service such persons as are set out in section 1 shall be liable under the provisions of this Act to provide protection for such persons, subject, however, to the provisions of subsections (2), (3), (5) and (6) below.

**(2)**

The owner of a vessel registered or to be registered in the Danish Shipping Register or the Danish International Shipping Register shall be liable to provide protection for any person covered by section 1 who is engaged to carry out work on board the ship on the instructions of the master of the ship, whether or not such person is engaged or paid by persons other than the shipowner, and whether or not the work is related to the operation of the ship. The liability to provide protection shall also apply to owners or part owners of the vessel who carry out work on board, except where such vessel is solely used for yachting.

**(3)**

Any person whose annual earned income to the extent of not less than three fifths is normally derived from personal employment in fishing shall – to the extent that such occupation is carried out for his own account – provide protection for himself.

**(4)**

Employers as set out in subsections (1) to (3) shall fulfil their liability to provide protection by taking out insurance against the consequences of accidents and injurious effects, cf. section 45, and by joining the Labour Market Occupational Diseases Fund to provide protection against the consequences of sudden lifting injuries and occupational diseases, cf. section 50.

**(5)**

The State and municipalities shall not be liable to take out insurance against the consequences of accidents and injurious effects, cf. section 45. The same shall apply to the Civil List.

**(6)**

The liability to provide protection shall not apply to casual help in the private household or during the performance of private service where the overall employment pertaining thereto does not exceed 400 working hours in a calendar year. Expenses arising from accidents or injurious effects sustained by such casual help shall be defrayed as an advance payment by the National Board of Industrial Injuries and shall be distributed for each calendar year on all insurance companies undertaking industrial injuries insurance. The National Board of Industrial Injuries - in collaboration with the Danish Financial Supervisory Authority - shall lay down specific rules governing such distribution. Expenses arising from sudden lifting injuries or occupational diseases sustained by such casual help shall be defrayed by the Labour Market Occupational Diseases Fund. The National Board of Industrial Injuries shall decide the trade affiliation, taking into account the nature of the exposure, the intensity and the duration thereof. The Labour Market Occupational Diseases Fund shall subsequently refer the expenses to a specific trade.

**6. (1)**

In the event of accidents and injurious effects the expenses incurred shall be defrayed by the insurance company of the employer liable to provide protection. In the event of sudden lifting injuries and occupational diseases such expenses shall be defrayed by the Labour Market Occupational Diseases Fund, cf. section 57A. The National Board of Industrial Injuries shall decide the trade affiliation, taking into account the nature of the exposure, the intensity and the duration thereof. The Labour Market Occupational Diseases Fund shall refer the expenses to a specific trade.

**(2)**

The employer liable to provide protection for an injured person shall be the employer in whose business or service the industrial injury occurred, subject, however, to subsections (3) and (4) below and subsections (2) and (6) of section 5.

**(3)**

The employer liable to provide protection for an injured person who has sustained a sudden lifting injury shall be the employer in whose business or service the sudden lifting injury occurs. This shall not apply, however, where it is established that the sudden lifting injury was caused by work in a different business.

**(4)**

The employer liable to provide protection for an injured person who has sustained an occupational disease shall be the last employer in whose business or service, prior to the disease being diagnosed, the injured person was exposed to the injurious effects presumed to have caused the disease in question. This shall not apply, however, where it is established that the disease was caused by work in a different business.

**(5)**

Where an employer liable to provide protection under subsections (3) and (4) above cannot be pointed out with reasonable certainty or the business has been closed down, the National Board of Industrial Injuries shall refer the injury to a trade. The Board's decision on trade affiliation shall be made after a concrete assessment of the trade in which the injured person has been particularly exposed to such effects as may be deemed to have caused the sudden lifting injury or the disease in question. Such assessment shall take into consideration the nature of the exposure, the intensity and the duration thereof.

**7. (1)**

Where an employer has undertaken to carry out an assignment such employer shall be liable to provide protection also in respect of the persons entrusted to him by the contracting party to complete the assignment.

**(2)**

An employer doing business or carrying out an assignment that makes the employer liable to provide protection shall be deemed to be the employer liable to provide protection for persons employed in such business or assignment, whether or not they have been engaged by another employer who has assumed responsibility for completing a proportion of the assignment. Where other employers have taken out a policy for their own employees, such employers shall be regarded as the employers liable to provide protection.

**8.**

(Cancelled by Act No. 278 of May 13, 1998)

**Chapter 2**

*The Industrial Injury*

**9.**

Industrial injuries within the meaning of this Act shall be -

- (i) accidents caused by the work or the working conditions;
- (ii) injurious effects of not more than five days' duration, caused by the work or the working conditions;
- (iii) sudden lifting injuries, cf. section 9A; and
- (iv) occupational diseases as set out in section 10 below.

**9A. (1)**

Sudden lifting injuries within the meaning of this Act shall be permanent muscle, nerve and joint injuries which occur spontaneously in immediate connection with lifting work in awkward positions in persons who otherwise perform heavy lifting work, in cases where the injury must be deemed to have been caused solely or mainly by such lifting work.

(2)

Sudden lifting injuries shall be submitted to the Occupational Diseases Committee, cf. section 58, except where the National Board of Industrial Injuries deems such submission to be futile.

(3)

Whereas under this Act legal effects shall be applicable from the date of an industrial injury, such effects shall apply in respect of sudden lifting injuries from the date when the sudden lifting injury occurs, except where provisions of this Act stipulate otherwise.

(4)

In respect of protection sudden lifting injuries shall have the same status as occupational diseases.

**10. (1)**

Occupational diseases within the meaning of this Act shall be -

- (i) diseases which - according to medical and technical experience - are brought about by specific influence to which certain groups of people, through their work or working conditions, are more exposed than persons not having such work. Furthermore, occupational diseases shall comprise such diseases as are contracted by a liveborn child prior to its delivery as a consequence of its mother's work during pregnancy. The head of the National Board of Industrial Injuries shall determine and list such diseases as shall be regarded as diseases of this nature. In this connection it may be laid down that diseases shall be included in the list only where such diseases have been brought about by work in specific working areas or where other special conditions are met;
- (ii) other diseases, including diseases of a liveborn child contracted prior to its delivery, where it is established either that - according to the latest medical experience - the disease meets the requirements set out in the first and fourth sentences of

paragraph (i) of this section, or that it must be deemed to have been caused solely or mainly by the particular nature of the work.

(2)

This Act shall be applicable to diseases which are the consequences of influence on parents prior to the conception or after the delivery of a child where changes are made in the list referred to in subsection (1)(i) above, or in accordance with subsection (1)(ii), where it is later established that such influence had an injurious effect on foetus or child. (3)

(3)

Diseases covered by subsection (1)(ii) and subsection (2) above can be recognised only after submission to the Occupational Diseases Committee, cf. section 58. Such diseases shall be submitted to the Occupational Diseases Committee, except where the National Board of Industrial Injuries deems such submission to be futile.

**11. (1)**

Any person having contracted a disease included in the list, cf. section 10(1)(i), shall be entitled to benefits under this Act, except where it is deemed to be probable beyond reasonable doubt that the disease was brought about by non-occupational circumstances.

(2)

For occupational diseases the legal effects of this Act shall apply as from the date of notification of the disease, except where provisions of this Act stipulate otherwise.

**12. (1)**

Under this Act the protection cover shall apply to the personal injury brought about by the industrial injury, even where such injury is moderate in relation to the injured person's general state of health.

(2)

Where it is established that the notified personal injury was not solely brought about by the notified injury, the injured person shall be informed thereof not later than or simultaneously with receiving the information of recognition of the injury, cf. section 23.

**13.**

An established loss of earning capacity, a permanent injury or a person's death shall be deemed to be a consequence of the industrial injury, except where there is every indication to the contrary.

**14.**

Where Denmark is at war, an injury arising as a consequence of military operations shall not be regarded as an industrial injury, except where the injury is sustained by persons engaged to perform work on board any kind of vessel normally used in the shipping and fishing trade, in accordance with the instructions by the master of the ship, as well as persons protected in accordance with the second sentence of section 5(2) or in accordance with section 5(3).

**Chapter 3**

*Notification and Information*

**15. (1)**

Notice of any industrial injury expected to give rise to a claim under this Act shall be given as soon as possible and not later than nine days after the injury occurred.

(2)

Where notice of an industrial injury was not given under subsection (1) above and such injury has resulted in the injured person being unable to resume customary work to a full extent five weeks after the injury, notice shall be given not later than nine days thereafter.

(3)

As regards occupational diseases set out in section 10, the time limits of notification shall be reckoned from the date when the person liable to notify is informed that the disease is likely to have been caused by the nature of the work.

(4)

Notice of deaths presumed to have been brought about by an industrial injury, including any death that occurs in a place of work, shall be given to the National Board of Industrial Injuries within 48 hours. Notice must be given even where the industrial injury likely to have caused the death has already been reported or is to be reported under subsections (1) to (3) above.

**16. (1)**

The duty to give notice shall rest upon the employer liable to provide protection.

(2)

As regards the duty to give notice as set out in subsection (1) above, such duty shall comprise accidents, injurious effects and sudden lifting injuries.

(3)

As regards persons engaged in a private household or performing personal services and for whom the employer is not liable to take out insurance, cf. section 5(6), the duty to give notice shall rest upon the employer.

(4)

As regards persons who have provided protection for themselves under section 5(3) and persons covered by paragraph (iv) of section 3, notice shall be given by themselves or the surviving relatives.

**17. (1)**

The employer shall notify cases covered by section 16(2) to the insurance company that undertook the insurance, cf. section 45.

(2)

The employer shall notify industrial injuries to the National Board of Industrial Injuries where -

- (i) the employer has failed to fulfil his liability to provide protection, cf. section 5(4); or
- (ii) the employer is not liable to provide protection, cf. subsections (5) and (6) of section 5.

(3)

Injuries covered by paragraph (iv) of section 3 shall be notified to the National Board of Industrial Injuries.

**18. (1)**

The Minister for Employment shall lay down rules and regulations determining that physicians shall notify the National Board of Industrial Injuries and the National Working Environment Authority of all cases of clear and presumed sudden lifting injuries, cf. section 9A, of which they become aware in their work.

(2)

The Minister for Employment shall lay down rules and regulations determining that physicians and dentists shall notify the National Board of Industrial Injuries and the National Working Environment Authority of all clear and presumed cases of occupational diseases of which they become aware in their work.

**19. (1)**

The Minister for Employment shall lay down guidelines for co-operation between the National Board of Industrial Injuries, the National Social Appeals Board, insurance companies, the Labour Market Occupational Diseases Fund and municipalities, etc., with a view to co-ordinating relief measures for injured persons.

(2)

The head of the National Board of Industrial Injuries shall lay down rules determining the information to be included in the notification form, as well as the procedure of notification. It shall appear from such rules what notices shall be forwarded by the insurance company and the Labour Market Occupational Diseases Fund to the National Board of Industrial Injuries, what notices shall be forwarded to the insurance company by the Labour Market Occupational Diseases Fund, and what notices shall be forwarded to the Labour Market Occupational Diseases Fund by the insurance company.

(3)

The head of the National Board of Industrial Injuries shall determine what forms to use for notification and for the medical certificates required for the processing of the case. The head of the National Board of Industrial Injuries shall furthermore lay down rules governing the extent to which medical certificates, cf. subsection (4) below, shall be paid for at a fixed rate, and the amount of such rate.

(4)

The insurance company and the Labour Market Occupational Diseases Fund shall defray the costs of medical certificates, including specialist certificates and post-mortem certificates, as well as the costs of opinions and other documentation, including the required auditing statements.

## **20.**

Where the notification was not given in due time, an injured person or his surviving relatives may nevertheless file a claim for compensation under this Act within a time limit of one year from the date of the injury. As regards occupational diseases, cf. section 10, the limit shall be reckoned from the time when the injured person or the surviving relatives were informed that the disease was deemed to have been caused by the nature of the injured person's work. This time limit may be disregarded where warranted by special circumstances.

## **21. (1)**

The National Board of Industrial Injuries shall be entitled to send out experts to make examinations on the spot.

(2)

The National Board of Industrial Injuries shall be entitled to request and obtain from employers, employees, municipalities, and other parties concerned - including hospitals, institutions and attending physicians etc. - any information deemed by the said Board to be of importance, including any police reports, case sheets etc., manufacturing procedures, the chemical composition of products and substances, or copies of such reports, case sheets or formulas. The National Board of Industrial Injuries shall also be entitled to cause judicial inquiry to be held in accordance with section 1018 of the Administration of Justice Act and to receive transcripts thereof, and to require post-mortems to be made in conformity with the rules governing legal autopsies. Information of financial circumstances can be collected electronically from other public authorities and from unemployment funds.

(3)

As regards persons indicated in section 5(2), it is incumbent upon the master of the ship to enter in the log book full information on the industrial injury and the circumstances thereof.

## **22. (1)**

As soon as possible after the occurrence of the injury, the injured person shall submit himself to a medical examination and, subsequently, undergo the medical treatment or the training deemed necessary by the physician or the National Board of Industrial Injuries. If necessary, the injured person shall enter hospital or a similar institution for observation. Subject to the decision of the said Board, the injured person shall furthermore be required to submit himself to an examination by a physician appointed by the Board, to be work-tested and, upon request, give a verbal statement to the Board.

(2)

The injured person shall be entitled to reimbursement of any travelling expenses arising from medical treatment etc. upon the request of the National Board of Industrial Injuries, cf. subsection (1) above. Furthermore, the injured person shall be entitled to compensation for certified loss of earnings in the cases referred to in the second and third sentences of subsection (1) above where the absence from work is of not less than two hours' duration. The calculation of such compensation shall be based on an hourly pay not in excess of what corresponds to the annual earned income indicated in section 41(3) below. In cases of accidents and injurious effects expenses shall be defrayed by the insurance company. In cases of sudden lifting injuries and occupational diseases expenses shall be defrayed by the Labour Market Occupational Diseases Fund.

(3)

Subsection (2) above shall also apply where the National Social Appeals Board has requested the information set out in subsection (1).

(4)

The condition that there shall be a request by the National Board of Industrial Injuries or the National Social Appeals Board in order for the insurance company or the Labour Market Occupational Diseases Fund to defray expenses under subsections (2) and (3) above, may be disregarded in cases where the National Board of Industrial Injuries or the National Social Appeals Board deems such information to be necessary. In cases regarding accidents, injurious effects and sudden lifting injuries the insurance company and the Labour Market Occupational Diseases Fund shall only defray such expenses as have arisen or been defrayed after the occurrence or emergence of the injury. In cases regarding occupational diseases the Labour Market Occupational Diseases Fund shall only pay such expenses as have arisen or been defrayed after notification of the injury, cf. section 11(2).

## Chapter 4

### *Recognition of the Industrial Injury*

**23. (1)**

Within three months after receiving notice of accidents or short-term injurious effects, cf. paragraphs (i) and (ii) of section 9, the National Board of Industrial Injuries shall inform the injured person or his surviving relatives of whether the case is covered by this Act. The time limit is nine months for occupational diseases covered by section 10(1)(i). Only the time limit set up in section 31(1) shall apply to diseases included in section 10(1)(ii) and section 10(2) and to sudden lifting injuries, cf. section 9A.

(2)

Where the injured person dies after notification of the injury, the time limits set out in subsection (1) above shall apply similarly with regard to informing the surviving relatives of whether the death shall be covered by this Act. The time limits shall be reckoned from the date of notification of the death to the National Board of Industrial Injuries.

(3)

Where the National Board of Industrial Injuries estimates that an assessment of the question of recognition is not possible within the time limits set up in subsections (1) and (2) above, the injured person or the surviving relatives shall be informed thereof.

**24. (1)**

Where the injured person or the surviving relatives have been informed that the accident or death shall not be covered by this Act, the case may be resumed within five years as from the date of receipt of such information.

(2)



Where the National Board of Industrial Injuries has informed the parties that a notified disease shall not be covered by this Act and the disease is later included in the list referred to in section 10(1)(i), the case may be resumed, even where more than five years have passed since the National Board of Industrial Injuries made the decision.

(3)

Where a notified case cannot be considered due to circumstances brought about by the injured person or his surviving relatives, the claim under this Act shall lapse after five years from the date of the injury.

## **Chapter 5**

### *Benefits*

#### **25.**

Benefits under this Act shall comprise –

- (i) reimbursement of expenses for medical care, rehabilitation, aids etc., cf. section 30;
- (ii) compensation for loss of earning capacity, cf. section 32;
- (iii) compensation for permanent injury, cf. section 33;
- (iv) transitional allowance at death, cf. section 35;
- (v) compensation for loss of breadwinner, cf. sections 36 to 38.

### *General Provisions for Determining Compensation etc.*

#### **26.**

Compensation under sections 30, 32 and 33 of this Act shall be determined on the basis of the consequences of the industrial injury. The compensation can thus be reduced or lapse, according to the circumstances, where the current medical and social situation of the injured person cannot solely be deemed to be a consequence of the industrial injury.

#### **27.**

Where the National Board of Industrial Injuries has informed the parties that a case of a notified industrial injury must be deemed to have been concluded without any compensation being granted, claims under this Act shall be made not later than five years from the date of such information being given, except where the said Board deems that special circumstances indicate otherwise.

#### **28. (1)**

Where the injured person does not fulfil the requirements set out in section 22 above or obstructs being cured by disregarding given directions, he may be disqualified, wholly or partially, from receiving compensation.

(2)

Where the surviving relatives resist a post-mortem examination, they may be disqualified from receiving compensation.

#### **29.**

Where the injured person wilfully or by unlawful action or by omission provoked or made a substantial contribution to the occurrence of the industrial injury, the claim for compensation for loss of earning capacity and compensation for permanent injury may be reduced or wholly lapse. In such cases the injured person shall be made expressly aware thereof.

### *Medical Care, Rehabilitation and Aids etc.*

**30. (1)**

Where, pending the consideration of the case, medical care or rehabilitation is required to obtain the best possible cure, costs of such cure or rehabilitation shall be defrayed to the extent that such costs are not covered under the Public Health Insurance Act or as an element of treatment in a public hospital. Rehabilitation shall be carried out as post-treatment under medical supervision in immediate connection with the medical care.

**(2)**

Where, pending the consideration of the case, the acquisition of artificial limbs, spectacles and other aids, as well as invalid vehicles, is necessary to ensure the outcome of the medical care or rehabilitation, to diminish the effects of the industrial injury, or to assess more accurately the extent of the loss of earning capacity and the degree of permanent injury, the expenses thus incurred shall be covered.

**(3)**

Subsections (1) and (2) above shall also apply where the case is resumed with a view to a renewed assessment of loss of earning capacity and permanent injury.

**(4)**

Where a protected person used any of the aids referred to in subsection (2) above in his work and the aid was damaged as a consequence of the work or the working conditions, the expenses in connection with repair or replacement of the aid shall be paid.

**(5)**

The head of the National Board of Industrial Injuries shall lay down rules governing to what extent expenses shall be covered under subsections (1) to (4). The head of the National Board of Industrial Injuries shall further lay down rules determining that such expenses shall be covered in special circumstances, even where the case is not being considered.

**31. (1)**

After the completion of medical care, rehabilitation etc., when there is a basis for making an assessment of the injured person's future health and occupational prospects, the National Board of Industrial Injuries shall determine whether the injured person shall be entitled to compensation for loss of earning capacity and for permanent injury. Such decision shall be made within one year where possible and not later than two years from the date of notification of the industrial injury.

**(2)**

Where an industrial injury results in death, it shall be determined within the time limits set out in subsection (1) above, reckoned from the date of notification of the death, whether the surviving relatives of the injured person shall be entitled to a transitional allowance at death and compensation for loss of breadwinner.

**(3)**

Advance payments of compensation for loss of earning capacity and compensation for permanent injury may be paid for the period of time preceding a final decision in the case.

**(4)**

Where the occupational situation has not been clarified, the National Board of Industrial Injuries may, where warranted by special circumstances, make a temporary decision on compensation for loss of earning capacity.

*Compensation for Loss of Earning Capacity***32. (1)**

Where an industrial injury has resulted in a reduction in the injured person's capacity to make a living through work, such person shall be entitled to compensation for loss of earning capacity. Such compensation shall not be granted where the loss of earning capacity is less than 15 per cent.

**(2)**

In assessing the loss of earning capacity, the National Board of Industrial Injuries shall take into account the injured person's prospects of making a living through such work as may be reasonably required of him in view of his talents, education, age, and the possibilities of vocational retraining and rehabilitation.

(3)

Compensation for loss of earning capacity to a child with a foetal anomaly, cf. section 10(1)(ii), or a child suffering from diseases caused by influence on the parents prior to the conception or after the delivery of such child, cf. section 10(2), shall only be payable after the injured person's fifteenth birthday.

(4)

Compensation shall be granted as a monthly benefit, except where such benefit is capitalised under the provisions of section 43.

(5)

In the event of total loss of earning capacity the benefit shall be equal to four fifths of the injured person's annual income, cf. section 41, and in the event of reduction of the earning capacity a proportional fraction thereof.

(6)

The annual benefit shall be paid at the rate of one twelfth monthly in advance and shall run from the date of the decision, except where special circumstances indicate otherwise.

(7)

For such injured persons as have reached the age of 60 before 1st July 1999 the monthly benefit shall cease from the expiration of the month of the injured person's 67th birthday. At this date the monthly benefit shall be replaced by a lump sum amounting to twice the annual benefit referred to in subsection (5) above. Where the injured person at the time of the decision was 67 years of age or more, the benefit shall be payable as set out in the second sentence above.

(8)

For such injured persons as have reached the age of 60 on 1st July 1999 or at a later date the monthly benefit shall cease from the expiration of the month of the injured person's 65<sup>th</sup> birthday. At this date the monthly benefit shall be replaced by a lump sum amounting to four times the annual benefit referred to in subsection (5). Where the injured person at the time of the decision was 65 years of age or more, the benefit shall be payable as set out in the second sentence above.

### *Compensation for Permanent Injury*

**33.** (1)

Where an injured person has sustained permanent injury as a result of an industrial injury, such person shall be entitled to compensation for permanent injury. Compensation shall not be granted, however, where the degree of permanent injury is assessed at less than 5 per cent.

(2)

The degree of permanent injury shall be assessed on the basis of the medical nature and extent of the injury and with regard to any nuisance in the injured person's personal life brought about by the industrial injury.

(3)

The compensation for permanent injury shall be paid as a lump sum and shall amount to DKK 340,000 in the event of a degree of permanent injury of 100 per cent. The amount shall be adjusted in accordance with section 42. In the event of lower degrees of permanent injury the compensation shall amount to a proportional fraction of DKK 340,000.

(4)

In exceptional cases the compensation for permanent injury may be fixed as a higher amount, provided always that such amount shall not exceed 120 per cent of DKK 340,000 in accordance with section 42.

(5)

Where the injured person reached his 60th birthday prior to the injury, the compensation under subsection (3) or (4) above shall be reduced by 5 per cent for each year in excess of 59 years of age, prior to the date of the injury. However, the compensation for permanent injury shall not be further reduced after the injured person's 69th birthday.

### **As per July 1, 2002 the wording of section 33 will be as follows:**

33. (1)

**Where an injured person has sustained permanent injury as a result of an industrial injury, such person shall be entitled to compensation for permanent injury. Compensation shall not be granted, however, where the degree of permanent injury is assessed at less than 5 per cent.**

(2)

**The degree of permanent injury shall be assessed on the basis of the medical nature and extent of the injury and with regard to any nuisance in the injured person's personal life brought about by the industrial injury.**

(3)

**The compensation for permanent injury shall be paid as a lump sum and shall amount to DKK 573,500 in the event of a degree of permanent injury of 100 per cent. The amount shall be adjusted in accordance with section 42. In the event of lower degrees of permanent injury the compensation shall amount to a proportional fraction of DKK 573,500.**

(4)

**In exceptional cases the compensation for permanent injury may be fixed as a higher amount, provided always that such amount shall not exceed 120 per cent of DKK 573,500 in accordance with section 42.**

(5)

**Where the injured person reached his 40th birthday prior to the injury, the compensation shall be reduced by 1 per cent for each year in excess of 39 years of age, prior to the date of the injury. If the injured person had reached his 60th birthday, the compensation shall be further reduced by 1 per cent for each year in excess of 59 years of age, prior to the date of the injury. However, the compensation shall not be further reduced after the injured person's 69th birthday.**

#### *Reconsideration of Questions of Compensation*

34. (1)

Where the circumstances on the basis of which the questions of compensation were assessed under sections 30, 32 and 33 change substantially, such questions may, at the request of the injured person or on the initiative of the National Board of Industrial Injuries, be resumed within a time limit of five years from the date of the initial assessment of the benefit. The time limit for resumption may be postponed within the expiry of the five-year time limit. Where warranted by exceptional circumstances, the time limits may be disregarded.

(2)

The beneficiary of a monthly benefit under section 32 shall notify the insurance company, the Labour Market Occupational Diseases Fund or the National Board of Industrial Injuries of any change in his situation likely to entail a reduction or lapse of the benefit; similarly, it shall rest upon the insurance company, the Labour Market Occupational Diseases Fund or the said Board to pay attention to the occurrence of any such change in the beneficiary's situation.

*Transitional Allowance at Death*

**35. (1)**

Where an industrial injury results in death, the surviving spouse shall be entitled to a transitional allowance consisting of a lump sum of DKK 88,500, always provided that marriage was contracted prior to the occurrence of the injury and matrimonial cohabitation existed at the time of the injured person's death. The amount shall be subject to adjustment in accordance with section 42.

(2)

Where marriage was contracted after the occurrence of the industrial injury, the surviving spouse shall be entitled to the same transitional allowance if - at the time of the injured person's death - the marriage had existed for the past two years and husband and wife were cohabiting at the time of the injured person's death.

(3)

A surviving person cohabiting with the injured person in a quasi-marital relationship prior to the industrial injury shall also be entitled to the transitional allowance if - at the time of death - the cohabitation had existed for the past two years.

(4)

Where the deceased person leaves no survivors entitled to a transitional allowance under subsections (1) to (3) above, the transitional allowance may be granted to another surviving person where warranted by special circumstances.

*Compensation for Loss of breadwinner*

**36. (1)**

Where a person is entitled to a transitional allowance under subsections (1) to (3) of section 35 and has lost a breadwinner as a consequence of the injured person's death, or such person's means of subsistence have been otherwise reduced as a consequence of the death, such person shall be entitled to compensation for such loss. The compensation shall be fixed with due regard to the extent of the support and the surviving person's possibilities of self-support in view of age, health, education, occupation, means of subsistence and financial situation.

(2)

The compensation shall be granted as a temporary monthly benefit, amounting annually to 30 per cent of the deceased person's annual income, cf. section 41, and payable as from the date of death at the rate of one twelfth monthly in advance. The term fixed shall not exceed 10 years. However, where a full salary is paid to the surviving spouse for a period of time in connection with the death, the monthly benefit shall only be payable as from the date when such period expires. Where the deceased received a monthly compensation for loss of earning capacity under this Act, compensation for loss of breadwinner shall only be paid from the first day of the month following the death.

(3)

The benefit under subsection (2) above shall continue unchanged throughout the fixed term, except where the benefit is wholly or partially replaced by a lump sum or the beneficiary dies.

(4)

For surviving relatives who reached the age of 60 before 1st July 1999 the monthly benefit shall cease from the expiration of the month of the beneficiary's 67th birthday. At this date the monthly benefit shall be replaced by a lump sum twice the annual benefit. Where the beneficiary at the time of the injured person's death is 67 years of age or more, the benefit shall be payable as set out in the second sentence above.

(5)

For surviving relatives who reached the age of 60 on 1st July 1999 or later the monthly benefit shall cease from the expiration of the month of the beneficiary's 65th birthday. The monthly benefit shall at this date be replaced by a lump sum four times the annual compensation. Where the beneficiary has reached the age of 65 at the time of the injured person's death, the benefit shall be payable as set out in the second sentence.

(6)

Where a surviving person is not deemed to be entitled to compensation under subsection (1) above, such person may demand a reconsideration of the question of compensation, within a time limit of five years from receipt of information thereof. Similarly, a surviving person who has been granted compensation under subsection (1), cf. subsection (2) above, shall be entitled - within a time limit of five years from the termination of the benefit - to demand a reconsideration of the compensation with a view to being granted an extended temporary monthly benefit.

### **37. (1)**

Where the deceased person leaves children in respect of whom he was liable for maintenance under the Act on an Active Social Policy, each of the children whose other parent is still alive shall be entitled to an annual benefit of 10 per cent of the deceased person's annual income, cf. section 41(3), until such child reaches the age of 18.

(2)

Where a child receiving a monthly benefit under subsection (1) above loses its other parent, such child shall be entitled to an annual benefit of 20 per cent of the deceased person's annual income for the remaining period of time. The same annual benefit shall be granted to every child for whom the injured person at the time of death was sole breadwinner within the meaning of the Act on an Active Social Policy, until such child reaches the age of 18.

(3)

Where the child has not completed its education at the age of 18, and where warranted by the circumstances, the benefit may be extended to the time of completion of such education, provided always that it is not extended beyond the 21st birthday of the person in question. Where a child of the deceased person is 18 years of age or more on the date of death and has not completed its education, such child shall have that same right.

(4)

Where the benefits under subsections (1) to (3) above amount to a total of more than 50 per cent of the deceased person's annual income, the individual benefits shall be reduced to a total of 50 per cent of the deceased person's annual income. Where compensation is at the same time granted under section 36, the benefits shall be reduced correspondingly to 40 per cent of the deceased person's annual income.

(5)

Benefits under subsections (1) to (3) above shall be payable as from the date of death at the rate of one-twelfth monthly in advance. However, where in connection with the death a full salary is paid to the surviving person for a period of time, the benefit shall only be payable as from the expiry of such period.

### **38.**

Where the aggregate annual benefits under sections 36 and 37 above amount to less than 70 per cent of the deceased person's annual income, the National Board of Industrial Injuries may, in special circumstances and subject to the said 70 per cent limit, determine that compensation shall be granted to others who were wholly or partially supported by the deceased at the time of the occurrence of the industrial injury. Except where the children of the deceased person are stepchildren below 21 years of age, the compensation shall be payable as a lump sum, cf. section 43.

### *General Provisions*

#### **39. (1)**

Where as a consequence of the industrial injury the injured person is entitled to a pension under the Public Servants' Pension Act, the value of the injured person's compensation for loss of earning capacity shall be reduced under this Act. The reduction shall be by two thirds of the amount by which the injured person's public servants' pension has been increased in excess of the pension corresponding to his length of service at the time of retirement.

#### (2)

Where the industrial injury results in death and the surviving relatives as a consequence of the death are entitled to a pension under the Public Servants' Pension Act, the compensation for loss of breadwinner under this Act shall be reduced by two thirds of the amount by which the public servants' pension has been increased in excess of the pension corresponding to the deceased person's length of service at the time of death.

#### (3)

The provisions of subsections (1) and (2) above shall apply correspondingly to other beneficiaries under this Act for whom - in respect of pension - rules have been laid down which correspond to the provisions of the Public Servants' Pension Act. In such cases the insurance company or the Labour Market Occupational Diseases Fund shall pay to the body offering the pension an amount corresponding to the calculated deduction in the injured person's or the surviving relatives' compensation under this Act.

#### **40. (1)**

Where benefits under the Social Pensions Act or the Act on an Active Social Policy have been paid to the injured person or his surviving relatives in respect of a period of time for which, subsequently, the injured person or his surviving relatives are granted compensation as a monthly benefit for loss of earning capacity, cf. section 32, or loss of breadwinner, cf. sections 36 - 38, the municipality in question shall be entitled to receive a refund from the insurance company or the Labour Market Occupational Diseases Fund. The refund shall cover the difference between the amount disbursed in accordance with the said Acts and the amount that would have been disbursed had the compensation been granted at the same time as the social benefits. The claim of the municipality, however, shall not exceed the amount granted to the injured person or his relatives under this Act for the same period of time.

#### (2)

Where - as a consequence of the industrial injury - compensation has been paid to the injured person or his surviving relatives by the person liable for causing the injury or the insurance company of such person, the person causing the injury or the insurance company shall be entitled to receive from the industrial injuries insurance company or the Labour Market Occupational Diseases Fund such compensation amount as the industrial injuries insurance company or the Labour Market Occupational Diseases Fund shall be liable to pay on the day the claim is put forward.

## **Chapter 6**

### *Determination of Annual Income*

**41. (1)**

An injured person's annual income shall be his total earned income in the year preceding the date of the industrial injury. Where the employment is of a special nature, or where the injured person was not employed at the same pay during the whole of the preceding year due to an occupational disease, or where the injured person was out of work for a short or long period of time prior to the notification of the disease, the annual income shall be assessed according to an estimate.

(2)

The annual income shall include the value of free board and lodging as well as the value of other payments in kind. The head of the National Board of Industrial Injuries shall determine the value of board and lodging for persons living in with their employer.

(3)

The annual income shall not be assessed in excess of DKK 280,500. This amount shall be subject to adjustment as provided by section 42.

(4)

Where estimating the annual income in respect of injured persons below 21 years of age or still in the education system, the National Board of Industrial Injuries may assess the income the injured person would have been likely to obtain at the age of 21 or after completion of the education or training, provided that the industrial injury had not occurred. The annual income shall always be assessed at not less than DKK 104,500, however. This amount shall be subject to adjustment as provided by section 42, except where the injured person's earning capacity was already substantially reduced prior to the injury.

(5)

As regards persons protected under section 5(3), the compensation shall be calculated on the basis of an annual income of DKK 104,500, subject to adjustment as provided by section 42.

(6)

When calculating and adjusting compensation for loss of earning capacity as a monthly benefit, a basic earned income shall be fixed. Such basic income shall be calculated by multiplying the annual income determined according to the provisions of subsections (1) to (5) above with the ratio between DKK 293,000 and the maximum annual income applying at the time of the injury.

**42. (1)**

The amounts set out in sections 33 and 35 and subsections (3) to (5) of section 41 shall be adjusted every year on January 1 by 2.0 per cent, to which percentage shall be added the adjustment percentage for the fiscal year in question, cf. the Rate Adjustment Percentage Act. The resulting amounts shall be rounded off to the nearest amount in DKK divisible by 1,000.

(2)

The basic income, cf. section 41(6), shall be adjusted by the same percentage as the amounts indicated in subsection (1) above.

(3)

Every year before the end of October, the head of the National Board of Industrial Injuries shall publish the adjustments to be made. The adjustments shall be in effect as from the following January 1.

(4)

In determining a monthly benefit, lump sum or allowance, such amounts shall be calculated as though the industrial injury had occurred at the time of the decision.

(5)

Monthly annual benefits that are not divisible by 12 shall be increased to the nearest amount in DKK being a multiple of 12.



**As per July 1, 2002 the wording of section 42 (1) will be as follows:**

**42. (1)**

The amounts set out in sections 33 and 35 and subsections (3) to (5) of section 41 shall be adjusted every year on January 1 by 2.0 per cent, to which percentage shall be added the adjustment percentage for the fiscal year in question, cf. the Rate Adjustment Percentage Act. The resulting amounts for permanent injury and transitional allowance shall be rounded off to the nearest amount in DKK divisible by 500. Amounts pertaining to annual income shall be rounded off to the nearest amount in DKK divisible by 1,000.

**Chapter 7**

*Administration and Payment of Compensation*

**43. (1)**

A monthly annual benefit granted under section 32 for loss of earning capacity of less than 50 per cent shall normally, and without the consent of the beneficiary being required, be converted into a lump sum. Of a monthly annual benefit granted for a loss of earning capacity of 50 per cent or more, that part of the compensation which corresponds to a loss of earning capacity of 50 per cent shall be converted into a lump sum upon the request of the beneficiary. It shall not be possible to convert the benefit into a lump sum where only a temporary decision has been made on compensation for loss of earning capacity under section 31(4). Compensation under section 36 for loss of breadwinner shall be converted to a lump sum upon the request of the beneficiary.

(2)

Conversion of a monthly benefit to a lump sum shall be made on the basis of the amount of the benefit at the time of conversion. Upon the recommendation of the National Board of Industrial Injuries, the Minister for Employment shall lay down specific rules and regulations for conversion of monthly benefits into lump sums.

(3)

When the final decision on compensation for loss of earning capacity has been made and the person entitled to the benefit has requested capitalisation, the amount shall be paid to the estate in the event that the beneficiary dies prior to disbursement of the lump sum. Conversion of the monthly benefit into a lump sum shall be made on the basis of the amount of the benefit on the day preceding the death.

**44. (1)**

Compensation and allowances under this Act shall be disbursed to the beneficiary.

(2)

Where the National Board of Industrial Injuries deems that the beneficiary of a monthly benefit should not have the entire disposal of the benefit, the said Board shall determine how the benefit is to be applied to the favour of the beneficiary.

(3)

In special cases the National Board of Industrial Injuries may disburse benefits to the beneficiary and subsequently collect the outlays from the insurance company or the Labour Market Occupational Diseases Fund.

(4)

Where the amounts referred to in subsection (1) above are disbursed later than four weeks from the date of notification of the amount granted, such amount shall be subject to interest as from the expiry of the said four-week period, and until payment is made, at an annual rate of 1 per cent above the official discount rate of the National Bank of Denmark. In the cases referred to in section 40(1) above, the time limit shall be two weeks from the date when the municipality submits its claim for a refund to the body disbursing the compensation.

## **Chapter 8**

### *The Employers' Liability to Provide Protection*

#### *Taking out Insurance*

#### **45. (1)**

Employers liable to provide protection, cf. section 5, shall transfer their risk of accidents and injurious effects to an insurance company that undertakes work accident insurance under this Act.

#### **46. (1)**

An employer who has failed to take out compulsory insurance under this Act or to maintain such insurance in force shall pay an amount equivalent to the premium of which he has deprived an insurance company. The National Board of Industrial Injuries shall decide the size of the amount. The amount shall be paid to the National Board of Industrial Injuries and passed to the credit of all insurance companies undertaking work accident insurance, in accordance with regulations laid down by the National Board of Industrial Injuries in co-operation with the Financial Supervisory Authority.

#### (2)

Amounts corresponding to unpaid premiums, cf. subsection (1) above, shall be recoverable, with the addition of costs incurred, by the Financial Administration Agency and Finance Administration of the Kingdom of Denmark (the Financial Administration Agency). Due amounts shall be recoverable by way of distraint, and the Financial Administration Agency may recover due amounts by retention of wages etc. of the employer in question, in accordance with the provisions of the Tax at Source Act regarding the collection of personal taxes.

#### (3)

The Minister for Employment shall lay down specific rules and regulations regarding the procedure in connection with retention of wages, including pecuniary penalty for non-observance of the rules. The provision of section 67(4) shall apply similarly.

#### (4)

The Financial Administration Agency shall request and obtain from tax authorities and other public authorities such information of the person in question as is necessary for the recovery of the due amounts indicated in subsection (1) above, including information of income and financial circumstances.

#### **47. (1)**

Where an accident or injurious effect occurs and the employer has failed to fulfil his liability to provide protection by taking out insurance, the National Board of Industrial Injuries shall defray as an advance the expenses under subsections (3) and (4) of section 19; section 22; section 25; and section 53A of this Act.

#### (2)

The employer shall reimburse the National Board of Industrial Injuries for the outlays, cf. subsection (1) above, except where the said Board deems that there have been such extenuating circumstances for the employer as should exempt him - wholly or partially - from payment.

#### (3)

To the extent deemed reasonable, the National Board of Industrial Injuries may waive its claim on the employer.

(4)

Amounts disbursed by the National Board of Industrial Injuries in pursuance of subsection (1) above shall be distributed - subject to deduction of any amounts reimbursed under subsection (2) above - among all insurance companies undertaking work accident insurance, according to the provisions of the second and third sentences of section 5(6).

(5)

Where the business in which the accident or injurious effect occurred has been closed down and it is not possible to point to an insurance company, the provisions of subsections (1) and (4) shall apply similarly.

(6)

The provisions of section 46, subsections (2) to (4), shall apply similarly to claims for refunds under subsection (2) above and interest thereon under section 53B.

#### **48.**

Where an insurance company has undertaken a risk on behalf of an employer liable to provide protection, cf. section 45, such company shall be liable even where the insurance was contracted on an incorrect basis as regards the nature and extent of the liability.

#### **49. (1)**

Where the National Board of Industrial Injuries, under section 251(2) of the Act on Insurance Business, takes over the portfolio of an insurance company licensed to undertake work accident insurance, all injuries notified to the insurance company after the date of the close-down of such company shall be submitted to the National Board of Industrial Injuries. At the same time the insurance company shall transfer to the National Board of Industrial Injuries such capital as has been reserved by the said company in pursuance of the Act on Insurance Business and regards the company's portfolio under this Act at the time of closing down.

(2)

Expenses arising from the take-over of the portfolio shall be defrayed as advances by the National Board of Industrial Injuries in accordance with the provisions of the second and third sentences of section 5(6) and be distributed for each calendar year among all insurance companies undertaking work accident insurance. Capital transferred shall be distributed in accordance with the same rules.

#### *Joining the Labour Market Occupational Diseases Fund*

#### **50. (1)**

Employers liable to provide protection, cf. section 5, shall pay contributions to the Labour Market Occupational Diseases Fund, cf. section 57A.

(2)

Where the Labour Market Occupational Diseases Fund has undertaken the risk of an employer liable to provide protection, the Labour Market Occupational Diseases Fund shall be liable even where the employer's contributions were agreed on an incorrect basis as regards the nature and extent of the liability.

(3)

The employer, the insurance company and public authorities shall upon request provide the Labour Market Occupational Diseases Fund with such information as is substantial for determining contributions under this Act. The obligation to hand out information to the Labour Market Occupational Diseases Fund shall not apply to the extent that other legislation stipulates a special professional secrecy.

(4)

For the purposes of collecting contributions and processing notices of occupational diseases and sudden lifting injuries the Labour Market Occupational Diseases Fund shall have electronic access to permanent audit files in the employers' and persons' registers of the Labour Market Supplementary Pension Fund (the ATP); to information of employers' paid-in ATP contributions in the ATP collection register; and to employer relations and individually paid-in ATP contributions in the wage-earner register of the Labour Market Supplementary Pension Fund.

**51. (1)**

The Board of the Labour Market Occupational Diseases Fund shall lay down specific rules for payment of contributions, including time limits for payment. By way of such rules it shall be determined that the Labour Market Occupational Diseases Fund shall collect on demand an administration fee due to failure to pay and may grant a respite for payment and waive contributions, interest and handling fees.

(2)

Where payment of contributions is not made within the specified time limit the employer shall pay, as from the fixed due date, interest on the contribution in accordance with the rate of interest applying at any time in pursuance of section 5 of the legislation on interest in connection with delayed payment etc.

(3)

The Labour Market Occupational Diseases Fund shall have a right of distraint for contributions, interest and handling fees.

(4)

Claims due to the Labour Market Occupational Diseases Fund in pursuance of this Chapter shall lapse under the provisions of Act No. 274 of December 22, 1908 regarding limitations.

(5)

The Labour Market Occupational Diseases Fund shall collect from tax authorities and other public authorities such information on the employer in question as is necessary for performing the collection of outstanding contributions, interest and handling fees, including information on income and financial circumstances.

**52. (1)**

Where a sudden lifting injury or an occupational disease occurs and the employer has failed to pay contributions, the expenses set out in subsections (3) and (4) of section 19; section 22; section 25; and section 53A shall be defrayed as advances by the Labour Market Occupational Diseases Fund.

(2)

The employer shall reimburse the Labour Market Occupational Diseases Fund for the outlays, cf. subsection (1) above, except where the National Board of Industrial Injuries deems that there have been such extenuating circumstances for the employer as should exempt him - wholly or partially - from payment.

(3)

To the extent deemed reasonable, the National Board of Industrial Injuries may waive its claim on the employer.

(4)

Amounts disbursed by the Labour Market Occupational Diseases Fund in pursuance of subsection (1) above shall be distributed - subject to deduction of any amounts reimbursed under subsection (2) above - according to the provisions of the fourth to sixth sentences of section 5(6).

(5)

The Labour Market Occupational Diseases Fund shall be entitled to claim from the employer an amount equivalent to the contribution of which the employer has deprived the scheme after January 1, 1999.

(6)

The Labour Market Occupational Diseases Fund shall have a right of distraint for claims for refunds under subsection (2) above; interest thereon under section 53B; and claims for refunds under subsection (5) and interest thereon under section 51(2). The provision of section 51(5) shall apply similarly.

*Determining the Aggregate Contribution to the Labour Market Occupational Diseases Fund*

**53. (1)**

Employers liable to provide protection shall, by way of contributions to the Labour Market Occupational Diseases Fund, cover such expenses as regard the protection of this Act against the consequences of occupational diseases and sudden lifting injuries.

(2)

The Board of the Labour Market Occupational Diseases Fund shall determine the amounts of the contributions on the basis of the employer's trade affiliation, the employer's number of employees (full-time figures) and anticipated expenses as regards the employer in question.

(3)

The Board of the Labour Market Occupational Diseases Fund shall be obliged to determine the contributions in such a way that, in addition to what is necessary for covering the protection risks under the Act, only such contributions shall be collected as are necessary for justifiable administration. The Financial Supervisory Authority may lay down specific rules for such calculations.

(4)

Finally, as part of the contribution, the Labour Market Occupational Diseases Fund shall collect charges etc. to the extent that such charges have been determined under this Act or other legislation.

*Mutual Provisions for Payment of Administration, Return on Investment, and Distraint*

**53A. (1)**

Insurance companies undertaking insurance against the consequences of accidents and injurious effects; the Labour Market Occupational Diseases Fund; such municipalities as have not taken out insurance, cf. section 5(5); and such institutions as are comprised by government institutions' access to self-insurance, cf. section 5(5), shall pay for the administration by the National Board of Industrial Injuries and the National Social Appeals Board of matters covered by this Act and relating to the said bodies. The Minister for Employment shall lay down rules for payment and collection thereof.

(2)

Payment for matters covered by the Act and relating to such institutions as are covered by government institutions' access to self-insurance, cf. section 5(5), shall be incumbent on the ministerial area in question. The competent minister may distribute the costs on the several institutions.

(3)

The head of the National Board of Industrial Injuries may direct the insurance companies etc. referred to in subsection (1) above and the Labour Market Occupational Diseases Fund to procure statistical and similar information.

**53B. (1)**

Amounts paid in advance by the National Board of Industrial Injuries under section 5(6) and subsections (1) and (5) of section 47, or by the Labour Market Occupational Diseases Fund under section 52, shall yield interest at an annual rate corresponding to the average of the day-to-day money market interest rate published by the National Bank of Denmark. Specific rules for calculating the interest shall be laid down by the head of the National Board of Industrial Injuries.

(2)

Insurance companies shall have a right of distraint for premiums, incurred interest and other costs in the event of failure to pay premiums within the specified time limits.

## Chapter 9

### *Decisions and Right of Appeal*

#### 54.

Where nothing to the contrary has been provided, the National Board of Industrial Injuries shall make decisions on all matters under this Act.

#### 55. (1)

Decisions made by the National Board of Industrial Injuries under section 54 may be submitted to the National Social Appeals Board by -

- (i) the injured person or the injured person's surviving relatives;
- (ii) the insurance company in respect of accidents and injurious effects;
- (iii) the Labour Market Occupational Diseases Fund in respect of sudden lifting injuries and occupational diseases; and
- (iv) the employer in respect of decisions on recognition of industrial injuries, cf. section 23.

(2)

Decisions by the National Board of Industrial Injuries in respect of trade affiliation, cf. section 5(6) and subsections (1) and (5) of section 6, may be submitted to the National Social Appeals Board by the Labour Market Occupational Diseases Fund.

(3)

Any complaint in pursuance of subsections (1) and (2) above shall be submitted not later than four weeks after the complainant's receipt of the decision. However, for injured persons or surviving relatives residing in the Faroe Islands or the remaining part of Europe outside Denmark at the time of the decision, the time limit shall be six weeks. Where the injured person or surviving relatives reside outside Europe the time limit shall be three months.

(4)

The National Social Appeals Board shall be entitled to disregard non-observance of the time limits in special circumstances.

(5)

Where the National Social Appeals Board processes cases under this Act, Chapter 9 and sections 68 and 70 of the Act on Legal Protection and Administration in Social Affairs shall apply, except where this Act stipulates otherwise.

(6)

To the extent that the employer, the insurance company or the Labour Market Occupational Diseases Fund submits decisions made by the National Board of Industrial Injuries to the National Social Appeals Board, such appeal shall have a delaying effect.

(7)

Prior to the processing of a complaint by the National Social Appeals Board under subsections (1) and (2) above, the National Board of Industrial Injuries shall make an assessment of whether there are grounds for agreeing, fully or partly, with the complainant. Therefore the complaint shall be sent to the National Board of Industrial Injuries.

(8)

Where the National Board of Industrial Injuries is unable to agree with the complainant, the complaint shall be sent, together with the grounds for the decision and the reassessment, to the National Social Appeals Board.

(9)

The Minister for Employment shall lay down rules for the processing of the complaint cases, including rules on time limits for submitting and forwarding complaints etc.

(10)

The National Board of Industrial Injuries shall not make a decision on benefits under this Act prior to expiry of the time limit for appealing a decision on the question of recognition, cf. section 23, except where warranted by very special circumstances.

**55A. (1)**

Complaints of decisions made by the Labour Market Occupational Diseases Fund under this Act may be brought before a Board of Appeal within four weeks from the date of the decision. The Board of Appeal shall be composed of a chairman who is appointed by the Minister for Employment and who shall be a university graduate of law or economics or some equivalent profession, as well as the following appointed members -

- (i) a member appointed by the Confederation of Danish Trade Unions;
- (ii) a member appointed jointly by the Salaried Employees' and Civil Servants' Confederation and the Danish Confederation of Professional Associations;
- (iii) a member appointed by the Federation of Danish Employers;
- (iv) a member appointed jointly by the National Association of Local Authorities in Denmark, the City of Copenhagen, the municipality of Frederiksberg, and the Ministry of Finance.

(2)

The Board of Appeal shall set up its own rules of procedure.

(3)

Expenses incurred by the Board of Appeal shall be defrayed by the Labour Market Occupational Diseases Fund. The claimant shall pay DKK 500 for the handling of a case by the Board of Appeal. The amount shall be refunded to the claimant where the Board of Appeal finds in favour of such claimant, wholly or partially.

**56.**

The Danish Insurance Association shall have access to submitting an appeal as set out in section 55 in cases regarding such accidents as are referred by the National Board of Industrial Injuries to sections 5(6) and 47.

**57.**

Decisions made by the Financial Administration Agency under subsections (2) to (4) of section 46 and section 47(6) may be submitted to the Minister of Finance.

**Chapter 9 A**

*The Labour Market Occupational Diseases Fund*

**57A. (1)**

The Labour Market Occupational Diseases Fund shall be an independent institution.

(2)

The tasks of the Labour Market Occupational Diseases Fund shall be -

- (i) to calculate and collect contributions towards the financing of expenses arising from sudden lifting injuries and occupational diseases; and
- (ii) to disburse compensation etc. to injured persons or surviving relatives.

(3)

The Labour Market Occupational Diseases Fund shall be managed by a Director and a Board composed of a chairman and 20 other members. Such members shall be appointed as follows

-

- (i) four members by the Federation of Danish Employers;

- (ii) one member by the Confederation of Employer Organisations in Agriculture;
- (iii) one member by the Minister of Finance;
- (iv) two members jointly by the National Association of Local Authorities in Denmark, the Association of County Councils in Denmark, the City of Copenhagen, and the municipality of Frederiksberg;
- (v) one member by the Danish Employers' Association for the Financial Sector;
- (vi) one member by the Danish Association of Managers and Executives;
- (vii) seven members by the Confederation of Danish Trade Unions;
- (viii) two members by the Salaried Employees' and Civil Servants' Confederation; and
- (ix) one member by the Danish Confederation of Professional Associations.

Members shall be appointed in accordance with the Act on Equal Opportunity between Men and Women at the Occupation of Certain Executive Positions in the Public Administration.

(4)

The Board shall appoint their own chairman, who shall not be affiliated with any employer or employee organisation. In the event of parity of votes the chairman shall have a casting vote.

(5)

The chairman of the Board and other members shall be appointed for a four-year period. Reappointments shall be possible. No one shall be appointed for the Board after reaching 67 years of age. A member of the Board shall not at the same time be a member of the Occupational Diseases Committee, cf. section 58.

(6)

Where persons entitled to appointment as set out in subsection (3) above do not make recommendations in accordance with the provisions set out in subsections (3) and (5) above, the Minister for Employment may decide that the Board shall function without the members in question.

(7)

The Board shall be responsible for the administration of the Labour Market Occupational Diseases Fund. The Board shall leave the administration, cf. subsection (2) above, to the Labour Market Supplementary Pension Fund (ATP).

#### *Actuarial Matters*

##### **57B. (1)**

The Labour Market Occupational Diseases Fund shall employ a responsible actuary approved by the Financial Supervisory Authority for the execution of the requisite calculation functions, including the determination of the total contribution level as well as surveys.

(2)

Where the Labour Market Occupational Diseases Fund seeks the Financial Supervisory Authority's approval of a new responsible actuary, the application pertaining thereto shall be accompanied by a statement of the cause for such replacement.

(3)

The Labour Market Occupational Diseases Fund shall set up a protection plan comprising information on the technical insurance principles on which the calculation of the protection shall be based. The protection plan and amendments thereto shall be notified to the Financial Supervisory Authority.

(4)

The Financial Supervisory Authority may lay down specific provisions on matters set out in subsections (1) and (2) above.

##### **57C. (1)**



The responsible actuary shall ensure that the Labour Market Occupational Diseases Fund complies with its protection plan, including reserves being allocated in such a way as to render them sufficient as regards what may reasonably be anticipated. The responsible actuary shall be entitled to request and obtain from the manager all such information as is necessary for the performance of the task entrusted to him.

(2)

The responsible actuary shall be entitled to request that the Board be convened. The responsible actuary shall be entitled to attend and speak at Board meetings, except where the Board in a specific case decides otherwise. Where he is not in agreement with a decision made by the Board, the responsible actuary shall be entitled to have his opinion entered in the Board minutes.

(3)

The Financial Supervisory Authority shall request and obtain such information from the responsible actuary as is necessary for the evaluation of the financial position of the Labour Market Occupational Diseases Fund. The responsible actuary shall immediately report to the Financial Supervisory Authority any disregard of matters set out in subsection (1) above.

(4)

The responsible actuary shall once a year submit a report to the Financial Supervisory Authority, including an account of the reserve allocation of the Labour Market Occupational Diseases Fund.

(5)

The Financial Supervisory Authority shall lay down specific provisions regarding matters set out in subsections (1) to (4) above.

#### *Annual Accounts and Audit*

##### **57D. (1)**

For each accounting year, in accordance with the provisions of legislation and articles applicable thereto, the Board and manager shall work out an annual account consisting of balance sheet, profit and loss account, notes, and five-year review. Furthermore an annual report shall be prepared. These parts shall constitute a whole.

(2)

The annual accounts and annual report, as well as any consolidated accounts, shall be signed by the manager and the Board. Where the manager or a Board member finds that the annual accounts or the annual report should not be approved, or where the person in question has other objections to these or to any consolidated accounts which the person in question wishes to bring to the notice of the Ministry of Employment, such person shall give an account of this in his endorsement to that effect.

(3)

The accounting year shall follow the calendar year. This requirement shall apply similarly to any subsidiaries.

(4)

Not later than ten days after approval of the annual accounts by the Board and not later than six months after expiry of the accounting year shall the audited and approved accounts, together with a transcript of the auditor's records regarding the auditing of the annual accounts, be forwarded to the Ministry of Employment and the Financial Supervisory Authority.

(5)

Where the annual accounts do not comply with the provisions of the legislation or the articles of the Labour Market Occupational Diseases Fund, the Financial Supervisory Authority may demand that the accounts be changed and submitted to the Board for reconsideration.

##### **57E. (1)**

The annual accounts shall be drawn up clearly and give a true and fair impression of the assets and liabilities of the Labour Market Occupational Diseases Fund as well as its financial position and profit or loss.

(2)

The Financial Supervisory Authority shall lay down rules for preparing the annual accounts, including rules on making up and assessing the reserve allocations.

(3)

The Financial Supervisory Authority may lay down rules for preparing consolidated accounts.

(4)

The Financial Supervisory Authority may demand that annual account items as well as additional specifications pertaining thereto be listed in special forms for the purposes of assessing the financial position of the Labour Market Occupational Diseases Fund and working out the annual report of the Financial Supervisory Authority.

(5)

The Financial Supervisory Authority may demand that the forms set out in subsection (4) above be supplemented with accounts of specific matters signed by the manager, the Board or the responsible actuary of the Labour Market Occupational Diseases Fund

(6)

The forms and statements set out in subsections (4) and (5) above shall be submitted in accordance with rules laid down by the Financial Supervisory Authority.

**57F. (1)**

The annual accounts of the Labour Market Occupational Diseases Fund shall be audited by at least two auditors. At least one of the auditors shall be a state-authorized public accountant. The Board shall appoint the auditors for a three-year period but may at any time withdraw such appointment.

(2)

The provisions of the legislation on audit and the disability of auditors shall apply similarly to auditors who are not state-authorized or registered public accountants.

(3)

Where an auditor is replaced and the replacement is due to special circumstances, the Labour Market Occupational Diseases Fund and such auditor shall submit a statement to the Financial Supervisory Authority.

(4)

After completion of the audit the auditors shall furnish the accounts with a report certifying that they have audited the same and any consolidated accounts.

(5)

For the use of the Board the auditors shall keep an audit book which shall be submitted to every Board meeting. Each entry in the book shall be signed by all Board members.

(6)

Where it is found to be evident that an auditor is not a fit and proper person to hold the office entrusted to him, the Minister for Employment may dismiss the same and appoint an auditor who shall act in his place until a new appointment can be made.

**57G. (1)**

The auditors shall always be entitled to participate in Board meetings transacting business of importance to the audit or the preparation of the accounts.

(2)

The auditors shall be under an obligation to participate in the Board's handling of the cases in question where such participation is requested by any one Board member.

(3)

The Financial Supervisory Authority shall be entitled to work out detailed instructions on how to perform the audit.

(4)

The Financial Supervisory Authority shall be entitled to instruct the auditors to provide information on matters pertaining to the Labour Market Occupational Diseases Fund.

*Investment Provisions*

**57H. (1)**

The assets of the Labour Market Occupational Diseases Fund, as set out in section 57I, shall at any time amount to an aggregate value corresponding to not less than the amount of the total reserve allocations. It is incumbent upon management and Board to ensure that, within the limits set out in sections 57I and 57J, the selection of such assets shall be made in such a way that, in respect of the nature of obligations of the Labour Market Occupational Diseases Fund as regards security, return and liquidity, they are of such a nature and composition as to make them suitable for satisfaction of the persons protected, and in such a way that there is not a disproportionately great dependence on a certain category of assets, a specific investment market or any specific investment. Adequate security shall be aimed at in connection with investment of the funds, together with maintenance of the real value of the funds and the highest possible return on investment.

(2)

The value of the assets shall be determined for the purposes of the provisions of this Chapter in accordance with the following rules -

- (i) the value of the assets shall be determined and adjusted on a regular basis in accordance with the principles applying to the submission of annual accounts;
- (ii) deductions shall be made for any encumbered part, and loans shall only be included at a value resulting after deductions of such obligations towards borrowers as can be set off;
- (iii) where the Labour Market Occupational Diseases Fund has entered into financial agreements which reduce the risk of assets failing to cover obligations, the value of such agreements shall be included when assets are calculated;
- (iv) interest receivable, but not yet due on securities covered by paragraphs (i) to (iv), (vi) and (vii) of section 57I (1) shall be included in the value of such securities.

**57I. (1)**

The funds of the Labour Market Occupational Diseases Fund shall be invested in the following categories of assets -

- (i) bonds and instruments of debt issued or guaranteed by governments or regional authorities in zone A, cf. Appendix A;
- (ii) bonds quoted on the stock exchange and issued by international organisations counting among their members at least one of the member states of the European Union;
- (iii) mortgage credit bonds under section 1(5) of the Danish Mortgage Credit Act as well as other bonds issued in this Kingdom or in countries comprised by zone A and offering equivalent security;
- (iv) outstanding payments (exclusive of such outstanding payments as are behind other creditors in order of priority) with credit banks under public supervision in countries covered by zone A, with the exception of credit banks covered by paragraph (iii), as well as loans guaranteed by credit banks or insurance companies under supervision in countries comprised by zone A;
- (v) real property whose value is independent of any specific commercial utilisation;
- (vi) loans secured by registered mortgage on real property as covered by paragraph (v) not in excess of two thirds of the value of the property according to the most recent land tax assessment;
- (vii) parts and certificates in investment institutions covered by Council Directive

85/611/EEC; parts in placements associations, money market associations and funds of funds, cf. section 1 and paragraphs (i) to (iii) of section 2(2) of the Investment Associations and Special-Purpose Associations Act.

- (viii) other bonds and loans quoted on a stock exchange in countries comprised by zone A;
- (ix) shares and other capital parts quoted on a stock exchange in countries comprised by zone A;
- (x) real property not comprised by paragraph (v) as well as loans secured by registered mortgage in real property not comprised by paragraph (vi);
- (xi) capital parts and other securities quoted on a stock exchange in countries outside zone A, from issuers who are domiciled in countries outside zone A;
- (xii) unquoted capital parts, including such capital parts as are traded in authorised markets, cf. section 40(1) of the Securities Trading, etc. Act, or in another regulated market which is publicly recognised, working on a regular basis and open to the public, as well as other loans and securities not comprised by paragraphs (i) to (xi).

(2)

Where the Labour Market Occupational Diseases Fund owns a subsidiary whose activity is limited to making and administering investments comprised by subsection (1) above, the assets of such subsidiary, within the value of the capital parts in and any loans to the subsidiary, may be treated as assets under subsection (1). Where the Fund does not own the subsidiary in full the subsidiary's assets shall be included at a proportionate value corresponding to the part of the equity capital owned by the Fund.

(3)

The investment by the Labour Market Occupational Diseases Fund of funds in one single business shall not have the effect that the Fund, alone or together with the Labour Market Supplementary Pension Fund or any subsidiaries owned by them, shall exercise any decisive influence on the business, except where otherwise provided by subsection (9) or (10).

(4)

Assets covered by paragraphs (vii) to (xii) of subsection (1) above shall account for no more than 70 per cent of the assets of the Labour Market Occupational Diseases Fund, subject, however, to subsections (7) and (9) of section 57J.

(5)

Assets covered by subsection (1)(xi) above shall account for no more than 10 per cent of the assets of the Labour Market Occupational Diseases Fund.

(6)

Loans covered by subsection (1)(xii) above shall account for no more than 2 per cent of the assets of the Labour Market Occupational Diseases Fund and for no more than 1 per cent per debtor.

(7)

Assets covered by subsection (1)(xii) above shall account for no more than 20 per cent of the assets of the Labour Market Occupational Diseases Fund. Of such assets other loans and securities not traded in an authorised market or another regulated market which is publicly recognised, working on a regular basis and open to the public shall account for no more than 10 per cent of the assets of the Labour Market Occupational Diseases Fund.

(8)

The Financial Supervisory Authority shall lay down specific rules for the delimitation of securities covered by several of the groups of assets set out in paragraphs (i) to (xii) of subsection (1) above.

(9)

Subsection (3) shall not apply, however, to the investment of funds in subsidiaries that are owned by the Labour Market Occupational Diseases Fund and whose funds are invested in accordance with the rules applying to the Labour Market Occupational Diseases Fund.

(10)

For the purposes of securing investments already made, the Labour Market Occupational Diseases Fund may carry out temporarily other types of business or contribute to the restructuring of business enterprises. Notification of this shall be given to the Financial Supervisory Authority.

**57J. (1)**

The assets of the Labour Market Occupational Diseases Fund shall not include such elements as represent a risk in a single business whose aggregate value amounts to more than 2 per cent of the total assets of the Labour Market Occupational Diseases Fund. Where the business in question is domiciled and quoted on a stock exchange in a country comprised by zone A, cf. Appendix A, and the equity capital of such business is in excess of DKK 250 million, the limit set out in the first sentence shall be 3 per cent.

(2)

Subsection (1) above shall apply similarly to businesses that are connected in such a manner that they constitute together a risk to the Labour Market Occupational Diseases Fund.

(3)

Subsections (1) and (2) above shall apply similarly to real property covered by section 57I(1)(v) and loans covered by section 57I(1)(vi), provided always that the limit shall be 5 per cent.

(4)

Where the Labour Market Occupational Diseases Fund has invested in or granted a loan to a company whose activities comprise only investments under section 57I(1)(v), the limit set out in subsection (3) above shall apply to the total involvement of the Labour Market Occupational Diseases Fund in the company.

(5)

For assets covered by section 57I (1)(iii) the limit set out in subsection (1) above shall be 40 per cent.

(6)

With the exception of credit institutions covered by section 57(1)(iii), the limit set out in subsection (1) above shall be 10 per cent for risks in credit institutions under public supervision in countries comprised by zone A and in insurance companies under public supervision in countries covered by zone A. For assets not covered by section 57I(1)(iv) investments shall be made only within the limits set out in subsection (1) above.

(7)

For shares and guarantee parts in a single investment institution as stated under section 57I(1)(vii) above, the limit set out in subsection (1) shall be 10 per cent. This limitation shall not apply, however, where the investment institution in question, in accordance with its articles, shall only invest in assets covered by paragraphs (i) to (iii) of section 57I(1). In such cases it shall also be possible, in relation to the provision of section 57I(3), to refer the investment to the provision of section 57I(1), paragraphs (i) to (iii).

(8)

Subsections (1) and (2) above shall not apply to assets covered by paragraphs (i) and (ii) of section 57I(1).

(9)

Subsections (1), (2) and (4) above shall not apply to investments in subsidiaries covered by section 57I(2) or investments in companies whose activities, according to their articles, are limited to investing in assets covered by paragraphs (i) to (iii) of section 57I(1). In the latter case the investment in relation to the provisions of subsections (3) and (6) of section 57I shall be referred to paragraphs (i) to (iii) of section 57I(1).

(10)

The Board shall lay down detailed provisions on the exposure of the Labour Market Occupational Diseases Fund to foreign-exchange-rate and interest-rate risk.

(11)

The Financial Supervisory Authority may grant exemption from the provisions of sections 57I and 57J.

### *Supervision*

#### **57K.**

Where the Financial Supervisory Authority, against the background of an actuarial statement, does not, on the basis of the available information, consider the Labour Market Occupational Diseases Fund capable of meeting its obligations in full, such Authority, following negotiations with the Labour Market Occupational Diseases Fund, shall submit to the Minister for Employment a report to that effect.

#### **57L. (1)**

The Financial Supervisory Authority shall supervise the investment of funds under sections 57H to 57J by the Labour Market Occupational Diseases Fund.

#### **(2)**

The Financial Supervisory Authority may direct the Labour Market Occupational Diseases Fund to take, within a specified time limit, such measures as the Financial Supervisory Authority deems necessary with regard to investing the funds in accordance with sections 57H to 57J.

#### **57M.**

The Financial Supervisory Authority shall be entitled to request and obtain from the Labour Market Occupational Diseases Fund any such information as the Financial Supervisory Authority deems to be necessary for its activity. The Financial Supervisory Authority shall at any time have access to becoming acquainted with the institution's books, accounts, and overall activity.

#### **57N.**

The Financial Supervisory Authority shall submit an annual report to the Minister for Employment as regards the supervision of the Labour Market Occupational Diseases Fund.

#### **57O. (1)**

The Labour Market Occupational Diseases Fund shall pay a fee to the Financial Supervisory Authority. This fee shall be determined in accordance with Chapter 7A of the Financial Business Act.

#### **(2)**

The assessment of contributions shall be made by the Financial Supervisory Authority on the basis of information included in the accounts submitted for the preceding accounting year.

#### **57P.**

Decisions made by the Financial Supervisory Authority in pursuance of this Act may be submitted to the Company Appeals Board not later than four weeks from the date when the Labour Market Occupational Diseases Fund was advised of the decision. The Labour Market Occupational Diseases Fund only shall be a party in relation to the Financial Supervisory Authority.

## **Chapter 10**

### *The Occupational Diseases Committee*

#### **58. (1)**

The Minister for Employment shall appoint a committee with which the National Board of Industrial Injuries shall negotiate a general revision of diseases fulfilling the requirements for inclusion in the list of occupational diseases referred to in section 10(1)(i). This negotiation shall take place at least once every two years.

(2)

The committee shall consist of a chairman and eight other members appointed for a three-year period.

(3)

The Minister for Employment shall appoint the chairman of the committee as well as members and deputy members. The chairman shall be appointed upon the recommendation of the National Board of Industrial Injuries, one member upon the recommendation of the National Board of Health, one member upon the recommendation of the Directorate of the Working Environment Authority, one member upon the recommendation of the public employers, one member upon the recommendation of the Salaried Employees' and Civil Servants' Confederation, two members upon the recommendation of the Federation of Danish Employers, and two members upon the recommendation of the Confederation of Danish Trade Unions.

(4)

The Minister for Employment shall set up the rules of procedure of the committee, including rules determining the cases to be handled by a subcommittee whose members shall be appointed upon the recommendation of the Occupational Diseases Committee.

## Chapter 11

### *Various Provisions*

#### **59.**

Benefits under this Act shall not form a basis for remedy against a person who causes an injury and is liable to the injured person or the surviving relatives of such person. The claims of the injured person or his surviving relatives against the person causing the injury shall be reduced to the extent that compensation has been paid or a liability exists to pay compensation under this Act to the persons in question.

#### **60.**

Agreements between persons liable to provide protection and persons entitled to be protected shall be null and void if they aim to have or do have the effect of nullifying any provision of this Act or of requiring the protected person to pay an insurance premium to an insurance company or the Labour Market Occupational Diseases Fund which it is incumbent on the employer to pay under this Act, or of calculating compulsory benefits otherwise than in accordance with this Act. Similarly, agreements about withholding wages in connection with protection under this Act shall be null and void.

#### **61.**

Any claims of injured persons or their surviving relatives under this Act shall not be subject to attachment, distraint or other legal proceedings. Any legal transaction concluded by the persons concerned and relating to such claims shall be void.

#### **62. (1)**

In accordance with agreements with other states, the Minister for Employment may lay down rules and regulations determining the extent to which the provisions of this Act or the provisions of the corresponding legislation of the foreign state shall be applicable to matters covered by this Act.

(2)

The Minister for Employment shall lay down rules and regulations for disregarding the provisions of this Act, to the extent that such rules are deemed necessary for the application of the regulations of the European Community regarding social security for employees etc.

**63. (1)**

Where an injury has occurred as a consequence of protected persons' attempt to save human life, cf. section 3(iii), the Treasury shall reimburse the insurance company in question or the Labour Market Occupational Diseases Fund for the disbursed benefits.

**(2)**

Where a person who is not otherwise protected under this Act sustains an injury during an attempt to save human life, cf. section 3(iv) of this Act, the Treasury shall defray the expenses under this Act.

**(3)**

In cases covered by subsections (1) and (2) above, the injured person's annual income shall be calculated in accordance with the general provisions of this Act, whether or not the person in question is also protected under section 5(3) of this Act. This shall not apply, however, where the application of section 41(5) leads to the determination of a higher annual income.

**64.**

In the event of injuries occurring as a consequence of carrying out civic or municipal duties, the State and municipalities shall disburse the benefits under this Act in respect of accidents and injurious effects. The Labour Market Occupational Diseases Fund shall disburse the benefits under this Act for such injuries in respect of sudden lifting injuries and occupational diseases.

**65.**

Officials and similar employees of the National Board of Industrial Injuries, including the physicians affiliated with the said Board, shall not be employed by or take part in the management of any insurance company licensed to undertake industrial injuries insurance against accidents or injurious effects or by the Labour Market Occupational Diseases Fund.

**66. (1)**

The National Board of Industrial Injuries may upon request give opinions based on the application of this Act in respect of matters relating to personal injury not covered by this Act. Similarly, the Board shall be entitled to give opinions under section 10 of the Liability for Damages Act.

**(2)**

For giving such opinions the National Board of Industrial Injuries shall charge a fee determined by the Minister for Employment.

**67. (1)**

An employer liable to provide protection who fails to take out insurance under this Act or join the Labour Market Occupational Diseases Fund shall be punished by fine.

**(2)**

An employer liable to provide protection who fails to maintain the insurance in force or pay contributions to the Labour Market Occupational Diseases Fund shall be punished by fine.

**(3)**

An employer liable to provide protection who fails to give notice in due time of an industrial injury or to contribute to providing information in respect of a notified injury shall be punished by fine, cf. Chapter 3.

**(4)**

Joint-stock companies etc. (legal persons) shall be liable to punishment under the provisions of Chapter 5 of the Danish Penal Code.



**68. (1)**

The State shall grant compensation under this Act to its officials employed in the Faroe Islands and to workers engaged by the State who do not have permanent residence in the Faroe Islands.

**(2)**

Decisions made by the Faroese Industrial Injuries Board under the Faroese accident insurance legislation may be submitted to the National Social Appeals Board in accordance with the provisions of that legislation.

**69.**

The National Board of Industrial Injuries shall present an annual written report with statistical surveys. The report and the statistics shall also comprise the work of the Occupational Diseases Committee.

**Chapter 12***Final and Transitional Provisions***70. (1)**

This Act shall come into force on January 1, 1993.

**(2)**

This Act shall apply to

- (i) accidents at work and short-term injurious effects which occur on the date of this Act coming into force or later; and
- (ii) occupational diseases which are notified on the date of this Act coming into force or later.

**71. (1)**

On the same date the Industrial Injuries Act shall be repealed in pursuance of consolidated act No. 450 of June 25, 1987 with subsequent amendments.

**(2)**

The Industrial Injuries Act shall still apply, however, to -

- (i) accidents at work and short-term injurious effects which occurred prior to this Act coming into force; and
- (ii) occupational diseases etc. notified prior to this Act coming into force.

**(3)**

In cases covered by subsection (2) above, sections 32, 36, 43, 44, 54 and 55 of this Act shall replace sections 27, 31, 39, 40, 53 and 54 of the Industrial Injuries Act where -

- (i) the time of cessation of a permanent monthly benefit for loss of earning capacity is determined;
- (ii) the maximum period for payment of compensation for loss of breadwinner is determined;
- (iii) the monthly annual benefit for loss of earning capacity and loss of breadwinner for the surviving spouse etc. is converted to a lump sum;
- (iv) compensation is disbursed;
- (v) the parties to the case are heard; and
- (vi) the parties to the case and the employer have a right of appeal and access to documents.

**(4)**

In cases covered by subsection (2) above, the amounts set out in sections 28 and 30 and subsections (3) to (5) of section 37 shall be adjusted every year on January 1 by 2.0 per cent, to which percentage shall be added the adjustment percentage for the fiscal year in question, cf. the Rate Adjustment Percentage Act. The resulting amounts shall be rounded off to the nearest amount in DKK divisible by 500. The adjustment rates stipulated in pursuance of section 42(3) shall apply similarly.

(5)

In cases covered by the Act on Insurance against the Consequences of Accidents, cf. consolidated act No. 137 of April 26, 1968 with subsequent amendments, which was repealed by the Act referred to in subsection (1) above with the remark that the said Act should still apply to accidents which occurred prior to April 1, 1978, sections 34(1) and 43(1) of this Act shall replace section 34(4) and subsections (1) and (2) of section 36 of the Act on Insurance against the Consequences of Accidents where -

- (i) the question of disability compensation is resumed for reconsideration; and
- (ii) the annual disability benefit is converted to a lump sum.

(6)

To such cases as are covered by subsection (3) or subsection (5) above, section 21(2) of this Act shall apply similarly.

(7)

Beneficiaries who are 67 years of age or more and receive a monthly benefit under the Act on Insurance against the Consequences of Accidents shall be entitled to demand that the compensation, after having been reduced in pursuance of section 32(4) or section 39(6) of the Accident Insurance Act, be converted to a lump sum.

(8)

The time limit within which the monthly benefit may be converted to a lump sum as set out in subsection (5) above shall be determined by the head of the National Board of Industrial Injuries, who shall also lay down rules for the conversion of benefits to surviving relatives.

## **72. (1)**

Pensions under the Act on Insurance against the Consequences of Accidents as well as monthly benefits and compensation for permanent injury under the Industrial Injuries Act shall be increased as from April 1, 1995 to 272.3 per cent of the pension or monthly benefit corresponding to the basic income. Pensions, monthly benefits, and compensation for permanent injury shall be subject to adjustment under section 42 of this Act.

(2)

As from April 1, 1995, a monthly benefit under the Act on Insurance Against the Consequences of Industrial Injuries shall be increased to 104.4 per cent of the monthly benefit corresponding to the basic income.

(3)

Surviving relatives who, as a consequence of the death of the injured person after the coming into force of this Act, shall be entitled to compensation under the Act on Insurance against the Consequences of Accidents or the Industrial Injuries Act, shall have their compensation calculated and adjusted on the basis of the annual income corresponding to the pension or benefit determined in pursuance of subsection (1) above.

(4)

Subsections (1) and (2) above shall not apply to insurance effected in pursuance of sections 55, 58, 59 and 74 of the Act on Insurance against the Consequences of Accidents.

## **73.**

The Minister for Employment shall determine which administrative provisions issued under the previous Act shall remain in force after January 1, 1993.

## **74.**

Such licences to undertake industrial injuries insurance as were granted to insurance companies in pursuance of the previous accident insurance legislation and industrial injuries insurance legislation shall remain in force. The same shall apply to an employer's exemption from transferring the risk under the Accident Insurance Act, made in pursuance of section 15(13) of the said Act. Such employers shall have the same legal status as an insurance company under this Act. Distribution of contributions under sections 5(3), 6(3), 48(4) and 51(2) shall be made in accordance with specific rules laid down by the National Board of Industrial Injuries in collaboration with the Financial Supervisory Authority.

**75.**

This Act shall not apply to the Faroe Islands and Greenland, but shall be enforceable in Greenland by Royal Order subject to such modifications as are required in view of the special conditions pertaining to Greenland.

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Act No. 343 of May 6, 1996 comprises the following operational provisions –  
(The amendment to the Act pertains to amendment to section 9, addition of section 9A and amendment to sections 18 and 58. Pertains to the introduction of sudden lifting injuries as a new industrial injuries concept and the option of handling of certain cases on smaller committees, whose composition is decided by the Occupational Diseases Committee)

**2.**

This Act shall come into force on May 8, 1996 and shall apply to sudden lifting injuries occurring on June 1, 1996 or later.

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Act No. 493 of June 12, 1996 comprises the following operational provisions -  
(The amendment to the Act pertains to amendment to sections 4, 11, 19, 21, 22, 23, 31, 35, 36, 43, 44, 48, 50, 53, 55, 56, 71 and 72. Pertains to a general revision of the Act, including reduction from five to two years of requirements as regards the duration of a marriage or a quasi-marital relationship in order to obtain the right to a transitional allowance and compensation for loss of breadwinner)

**2. (1)**

This Act shall come into force on July 1, 1996.

**(2)**

This Act shall apply to

- (i) accidents at work, injurious effects of not more than five days' duration, and sudden lifting injuries which occur after the date of this Act coming into force; and
- (ii) occupational diseases notified after the date of this Act coming into force.

**(3)**

Paragraph (xii)<sup>1)</sup> of section 1 of this Act shall apply, however, to all decisions made after this Act coming into force.

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Act No. 278 of May 13, 1998 comprises the following operational and transitional provisions –  
(The amendment to the Act pertains to the restructuring of the financing of the field of occupational diseases and the establishment of the Labour Market Occupational Diseases Fund)

**3. (1)**

This Act shall come into force on January 1, 1999, subject, however, to subsections (2) and (3).

(2)

Paragraph (xxvi) of section 1 shall come into force on July 1, 1998.

(3)

Paragraph (xxxv) of section 1 shall come into force on the date after publication in the Danish Law Gazette. The Board of the Labour Market Occupational Diseases Fund may in 1998 calculate employer contributions for 1999 and effect the collection of such contributions.

(4)

This Act shall apply to

- (i) accidents and injurious effects, cf. paragraphs (i) and (ii) of section 9 of the Act on Protection against the Consequences of Industrial Injuries, that occur on the date of this Act coming into force or later; and
- (ii) sudden lifting injuries and occupational diseases, cf. paragraphs (iii) and (iv) of section 9 of the Act on Protection against the Consequences of Industrial Injuries, that are notified on the date of this Act coming into force or later.

(5)

Where an insurance company licensed to undertake occupational diseases insurance wishes to transfer its portfolio to the Labour Market Occupational Diseases Fund and thereby relieve itself from its obligations towards policy-holders and protected persons, such insurance company shall submit to the Financial Supervisory Authority an application to that effect. The application for transfer shall be accompanied by the agreement made between the insurance company and the Labour Market Occupational Diseases Fund and by such information as the Financial Supervisory Authority deems necessary for the assessment of whether such transfer is justifiable towards policy-holders and protected persons.

(6)

Except where the Financial Supervisory Authority finds, on the basis of the available information, that approval of transfer should not be given, the Financial Supervisory Authority shall publish in the Danish Official Gazette and daily newspapers a report on the anticipated transfer. The report shall include an invitation to holders of policies that are to be transferred to submit to the Financial Supervisory Authority, in the event that they wish to object to the transfer, a written statement within three months after publication. At the same time the insurance company shall forward to policy-holders whose address is known to the company information of the transfer together with the report by the Financial Supervisory Authority.

(7)

After lapse of the time limit set out in subsection (6) above and consideration being had to any objections received, the Financial Supervisory Authority shall decide whether the insurance portfolio shall be transferred in accordance with the proposal put forward. It shall not be possible to cancel the insurance agreement on the grounds of such transfer.

(8)

Application for transfer under subsection (5) above shall be submitted before July 1, 1999 and shall take effect in respect of accounts on January 1, 1999. The Financial Supervisory Authority may allow the application for transfer to be made at a later date, always provided that such application shall not be made later than July 1, 2000.

(9)

In the event that an employer who has not taken out insurance under sections 45 and 74 of the Act on Insurance Against the Consequences of Industrial Injuries, cf. consolidated act No. 789 of August 28, 1996, wishes to transfer to the Labour Market Occupational Diseases Fund his liability arising from sudden lifting injuries and occupational diseases notified before January 1, 1999, such employer shall submit to the Financial Supervisory Authority an application for permission.

(10)

Liabilities arising from cases of sudden lifting injuries and occupational diseases notified before January 1, 1999 and covered by section 5(3), 6(3) or 48 of the Act on Insurance Against the Consequences of Industrial Injuries, cf. consolidated act No. 789 of August 28, 1996, shall be transferred to the Labour Market Occupational Diseases Fund as from January 1, 1999.

**4. (1)**

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(2)

Where an employer liable to provide protection, prior to the introduction of this Act<sup>2)</sup>, entered into an agreement with an insurance company in respect of occupational diseases cover for a period after January 1, 1999, and where it was not possible to cancel such agreement, the Board of the Labour Market Occupational Diseases Fund shall determine that the employer's liability to pay a contribution shall lapse for the said period.

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Act No. 288 of May 12, 1999 comprises the following operational provisions –  
(The amendment to the Act is a consequence of the reduction of the old-age pension age from 67 to 65 years. The amendment primarily pertains to sections 32 and 36. Furthermore section 71 is amended)

**17.**

(1)

This Act shall come into force on July 1, 1999, cf., however, subsections (2) to (5).

(2)

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(3)

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(4)

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(5)

Section 15 shall apply to decisions on compensation for loss of earning capacity and compensation for loss of breadwinner made on July 1, 1999 or at a later date. This shall not apply, however, to decisions on compensation for loss of earning capacity and compensation for loss of breadwinner in cases in respect of which a decision was made before July 1, 1999 in accordance with section 27, section 31(4), section 32 or section 36 of the Act on Protection against the Consequences of Industrial Injuries, cf. Consolidated Act No. 1058 of December 17, 1998.

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Act No. 390 of May 30, 2000 contains the following operational provisions – (The amendment to the Act pertains to amendment to section 57I(3). Pertains to change of investment rules for the assets of the Labour Market Occupational Diseases Fund)

**5. (1)**

This Act shall come into force on June 1, 2000.

(2)

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(3)

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(4)

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**Notes:**

- 1) Pertains to amendment of section 44(4) regarding insurance companies' payment of interest on overdue payments.
- 2) The Bill was introduced on March 26, 1998.

**Appendix A****The following countries are covered by zone A<sup>3)</sup>**

Member states of the EU/EEA and all other countries that are full members of the Organization of Economic Co-operation and Development (OECD), as well as Saudi Arabia.

3) Relates to section 57I(1) and subsections (1) and (6) of section 57J, which were added by Act No. 278 of May 13, 1998.