ARRANGEMENT OF SECTIONS

1  Short title  
2  Amendment of short title of principal Act  
3  Amendment of section 1  
4  Amendment of section 2  
5  Amendment of section 5  
6  Amendment of section 6  
7  Insertion of section 15A  
8  Amendment of section 23  
9  Insertion of section 42A  
10 Substitution of "workman" and "workmen"  

WHEREAS it is expedient to amend the Workmen’s Compensation Act 1965.  

Be it enacted by The Queen’s Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:  

Short title  
1  This Act may be cited as the Workmen’s Compensation Amendment Act 2004.
Amendment of short title of principal Act
2 The short title to the Workmen’s Compensation Act 1965 (in this Act referred to as “the principal Act”) is amended by deleting the word “Workmen’s” and substituting the following word — “Workers’.”

Amendment of section 1
3 Section 1 of the principal Act is amended by repealing subsection (1).

Amendment of section 2
4 Section 2(1) of the principal Act is amended —
(a) by deleting from the definition of the word “dependants”, the words “an illegitimate” and substituting the following — “a”; and
(b) by inserting in their proper alphabetical positions, the following words and their definitions —
“employee” shall have the same meaning as “employee” under section 4 of the Employment Act 2000; and
“worker” shall have the same meaning as “employee” under section 4 of the Employment Act 2000.

Amendment of section 5
5 Section 5 of the principal Act is amended in paragraph (a) by deleting the words “a sum equal to three years earnings or $42,000 whichever is less” and substituting the following words —
“the “actual earnings” of the deceased in the three years prior to the incident, or three years of the average annual per capita income as recorded in the most recent official national statistics, whichever is the lesser”.

Amendment of section 6
6 Section 6 of the principal Act is amended by repealing subsection (1) and substituting the following subsection —
“(1) Where permanent total incapacity results from the injury, the amount of compensation shall be the “actual earnings” of the deceased in the four years prior to the incident, or four years of the average annual per capita income as recorded in the most recent official national statistics, whichever is the lesser.”.
WORKMEN’S COMPENSATION AMENDMENT ACT 2004

Insertion of section 15A
7 The principal Act is amended by inserting the following section immediately after section 15 —

"Compensatory payments, pending investigations
15A Immediate compensatory part-payments shall be made by an employer to a person to whom compensation is due, upon verification by a Government Safety and Health Officer, pending the conclusion of an insurance company’s investigation into an incident."

Amendment of section 23
8 Section 23 of the principal Act is amended —

(a) by designating paragraph (i) as paragraph (a);
(b) by designating paragraph (ii) as paragraph (b); and
(c) in paragraph (b), by deleting the words “by civil suit or, by consent of the parties, by arbitration under the Arbitration Act 1986 [title 8 item 75].” and substituting the following words —

"(i) by civil suit; or
(ii) by consent of the parties, by arbitration under the Arbitration Act 1986, with a right of appeal to the Supreme Court on a point of law.”.

Insertion of section 42A
9 The principal Act is amended by inserting the following section immediately after section 42 —

"Application
42A Where any workers’ compensation established by any other Act, agreement, contract of employment, custom or practice is more favourable than this Act establishes, the provisions so established by that other Act, agreement, contract of employment, custom or practice, shall in respect of compensation, prevail over this Act.”.

Substitution of “workman” and “workmen”
10 The principal Act is amended —

(a) by deleting the word “workman” wherever it occurs and substituting the following word —

"worker”; and
(b) by deleting the word "workmen" wherever it occurs and substituting the following word—
"workers".