

Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 250

§ 250 Legislative findings

(a) The Legislature of the Virgin Islands hereby finds and declares that the inability of common-law rights and remedies in redressing injuries received by workers has given rise to the need for Worker's Compensation legislation that will afford expeditious compensation to employees or their dependents without regard to fault or negligence of employer or employee.

(b) The Legislature also finds that the current Organizational structure and bureaucratic processes of the Government of Virgin Islands:

(1) makes the Division of Workmen's Compensation too dependent on the performance of other officials and agencies;

(2) causes an inordinate delay in the resolution of a significant number of Workers' Compensation claims;

(3) prolongs the economic hardship on claimants that the law was created to prevent.

(c) The newly enacted legislation in this chapter by this act is hereby declared to be necessary in the public interest to expeditiously compensate injury or disease which arises out of and in the course of employment without regard to the negligence of the employee or employer.

**Credits**

-Added Oct. 13, 1994, No. 6033, § 1(a), Sess. L. 1994, p. 254.

**HISTORY**

**Revision notes.**

'Virgin Islands' was substituted for 'U.S. Virgin Islands' pursuant to the Revised Organic Act of 1954.

**Effective date of amendments**

**-1994.**

Act Oct. 13, 1994, No. 6033, § 2, Sess. L. 1994, p. 254, which was amended by the addition of subsection (e) by Act May 3, 1995, No. 6071, § 2(d), Sess. L. 1995, p. 188, provided:

‘The effective date of this act [which added this section and sections 251a, 251b, 251c, 251d, 286, 287, 288, 289, 290, 291 and 292 of this title and which amended sections 356, 584, 632 and 636 of Title 3, sections 457, 851, 871, 872 and 873 of Title 22, section 579 of Title 23, sections 34, 251, 252, 254a, 254b, 254c, 254i, 256, 266, 267, 272, 279, 281, 306 and 309 of Title 24, section 267 of Title 27, sections 573 and 827 of Title 29, section 205 of Title 30 and section 40 of Title 34] shall be 180 days, after the enactment thereof [approved Oct. 13, 1994], provided, however, the laws currently in effect that will change which require the enactment of rules and regulations under this act, shall remain in force and effect until the establishment of the appropriate rules and regulations.’

## ANNOTATIONS

### 1. Generally.

Decision to fire an employee, even if that decision is proven to violate the Virgin Islands Wrongful Discharge Act, does not rise to a level so extreme as to be intolerable in a civilized society for purposes of a claim for intentional infliction of emotional distress. *Sorber v. Glacial Energy VI, LLC*, 2013 V.I. LEXIS 12 (V.I. Super. Ct. Mar. 7, 2013).

### 2. Particular cases.

Assuming that the Virgin Islands Wrongful Discharge Act applied to plaintiff, her claim survived summary judgment, as she had provided enough evidence such that a fact finder could reasonably believe that defendants’ stated reason for terminating her, insubordination, was pretextual. The inconsistency of a letter stating that plaintiff was terminated because of restructuring with defendants’ presently stated termination rationale called both rationales into question; plaintiff’s allegation that defendants had personal animus towards her because of concerns she vocalized over new work procedures was supported by the content of text messages; and plaintiff pointed out that she was fired via text message before her actual insubordination-the act of not coming to work-actually occurred. *Sorber v. Glacial Energy VI, LLC*, 2013 V.I. LEXIS 12 (V.I. Super. Ct. Mar. 7, 2013).

24 V.I.C. § 250, VI ST T. 24 § 250

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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24 V.I.C. § 251

§ 251 Definition and application

(a) As used in this chapter-

'Commissioner' means the Commissioner of Labor.

'Employee' means any person, including a minor, employed under any appointment or contract, express or implied, oral or written, or in the service of any employer.

'Employer' means the Government of the Virgin Islands, all public and quasi-public corporations, any person or body of persons whether incorporated or not, any partnership or association, contractors and subcontractors.

'Injury' means any harmful change in the human organism arising out of and in the course of employment, including damage to or loss of a prosthetic appliance, but does not include any communicable disease unless the risk of contracting such disease is increased by the nature of the employment.

'Death' means death resulting from an injury.

'Disability' means, except for purposes of Scheduled Income Benefits, a decrease of wage earning capacity due to injury. Wage earning capacity prior to injury shall be the employee's average weekly wage. Wage earning capacity after the injury shall be presumed to be actual earnings after the injury. This presumption may be overcome by showing that these earnings after injury do not fairly and reasonably represent wage earning capacity, and in such cases, wage earning capacity shall be determined in the light of all factors and circumstances in the case which may affect the injured worker's capacity to earn wages.

'Medical Services' means medical, surgical, dental, hospital, nursing and medical rehabilitation services.

'Wages' means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel or similar advantage received from the employer, and gratuities received in the course of employment from other than the employer.

'Alien' means a person who is not a citizen, a national or a resident of the United States. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

‘Income benefits‘ means compensation for temporary total or partial disability.

‘Scheduled income benefits‘ means compensation for permanent partial disability.

‘Continuous income benefits‘ means compensation for permanent total disability.

‘Rehabilitation income benefits‘ means compensation during the time an employee is undergoing vocational rehabilitation.

‘Average weekly wage‘ means the average weekly wage in the Virgin Islands as determined by the Commissioner as follows:

On or before June 1st of each year, the total wages reported on contribution reports to the Employment Security Agency for the preceding calendar year shall be divided by the average monthly number of insured workers. The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the next highest dollar. The average weekly wage as so determined shall be applicable for the full period during which income benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, falls within the calendar year commencing January 1, following the June 1st determination.

‘Administrator‘ means the person appointed by the board to run the day to day affairs of the Workers’ Compensation Administration

‘Board‘ means the Board of Directors of the Workers’ Compensation Administration.

‘Administrative Law Judge‘ means one who presides at an administrative hearing pertaining to Workers’ Compensation claims, with power to administer oaths, take testimony, rule on questions of evidence, regulate the course of proceedings, and make determinations of fact.

‘District Administrator‘ means a person appointed by the board to handle the day to day operations of the Workers’ Compensation Administration not otherwise handled by the Administrator in either the St. Thomas - St. John district or the St. Croix district.

‘Fund Administrator‘ means the person appointed by the board to oversee, manage and collect monies for the Government Insurance Fund as established under Section 265 of this chapter.

(b) This chapter shall be applicable to all employers who employ one or more employees affected by this chapter, whatever their wages may be, except that-

(1) in administering this section in the case of employers not normally affected by this chapter, temporary employment outside the usual course of the employer’s business shall be considered on its own footing, without regard to the regular employment rolls of the employer; and

(2) if such temporary employment is affected by this chapter, it shall not cause to be affected the regular employment not usually affected.

(c) The following employees are exempt from the coverage of this chapter:

(1) Any person employed as a domestic servant in a private home.

(2) Any person employed, for not exceeding 10 consecutive work days, to do maintenance, repair, remodeling, or similar work in or about the private home of the employer, or, if the employer has no other employees subject to this act, in or about the premises where such employer carries on his trade, business or profession.

(3) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(4) Any person for whom a rule of liability for injury or death is provided by the laws of the United States.

(d) Contractors shall be liable for reimbursement to the Government Insurance Fund for benefits given under this chapter to all employees of their uninsured subcontractors during such time as the employee is actually doing work for the benefit of the contractor.

(e) By consent, both of employer and employees concerned, and under regulations to be prescribed by the Commissioner, an employer and his employee or employees exempt under this chapter may elect to accept the terms and conditions hereof. Employers and employees making such election shall be entitled to all rights and privileges of and shall be subject to all obligations imposed by this chapter. Individual proprietors and members of partnerships may also elect to be covered under this chapter under regulations to be prescribed by the Commissioner.

(f)

(1) The provisions of this chapter shall apply to all accidents occurring within the Virgin Islands and to accidents occurring to employees of the Government of the Virgin Islands who are engaged in duly authorized business of the Government outside the Virgin Islands.

(2) If an employee, while working outside the territorial limits of the Virgin Islands, suffers an injury on account of which he, or in the event of his death, his dependents would have been entitled to the benefits provided by this chapter had such injury occurred within the Virgin Islands, such employee, or in the event of his death resulting from such injury, his dependents, shall be entitled to the benefits provided by this chapter, provided, that at the time of such injury

(A) his employment is principally localized in the Virgin Islands, or

(B) he is working under a contract of hire made in the Virgin Islands in employment not principally localized in any state, or

(C) he is working under a contract of hire made in the Virgin Islands in employment principally localized in another state whose workman's compensation is not applicable to his employer, or

(D) he is working under a contract of hire made in the Virgin Islands for employment outside of the United States, for the first 90 days of such employment.

(3) The payment or award of benefits under the Workmen's Compensation law of another state, territory, province or foreign nation to an employee or his dependents otherwise entitled on account of such injury or death to the benefits of this chapter shall not be a bar to a claim for benefits under this chapter; provided that a claim under this act is filed within two years after such injury or death. If compensation is paid or awarded under this chapter:

(A) The medical and related benefits furnished or paid for by the employer under such other Workmen's Compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;

(B) The total amount of all income benefits paid or awarded the employee under such other Workmen's Compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter, had claim been made solely under this chapter;

(C) The total amount of death benefits paid or awarded under such other Workmen's Compensation law shall be credited against the total amount of death benefits due under this chapter. A person's employment is principally localized in this or another state when (A) his employer has a place of business in this or such other state and he regularly works at or from such place of business, or (B), if clause (A) of the foregoing is not applicable, he is domiciled and spends a substantial part of his working time in the service of his employer in this or such other state.

An employee whose duties require him to travel regularly in the service of his employer in this and one or more other states may, by written agreement with his employer, provide that his employment is principally localized in this or another state, and unless such other state refuses jurisdiction, such agreement shall be given effect under this chapter.

'Workmen's Compensation law' includes 'occupational disease law'.

### **Credits**

-Amended Mar. 5, 1965, No. 1323, §§ 1, 2, Sess. L. 1965, Pt. I, p. 39; Mar. 17, 1965, No. 1343, § 6, Sess. L. 1965, Pt. I, p. 81; June 3, 1970, No. 2733, § 1, Sess. L. 1970, p. 137; Oct. 17, 1978, No. 4217, § 1(a), Sess. L. 1978, p. 237; Oct. 13, 1994, No. 6033, § 1(b), (g), Sess. L. 1994, pp. 239.

### **HISTORY**

#### **Amendments -1994.**

Amended section generally.

## Effective date of amendments

-1994.

See note set out under 24 V.I.C. § 250.

## ANNOTATIONS

### 1. Contractors.

This chapter is applicable to all employers, including contractors and subcontractors, who employ one or more employees and to all employees except those who fall within exceptions. [Paez v. Pittsburg-Des Moines Corp.](#), 21 V.I. 237, 1985 V.I. LEXIS 26 (V.I. Terr. Ct. 1985).

A construction contractor for the United States is not exempt from a state compensation law as an agent of the Federal Government engaged in a governmental activity. 1 V.I. Op. Att’y Gen. 313.

### 2. Maritime employees.

Congress has pre-empted the power to legislate in all matters respecting admiralty and maritime jurisdiction, and the Virgin Islands was not given power by Congress, pursuant to the 1954 Organic Act, to pass legislation making the local Workmen’s Compensation Act, rather than the federal ‘Jones Act’, applicable to local maritime employers and employees. [Government of V.I. v. Trafton](#), 14 V.I. 192, 1977 C.I. LEXIS 9 (Terr. Ct. St. C. 1977).

Where decedent was injured in the course of his employment as a seaman on a vessel in navigation on navigable waters of the United States, the federal ‘Jones Act’ offered the exclusive remedy, having preempted the field of maritime injuries to seamen, and the Virgin Islands Workmen’s Compensation Act did not apply and the Virgin Islands Department of Labor had no subject matter jurisdiction to order workmen’s compensation payments. [Government of V.I. v. Trafton](#), 14 V.I. 192, 1977 C.I. LEXIS 9 (Terr. Ct. St. C. 1977).

Workmen’s compensation award to mother of seaman who died in the course of employment, awarded under Virgin Islands law and void because federal law preempted the field of maritime injuries to seamen, was not res judicata as to uninsured employer ordered to reimburse the territory for the award, and the employer was not, by participating in the workmen’s compensation proceeding, estopped from collaterally attacking the award on ground that Virgin Islands Department of Labor had no subject matter jurisdiction over seamen. [Government of V.I. v. Trafton](#), 14 V.I. 192, 1977 C.I. LEXIS 9 (Terr. Ct. St. C. 1977).

Federal jurisdiction supersedes this chapter in cases of injury to the master or crew of a vessel when it is outside the territorial limits of the Virgin Islands. 2 V.I. Op. Att’y Gen. 313.

Since injuries sustained in the performance of labor on vessels in navigable waters are maritime injuries, within admiralty jurisdiction, local Workmen’s Compensation statutes are not applicable. 2 V.I. Op. Att’y Gen. 313.

This chapter does not cover employees whose work is strictly maritime in character, but is applicable to a company performing contracts for a Federal agency in other areas than those which are strictly maritime. 2 V.I. Op. Att’y Gen. 190.

### 3. Prisoners.

Persons sentenced to prison with or without provisions for hard labor are not deemed ‘employees’ within the meaning of this section. 1 V.I. Op. Att’y Gen. 288.

#### 4. Religious or domestic service.

This section is to be interpreted as permitting persons engaged in religious or domestic service to agree with their employers as to coverage under the compensation law. 1 V.I. Op. Att’y Gen. 266.

#### 5. Employees covered by laws of the United States.

Provision of paragraph (c)(4) that any person for whom a rule of liability for injury or death is provided by the laws of the United States is exempt from the coverage of the law should be broadly interpreted in order to accomplish substantial justice and in the light of the liberal holdings of the courts on the matter. [Hubschman v. Antilles Airboats, Inc.](#), 440 F. Supp. 828, 14 V.I. 366, 1977 U.S. Dist. LEXIS 13604 (D.V.I. 1977).

In paragraph (c)(4) provision that any person for whom a rule of liability for injury or death is provided by laws of the United States is exempt from coverage of the law, the words ‘laws of the United States’ would not be read to mean necessarily, and only, statutory laws; conclusion that the words meant general laws of the United States, as well as statutory law, was readily permissible. [Hubschman v. Antilles Airboats, Inc.](#), 440 F. Supp. 828, 14 V.I. 366, 1977 U.S. Dist. LEXIS 13604 (D.V.I. 1977).

Pilot injured after failure of both engines of seaplane forced a landing on the open sea during flight mostly over international waters, for whom wife filed workmen’s compensation claim under territorial law, resulting in hearing with little if any formality and involving no determination whether pilot was covered under United States law by a rule of liability for injuries, was exempt from coverage of subsection (c)(4) where that law provided that any person for whom a rule of liability for injury is provided by the laws of the United States is exempt from coverage of the law; so that filing and payment of workmen’s compensation claim did not bar pilot’s suit against employer under admiralty law, though workmen’s compensation payments would be deducted from any recovery. [Hubschman v. Antilles Airboats, Inc.](#), 440 F. Supp. 828, 14 V.I. 366, 1977 U.S. Dist. LEXIS 13604 (D.V.I. 1977).

The local compensation act, insofar as it attempts to require the payment of insurance premiums by the Virgin Islands Company, a Federal instrumentality, clearly conflicts with the paramount Federal authority. 1 V.I. Op. Att’y Gen. 24

#### 8.

The Federal Compensation Act is the exclusive remedy available to Virgin Islands Company employees in the case of injuries suffered during the course of employment, so that neither would they have any right to claim the benefits of the local law, nor could the municipality require their employer to contribute sums to the local insurance fund. 1 V.I. Op. Att’y Gen. 248.

#### 6. Corporate officers.

Officers of a corporation not within the coverage of the Workmen’s Compensation Act as employees may be included by payment of premiums to effectuate their inclusion in the coverage. 3 V.I. Op. Att’y Gen. 66.

#### 7. Injury.

The preliminary test of whether the exclusive remedies of workmen’s compensation apply to bar a suit at common law is whether the injuries complained of fit within the definition of ‘injury’ set forth in this section, namely, ‘harmful change(s) in the human organism’. [Robinson v. Hess Oil V.I. Corp.](#), 19 V.I. 106, 1982 U.S. Dist. LEXIS 18353 (D.V.I. 1982).

Claims such as reckless infliction of emotional distress or those relating to loss of employment are not in themselves related to the type of injuries covered by this chapter. [Robinson v. Hess Oil V.I. Corp.](#), 19 V.I. 106, 1982 U.S. Dist. LEXIS 18353 (D.V.I. 1982).



**§ 251 Definition and application, 24 V.I.C. § 251**

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A defamation claim is clearly among both the intentional and the nonphysical torts which are not insurable under this chapter, even when a physical injury or ailment is alleged in conjunction with the defamatory acts. *Robinson v. Hess Oil V.I. Corp.*, 19 V.I. 106, 1982 U.S. Dist. LEXIS 18353 (D.V.I. 1982).

Where in civil action arising out of the termination of plaintiff's employment with defendant, plaintiff set forth counts alleging libel, slander, reckless infliction of emotional distress, tortious discharge and breach of contract, since the injuries alleged were not compensable under this chapter, the chapter did not preclude plaintiff from pursuing any of the counts alleged. *Robinson v. Hess Oil V.I. Corp.*, 19 V.I. 106, 1982 U.S. Dist. LEXIS 18353 (D.V.I. 1982).

**Cited.**

Cited in *Phillip v. Government of the Virgin Islands*, 18 V.I. 269, 1981 U.S. Dist. LEXIS 9370 (D.C.V.I. 1981); *Hess Oil Virgin Islands Corp. v. Firemen's Fund Ins. Co.*, 22 V.I. 139, 626 F. Supp. 882, 1986 U.S. Dist. LEXIS 30919 (D.C.V.I. 1986); *Chinnery v. Government of V.I.*, 865 F.2d 68, 1989 U.S. App. LEXIS 185 (3d Cir. 1989); *Ferris v. V.I. Industrial Gases, Inc.*, 23 V.I. 183, 1987 U.S. Dist. LEXIS 3451 (1987); *Peter v. Hess Oil V.I. Corp.*, 903 F.2d 935, 1990 U.S. App. LEXIS 7939 (3d Cir. 1990).

24 V.I.C. § 251, VI ST T. 24 § 251

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24 V.I.C. § 251a

§ 251a Worker's Compensation Board of Directors

- (a) The Workers' Compensation Administration (WCA) shall be governed by a Board of Directors.
- (b) The Board of Directors of the Workers' Compensation Administration shall be composed of eight (8) members, one being the Commissioner of Finance, or his designee, who shall serve as an ex officio member and the remainder who shall be appointed by the Governor with the advice and consent of the Legislature. Two (2) members shall be appointed from a group of at least six (6) persons who are active members of the Central Labor Council. Of the members appointed from the Central Labor Council, one (1) shall be employed in a supervisory position, one (1) shall be a resident of the District of St. Croix and one (1) shall be a resident of the District of St. Thomas-St. John. Of the remaining four (4) members, two (2) shall represent employers, provided, however, that one (1) such appointee shall be a resident of the District of St. Croix and shall be recommended by the St. Croix Chamber of Commerce and one (1) such appointee shall be recommended by the St. Thomas-St. John Chamber of Commerce. The remaining three (3) members of the Board shall be employees of the Government of the Virgin Islands provided that one (1) shall be employed in a supervisory position, one (1) such appointee shall be a resident of St. Croix, one (1) shall be a resident of St. Thomas and one (1) shall be a resident of St. John. The three (3) members who are active government employees shall not hold any other administrative positions with the Government of the Virgin Islands. Four (4) members of the board shall serve for a term of four (4) years and three members shall serve for a term of three (3) years. Notwithstanding any law to the contrary, no member of the board of the Workers' Compensation Administration shall serve more than two (2) complete terms. Any vacancy in a term shall be filled in the manner of the original appointment for the unexpired period of the term.
- (c) The Governor shall designate one of the members to serve as temporary Chairman, whose sole responsibility shall be to call the first meeting of the board in which, the Chairman and other officers shall be elected from its members. Members of the Board of Directors of the Workers' Compensation Administration may be removed for justifiable cause by the Governor. Four (4) members shall constitute a quorum of the Board for the purpose of conducting the business of the Workers' Compensation Administration (WCA) and exercising its powers.
- (d) Each member of the Board of Directors of the Workers' Compensation Administration shall take an Oath of Office that he will diligently and honestly administer the affairs of the Workers' Compensation Administration and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to Worker's Compensation. Such oath shall be subscribed by the board member taking it, and certified by the officer before whom it is taken, and shall immediately thereafter be filed with the Office of the Lieutenant Governor.
- (e) Members of the board, while acting within the scope of their authority as Directors, shall not be subject to any personal or civil liability resulting from the exercise of any of the Workers' Compensation Administration's purposes, duties and responsibilities as provided under this chapter unless the conduct of the member is determined by a court of competent jurisdiction to constitute willful wrongdoing or gross negligence.

(f) Members of the Board of Directors of the Workers' Compensation Administration shall receive \$50 for each day or part thereof spent in work for the board, provided, however, that no member shall receive more than \$3,000 in any fiscal year. Members shall be reimbursed by the Workers' Compensation Administration (WCA) for all necessary and reasonable expenses incurred through service on the board.

(g) To effectuate the provisions of this chapter, the Board of Directors shall adopt rules and regulations to govern its internal organization and functioning and shall approve and cause to be promulgated from time to time such other regulations as the administrator or the board may deem necessary for the proper and efficient administration of the Administration according to the law.

### **Credits**

-Added Oct. 13, 1994, No. 6033, § 1(c), Sess. L. 1994, p. 239; amended May 8, 1995, No. 6071, § 2(a)(1)-(3), Sess. L. 1995, p. 187.

## **HISTORY**

### **Amendments -1995.**

Subsection (b): Substituted 'eight (8) members, one being the Commissioner of Finance, or his designee, who shall serve as an ex officio member and the remainder' for 'seven (7) members' in the first sentence, added 'one (1) shall be employed in a supervisory position' following 'Central Labor Council' in the third sentence, and added 'one (1) shall be employed in a supervisory position' following 'provided that' in the fifth sentence.

### **Effective date.**

Act Oct. 13, 1994, No. 6033, § 2, Sess. L. 1994, p. 254, which was amended by the addition of subsection (e) by Act May 3, 1995, No. 6071, § 2(d), Sess. L. 1995, p. 188, provided:

'The effective date of this act [which added this section, sections 250, 251b, 251c, 251d, 286, 287, 288, 289, 290, 291 and 292 of this title and which amended sections 356, 584, 632 and 636 of Title 3, sections 457, 851, 871, 872 and 873 of Title 22, section 579 of Title 23, sections 34, 251, 252, 254a, 254b, 254c, 254i, 256, 266, 267, 272, 279, 281, 306 and 309 of Title 24, section 267 of Title 27, sections 573 and 827 of Title 29, section 205 of Title 30 and section 40 of Title 34] shall be 180 days, after the enactment thereof [approved Oct. 13, 1994], provided, however, the laws currently in effect that will change which require the enactment of rules and regulations under this act, shall remain in force and effect until the establishment of the appropriate rules and regulations.'

24 V.I.C. § 251a, VI ST T. 24 § 251a

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 251b

§ 251b Powers and Duties of Board of Workers' Compensation Administration

In addition to the duties as provided in this chapter, the Board of Directors of the Workers' Compensation Administration shall have the following powers and duties:

- (a) be a policy making body for the administrator of the Insurance Fund;
- (b) appoint the Administrator of WCA and the Administrator of the Fund;
- (c) to determine the salaries of the administrator of the WCA and the Administrator of the Fund;
- (d) to serve as an Appeal Board for decisions rendered by the Administrative Law Judge under this chapter;
- (e) to hold meetings as may be necessary to carry out its functions in any district as needed;
- (f) consider and adopt rules regulations governing the WCA and the Fund in order to effectuate the intents and purposes of the system;
- (g) report to the Governor and the Legislature annually on the activities of the WCA and the Fund, showing among other things, the number of injuries; the cost of claims and Fund balances;
- (h) as an appeal body, the board is empowered to open, modify, terminate or reinstate awards, taking into account increased disability, restoration or earning power, aggravation of original injury, or any significant change which would justify a change in an award; and
- (i) nothing in this chapter shall be construed as exempting the Board from any law made specifically applicable to independent instrumentalities of the Government of the Virgin Islands.

**Credits**

-Added Oct. 13, 1994, No. 6033, § 1(d), Sess. L. 1994, p. 241.

**HISTORY**

**Effective date**

**-1994.**

See note set out under [24 V.I.C. § 251a](#).

24 V.I.C. § 251b, VI ST T. 24 § 251b

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24 V.I.C. § 251c

§ 251c Appointment of Administrator, Powers and Duties of Administrator

- (a) The Administrator of the WCA, appointed pursuant to section 251b(b) of this chapter, shall have a minimum of three (3) years of experience and training in Workers' Compensation law and current issues.
- (b) The Administrator shall be responsible for executing and upholding the policies, directives, rules and regulations promulgated by the Board of Directors of the WCA and the Laws of the Virgin Islands pertaining to Workers' Compensation.
- (c) The Administrator shall prescribe rules and regulations for the purpose of conducting continuing education seminars at least bi-annually for all personnel associated with Workers' Compensation claims, subject to the approval of the board.
- (d) The Administrator shall file a complete and detailed written report accounting for all funds disbursed during the preceding fiscal year with the board. The board shall annually submit the report to the Governor and the Legislature.
- (e) The Administrator, with the approval of the board, shall appoint appropriate advisory committees on Workers' Compensation matters, including an advisory committee consisting of three (3) members who are medical practitioners in the Virgin Islands, one of whom shall be a chiropractor, and who shall be selected by the Administrator from nominations submitted from the Virgin Islands Board of Medical Examiners; an advisory committee consisting of three (3) members who are dental practitioners in the Virgin Islands, and who shall be selected by the Administrator from nominations submitted from the Virgin Islands Board of Dental Examiners; and an advisory committee consisting of three members who are active in the field of mental health in the Virgin Islands and who shall be selected by the Administrator from nominations submitted by the Virgin Islands Division of Mental Health, Alcoholism and Drug Dependency Services. Provided, however, that none of the members selected to serve on the advisory committees shall have a direct or indirect interest in the rate of reimbursement or payment of medical, dental, chiropractic, mental illness or other related costs by the Workers' Compensation Administration.
- (f) The three advisory committees provided for herein shall advise the Administrator and make recommendations to ascertain the prevailing rate of reimbursement or payment of medical, dental and chiropractic costs in the Virgin Islands.
- (g) The three advisory committees shall make recommendations to the Administrator with regard to the implementation of all rules and regulations pertaining to medical, dental, chiropractic, mental illness or other related evaluations and shall propose a review process by a group of peers in the associated field when such evaluations are in dispute.
- (h) The three advisory committees shall advise and guide the administrator in determining all rules and regulations required to accomplish the goals of ensuring quality care, the control of costs and a speedy settlement of claims.

(i) The administrator shall administer the business of the agency and be responsible for its proper operation, subject to the orders, resolutions and directives of the board. The administrator may employ such clerical, professional and technical support services as the board may determine is necessary for the proper operation of the agency.

(j) The Administrator of the Workers' Compensation Administration shall have, in addition to the foregoing authority, the following duties and powers:

(1) establish offices for the Workers' Compensation Administration and provide for a complete and adequate system of accounts and records as may be required for the effectuation of the provisions of this chapter;

(2) with the advice of a technical advisor, develop a system for the expeditious resolution of claims;

(3) attend the meetings of the board and carry out the resolutions and directives of the board;

(4) certify payments to be made in accordance with this chapter;

(5) render an accounting of the board of all monies received and expended according to the law and the rules and regulations in force;

(6) formulate rules and regulations to govern the operation of the agency for presentation to the board for its approval and subsequent promulgation;

(7) make recommendations to the board on any change or revision of this chapter;

(8) prepare the annual report on the operations of the administration and submit the same to the board for its approval and to the Governor and the Legislature for their information;

(9) with actuarial assistance, develop a schedule of fees and other charges for medical services which shall be subject to the approval of the board.

(10) take all necessary steps to facilitate resolution of Workers' Compensation claims;

(11) develop and implement a system of transmittal of documents and payment of checks from one district to another by electronic means and in order to expeditiously carry out the prompt payment of benefits as stipulated by this chapter;

(12) render any reports to the board that it may request in connection with any matter relative to the operations of the chapter.

-Added Oct. 13, 1994, No. 6033, § 1(e), Sess. L. 1994, p. 242.

## HISTORY

### Revision notes.

‘Virgin Islands’ was substituted for ‘U.S. Virgin Islands’ in subsection (b) pursuant to the Revised Organic Act of 1954.

### **Transfer of duties relating to Workers’ Compensation Administration from the Commissioner of Labor to the Administrator of Workers’ Compensation Administration.**

Act Oct. 13, 1994, No. 6033, § 2(a), Sess. L. 1994, p. 254, as amended by Act May 3, 1995, No. 6071, § 2(c), Sess. L. 1995, p. 188, provided:

‘The Commissioner of Labor shall continue as the Administrator of the Workers’ Compensation Administration until the board appoints a new administrator. The Commissioner of Labor shall provide any necessary assistance for the orderly transition of the entity from being administered with the Department of Labor to its administration as a separate and independent agency. Such assistance shall include, but shall not be limited to, the loaning of personnel, office space, office equipment and technical advice to be used until the administrator appointed by the board can organize his staff and acquire appropriate office space as required provided, however, all personnel currently employed by the Government shall maintain their status as government employees with all of their rights and retirement benefits and all fiscal balances, office space, office equipment shall be transferred to the Workers’ Compensation Administration.’

### Effective date

**-1994.**

See note set out under [24 V.I.C. § 251a](#).

[24 V.I.C. § 251c](#), [VI ST T. 24 § 251c](#)

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 251d

§ 251d Appointment of the Fund Administrator and Duties

The Fund Administrator shall be appointed by the Board of Directors. He shall be responsible for the administrator of the Government Insurance Fund and shall:

- (1) protect the solvency of the fund by doing actuarial studies; determine premium rates in keeping with costs of administration and payment of claims under this chapter;
- (2) pay claims upon orders issued by the WCA;
- (3) plan and improve by electronic means, the speedy payment of claims as provided under this chapter;
- (4) maintain accounts of income, expenditures and balances;
- (5) report regularly (quarterly, semi-annually or annually) to the Board of Directors upon demand by the board;
- (6) manage a staff of employees of the Fund in both districts;
- (7) prepare budgets of the Government Insurance Fund;
- (8) certify documents;
- (9) perform such other duties related to the management of the Government Insurance Fund as provided by this chapter.

**Credits**

-Added Oct. 13, 1994, No. 6033, § 1(f), Sess. L. 1994, p. 244.

**HISTORY**

**Editor's note.**

Act No. 6033, § 2(c) provided that the Commissioner of Finance should continue as Administrator of the Government Insurance Fund and should provide any necessary assistance for the orderly transition of this fund from being administered under the Department of Finance to the WCA.

**Effective date**

**-1994.**

See note set out under [24 V.I.C. § 251a](#).

24 V.I.C. § 251d, VI ST T. 24 § 251d

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 251e

§ 251e Collection and dissemination of administration data

The Workers' Compensation Administration shall prescribe the form and format for the collection and dissemination of information and data as the Administration of this chapter requires. Provided, however, that in the event the proper format requires the submission of a complete paper document, the administration shall have distributed such blank forms, including forms of notice and claims and forms for processing injury, death, medical, or other attendance or treatment, employment or wage earning as necessary.

**Credits**

-Added Oct. 13, 1994, No. 6033, § 1(g), Sess. L. 1994, p. 245.

-Added Oct. 13, 1994, No. 6033, § 1(g), Sess. L. 1994, p. 245.

**HISTORY**

**Editor's note.**

Act No. 6033, § 1(g) set forth this provision as an amendment to 24 V.I.C. § 251 and it was renumbered so as not to replace that section's unrelated subject matter.

24 V.I.C. § 251e, VI ST T. 24 § 251e

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 252

§ 252 Right to compensation for personal injury or occupational disease

(a) Every employer shall pay compensation as hereinafter specified for the disability or death of an employee resulting from a personal injury or occupational disease arising out of and in the course of his employment, irrespective of fault as a cause of the injury or death. Compensation shall begin on the first full day of disability, except that compensation for medical attendance provided for at section 254(a) of this chapter shall begin at the time of injury. No compensation shall be paid if the injury or death is caused solely by the willful misconduct of the employee or by the willful intention of the employee to injure or kill himself or another or by the intoxication of the employee, in which case, the burden of proof shall be on the employer to show that the injury was so caused. Injuries resulting from travel to and from home immediately before or after working hours and injuries resulting from travel to and from an eating place during an authorized break period shall be considered as arising out of and in the course of employment, provided that such travel is by a reasonably direct route.

(b) Pleuro-pneumonic injuries of a tuberculous origin acquired during the course of employment and as a consequence thereof, by workers who come in contact with said disease in sanatoriums, government hospitals, or entities or private places where patients suffering from pulmonary tuberculosis are treated, shall be regarded as compensable, and shall be entitled to compensation; Provided, That every person shall, before his employment begins, or if already employed and undergone with negative results, submit to the examinations hereinafter described, and which shall be performed by the Department of Health: a general physical examination, a fluoroscopic and radiographic examination of the thorax, three examinations of concentrated sputa at intervals of one week, and any other examination which in the judgment of the Administrator may be necessary to make for the purpose of investigating the Koch bacillus; Provided, likewise, That the period for incubation of said disease shall no be less than ninety days; Provided, further, That persons thus employed in the above-mentioned institutions and places shall report for the examinations hereinbefore set forth at lease once each year; during the term of their employment; and they are likewise required to submit to said examinations when their employment in the occupations herein listed become terminated; Provided, finally, That if the examinations made to persons leaving the occupation herein referred to are negative, they shall have no right to compensation unless the disease develops within ninety day following the date of the termination of their employment in the aforesaid occupations.

The Department of Health shall be responsible under this chapter to perform the examinations determined herein without cost whatever to the person or persons undergoing same, and to file with the Administrator a certified copy of the reports in each case.

**Credits**

-Amended Mar. 5, 1965, No. 1323, §§ 3, 4, Sess. L. 1965, Pt. I, p. 40; Mar. 17, 1965, No. 1343, § 6, Sess. L. 1965, Pt. I, p. 72; Apr. 23, 1968, No. 2177, § 1, Pt. I, p. 457; June 3, 1970, No. 2733, § 2, Sess. L. 1970, p. 140; Oct. 13, 1994, No. 6033, § 2(b), Sess. L. 1994, p. 254.

## HISTORY

### Source.

Based on Ord. Mun. C. St. T. and St. J. app. March 9, 1954 (Bill no. 289), § 3.

### Revision notes.

‘Municipal Hospital of St. Thomas, Virgin Islands’ following ‘Department of Health’ was omitted as unnecessary.

### Amendments -1994.

Subsection (b): Substituted ‘Administrator’ for ‘Commissioner of Labor’ following ‘judgment of the’ in the first paragraph and preceding ‘a certified copy’ in the second paragraph. -1970.

Subsection (a): Added the last sentence. -1968.

Subsection (a): Second sentence amended by providing that compensation shall begin on first full day of disability and added reference to compensation for medical attendance. -1965.

Subsection (a): Act No. 1323, § 3 deleted second paragraph.

Subsection (b): Act. No. 1323, § 4 deleted ‘Supplementing the occupational diseases described in subsection (a) of this section’ at beginning of subsection.

Act No. 1323, § 6 substituted ‘Commissioner of Labor’ for ‘Commissioner of Agriculture and Labor’ in two places.

### Effective date of amendments

**-1965, Act No. 1343.**

For effective date of amendment, see note set out under section 2 of this title.

**-1965, Act No. 1323.**

For effective date of amendment, see note set out under section 251 of this title.

**-1994.**

See note set out under [24 V.I.C. § 250](#).

## ANNOTATIONS

### 1. Arising out of and in the course of employment-Generally.

An injury arises out of the employment if it arises out of either the nature, conditions, obligations, or incidents of the employment. *Chinnery v. Government of Virgin Islands*, 865 F.2d 68, 1989 U.S. App. LEXIS 185 (3d Cir. V.I. 1989).

There must be a causal connection between employment and injury in every case, and in addition, there must be a finding

that the injury arose out of and in the course of employment. 1 V.I. Op. Att’y Gen. 288.

## 2. -Burden of proof.

The operative statutory language from which eligibility derives for worker’s compensation is ‘injury arising out of and in the course of employment,’ and whether or not the plaintiff was travelling to and from home as part of her regular commute is not the controlling question; the pertinent inquiry is whether the injury rose out of and in the course of her employment. *Arts-Bermudez v. Commissioner of Labor*, 31 V.I. 51, 1995 V.I. LEXIS 7 (V.I. Terr. Ct. 1995).

Under this section, an employee is entitled to workmen’s compensation for injuries ‘arising out of and in the course of his employment’, and this causation is extremely broad. *JONES v. JAMES*, 17 V.I. 361, 1980 U.S. Dist. LEXIS 8922 (D.V.I. 1980).

To receive benefits, the injured employees must show that their injuries arose out of the scope of the employment under which they were insured, in this case as clerical workers. 3 V.I. Op. Att’y Gen. 66.

## 3. -Assaults.

An assault may arise out of and in the course of employment. *Chinnery v. Government of Virgin Islands*, 865 F.2d 68, 1989 U.S. App. LEXIS 185 (3d Cir. V.I. 1989).

## 4. -Travel to and from home.

There was no merit to a refinery worker’s argument that he was not acting in the course and scope of his employment when he was struck by a co-worker operating an employer-owned vehicle, but was heading toward the refinery gate to go home, as 24 V.I.C. § 252(a) expressly provided that a plaintiff would be entitled to workers’ compensation while traveling to and from work; thus 24 V.I.C. § 284 barred the worker’s action against the co-worker. *Defoe v. Phillip*, 51 V.I. 34, 2009 V.I. LEXIS 2 (V.I. Super. Ct. 2009), rev’d, 56 V.I. 109, 2012 V.I. Supreme LEXIS 4 (VI 2012).

Where the courts of the Virgin Islands have interpreted the time and place causation requirements of 24 V.I.C. § 252(a) in an extremely broad manner, where the Third Circuit Court of Appeals stated that an injury arises out of the employment if it arises out of either the nature, conditions, obligations, or incidents of employment, and where the petitioner had to go home to clean herself up as a direct result of work done for her employer, her injury plainly arose out of her employment and she is entitled to workers compensation benefits. *Arts-Bermudez v. Commissioner of Labor*, 31 V.I. 51, 1995 V.I. LEXIS 7 (V.I. Terr. Ct. 1995).

Injuries which occur as a result of travel directly to and from work, immediately before and after the work day, are considered to have arisen out of and in the course of employment; however, the Commissioner’s denial of the claim simply because the travel related injury did not occur during her daily commute is misplaced, the injury is still compensable if it was arising out of and in the course of employment. *Arts-Bermudez v. Commissioner of Labor*, 31 V.I. 51, 1995 V.I. LEXIS 7 (V.I. Terr. Ct. 1995).

Under Virgin Islands law, injuries resulting from travel to and from home immediately before and after working hours are considered as arising out of and in the course of employment for workmen’s compensation purposes. 10 V.I. Op. Att’y Gen. 112.

Firefighter injured while travelling to or from home is not entitled to indefinite full salary benefit, although workmen’s compensation benefit would be available. 10 V.I. Op. Att’y Gen. 112.

Injuries to employees which occur while they are being transported to and from their place of employment in conveyances provided by the employer, pursuant to a contract of employment, are received ‘in the course of employment’ within the meaning of this chapter. 2 V.I. Op. Att’y Gen. 343.

## 5. -Travel to and from eating place.

Commissioner of Labor's interpretation of term 'eating place' in subsection (a) of this section was upheld as a permissible agency construction of the statute it administers where no evidence of the unambiguous intent of the Legislature with respect to this term was presented. *George v. Commissioner of Labor*, 25 V.I. 144, 1989 U.S. Dist. LEXIS 19042 (D.V.I. 1989).

**6. Subsequent aggravation of injuries.**

Under this section, an employee injured in an accident in the course of employment qualified for workmen's compensation for that portion of the employee's injuries which were aggravated by a second accident unrelated to employment but were attributable to prior accident which arose out of and in the course of employment. *JONES v. JAMES*, 17 V.I. 361, 1980 U.S. Dist. LEXIS 8922 (D.V.I. 1980).

**7. Heart disease.**

Police officer who developed heart disease which required surgery was entitled to full workmen's compensation benefits, even though there was no medical record indicating the absence of a heart condition upon his entry into the service. 10 V.I. Op. Att'y Gen. 131.

**8. Personal property loss.**

A wooden leg is a man's property, not part of his person, so that an injury to it is non-compensable and inability to carry on employment due to loss of such leg is non-compensable. 1 V.I. Op. Att'y Gen. 288.

**9. Payments to nonresident.**

There is no provision in Virgin Islands Workmen's Compensation Law which qualifies right of injured workman to receive payments bases upon fact of his departure from Virgin Islands, and a workman entitled to payments does not have to live in the territory while payments are being made to him. 4 V.I. Op. Att'y Gen. 34.

**10. Jurisdiction.**

The terms of the Compensation Act and the facts and circumstances of the particular case determine whether a claim for compensation was within the jurisdiction of the Compensation Commission. 1 V.I. Op. Att'y Gen. 288.

The location, at the time of injury, of a schooner aboard which a seaman is injured does not affect the jurisdiction of the Compensation Commissioner to receive and pass upon the merits of a claim. 1 V.I. Op. Att'y Gen. 226.

24 V.I.C. § 252, VI ST T. 24 § 252

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

24 V.I.C. § 253

§ 253 Computation of wages

(a) Except as otherwise provided in subsection (b) of this section, wages, for all purposes of this chapter, shall be determined on the basis of earnings of the worker, at the time of injury, from the employer liable to pay compensation, except that, in the case of employees whose tenure at the time of injury was less than one month, the weekly wages of such employees shall be determined by the Administrator on the basis of weekly wages for permanent employment of similar character. Special overtime rates shall not be taken into account unless earned regularly over a period of two months immediately preceding the accident. Compensation for any fractional portion of a week shall be computed on the basis of the working days involved.

(b) In the case of part-time workers or workers holding jobs with two or more employers wages, for the purpose of computation of benefits only, shall be the greater of (1) the weekly wages for permanent full-time employment of similar character or (2) the actual total wages received from all of the worker's employers legally required to be insured.

**Credits**

-Amended April 23, 1968, No. 2177, §2(a), (b), Sess. L. 1968, Pt. I, p. 45

7.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. March 9, 1954 (Bill no. 289), § 4.

**Amendments -1968.**

Designated existing provisions of the section as subsection (a), added reference to subsection (b) in that subsection and added subsection (b).

24 V.I.C. § 253, VI ST T. 24 § 253

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023



**§ 253 Computation of wages, 24 V.I.C. § 253**

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 254

§ 254 Amount of compensation

Every employee who suffers an injury or death under the conditions specified in this chapter shall be entitled to:

(a) [Deleted.]

(b) [Deleted.]

(c) [Deleted.]

(d) [Deleted.]

(e) [Redesignated.]

(f) The four (4) year limitation periods specified in subsections (c) and (d) of this section may not affect the eligibility of a person for compensation thereunder in any case where compensable disability to such person results from a recurring injury for which any benefits under this section have previously been received.

**Credits**

-Amended Dec. 17, 1958, No. 277, § 1, Sess. L. 1958, p. 172; May 25, 1960, No. 564, Sess. L. 1960, p. 67; June 16, 1960, No. 624, §§ 1-5, Sess. L. 1960, p. 147; Feb. 17, 1965, No. 1297, § 2, Sess. L. 1965, Pt. I, p. 18; Mar. 5, 1965, No. 1323, §§ 5-13, Sess. L. 1965, Pt. I, pp. 40-42; Apr. 23, 1968, No. 2177, § 3(a)-(e), Sess. L. 1968, Pt. I, p. 458; June 3, 1970, No. 2733, § 3, Sess. L. 1970, p. 140.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 5.

**Amendments -1970.**

Subsections (a)-(d) omitted and subsection (e) redesignated as new section 254i. **-1968.**

Subsection (a): Last sentence amended by adding provision for specialized medical treatment outside the Virgin Islands.

Subsection (e): Last sentence of first paragraph amended by substituting '\$10,000' for '\$7,500'. Second paragraph amended by adding provision in subsection (1) relating to decedent being survived by spouse only and changed phraseology of paragraph. Last sentence of subsection (e) amended by adding provision relating to compensation other than medical attendance and by substituting '\$12,500' for '\$10,000'.

Subsection (f): Added. **-1965.**

Subsection (a) amended by section 5 of Act Mar. 5, 1965, which raised ceiling for medical attendance from \$7,500 to \$10,000; and by section 6 thereof, which, in sentence relating to claim for costs of personal transportation or medical care outside Virgin Islands, inserted exception clause.

Subsection (b) amended by section 7 of Act Mar. 5, 1965, which increased maximum and minimum weekly rates of compensation from \$35 and \$20, respectively, to \$45 and \$25, respectively; and which, with respect to temporary partial disability, eliminated provision for maximum weekly rate of \$50.

Subsection (c) amended by section 8 of Act Mar. 5, 1965, which increased maximum weekly benefit for permanent partial disability from \$35 to \$45; by section 9 of such Act, which added all paragraphs following table of injuries and periods of benefits; and by Act Feb. 17, 1965, which, near end of first sentence, inserted 'or' after 'payable weekly'.

Subsection (d) amended by section 10 of Act Mar. 5, 1965, which increased maximum weekly benefit for permanent total disability from \$35 to \$45, and clarified provision relating to inclusion, within permanent total disability, of 'such other injuries as result in the total and permanent disability of the person to perform any kind of labor in remunerative occupations'.

Subsection (e) amended by section 11 of Act Mar. 5, 1965, which increased maximum amount payable for funeral expenses from \$400 to \$500; by section 12 of such Act, which, with respect to survivors, substituted provision for compensation of \$7,500 for provision under which compensation was 'from \$4,000 to \$5,000 graduated according to the earning capacity of the decedent and to probabilities of life according to the American Experience Table of Mortality', and omitted requirement that regulations of Commissioner be approved and promulgated by the Governor; and by section 13 of such Act, which, to second paragraph, added subdivision (4). **-1960.**

Subsection (a): The 1960 amendment increased the maximum amount, with respect to medical attendance, from \$2,500 to \$7,500.

Subsection (a): The 1960 amendment, in first sentence, inserted 'or dentists' after 'qualified physicians', and added the proviso; and, in sixth sentence, increased maximum sum allowable to an employee from \$1,500 to \$2,500.

Subsection (b): The 1960 amendment increased the rates of compensation for temporary total and temporary partial disability.

Subsection (c): The 1960 amendment increased the rates of compensation for permanent partial disability, and, in the table, extended the periods during which such compensation may be received.

Subsection (d): The 1960 amendment, in addition to increasing the rates of compensation for permanent total disability, struck out the provision limiting the total amount of such compensation to \$10,000, and substituted therefor the provision that such compensation shall be paid during the continuance of such total disability; added the provision that the subsection shall be retroactive to include all cases of permanent total disability for which compensation has already been awarded; and added the proviso regarding rehearings to determine whether the employee is still disabled.

Subsection (e): The 1960 amendment, in final sentence, increased the total aggregate compensation in any case for injury and death resulting therefrom from \$7,500 to \$10,000. **-1958.**

Subsection (a): Substituted ‘\$2,500’ for ‘1,500’.

**Effective date of amendments**

**-1968.**

Section 3(e) of Act April 23, 1968, No. 2177, Sess. L. 1968, p. 458, added subsection (f), effective retroactive to September 1, 1957.

**-1965, Act No. 1323.**

For effective date of amendment, see note set out under section 251 of this title.

**Retroactive effective date**

**-1968 amendment.**

Section 9 of Act April 23, 1968, No. 2177, Sess. L. 1968, Pt. I, p. 464, provided:

‘The provisions of subsections 3(a), (c) and (d) and section 4 [amending last sentence of subsection (a) and second paragraph and last sentence of subsection (e) of section 254, and amending subsection (c) of section 256] of this Act shall have retroactive application to all unsatisfied claims before the Commissioner on the effective date of this Act. This Act shall become effective upon approval by the Governor.’

**-1965, Act No. 1323 amendment.**

Act June 29, 1965, No. 1451, § 1, Sess. L. 1965, Pt. I, p. 339, provided:

‘The provisions of sub section 254(e) of Title 24, Virgin Islands Code [subsection (e) of this section] relating to the payment of death benefits as amended by Act No. 1323 (Bill no. 2377), Sixth Legislature of the Virgin Islands, Regular Session 1965, shall be applicable to all cases in which claims for compensation were pending, but not settled, as of March 1, 1965.’

**-1965, Act No. 1297 amendment.**

Section 3 of Act Feb. 17, 1965, No. 1297, Sess. L. 1965, Pt. I, p. 18, provided:

‘The amendment [to subsection (c) of this section] accomplished by this Act shall be deemed to have retrospective effects as of June 16, 1960.’

**Reimbursement of employers for advance payments.**

Section 6 of Act June 16, 1960, cited above (of which sections 1-5 amended this section), provided:

‘Section 6. Any employer who has made advance payments of compensation in good faith or has made payments to an employee eligible for compensation under this law in like manner as wages during any period of disability shall be entitled to reimbursement out of any unpaid installment or installments of compensation due the employee; provided, that, his claim for reimbursement shall be filed with the Compensation Officer before award for compensation is made to the employee.’

**Purpose of 1965, Act No. 1297 amendment.**

Section 1 of Act Feb. 17, 1965, No. 1297, Sess. L. 1965, Pt. I, p. 18, provided:

‘The Legislature hereby declares that the purpose of this Act [amending subsection (c) of this section] is to correct a clerical error of omission occurring with the enactment of section 3 of Act No. 624 of the Third Legislature, approved June 16, 1960, wherein in the amendment of sub section 254(c), Title 24 of the Virgin Islands Code [subsection (c) of this section] the word ‘or’ previously appearing in the first sentence of such subsection between the words ‘payable weekly’ and ‘as the Commissioner may order’ was inadvertently omitted.’

## ANNOTATIONS

### 1. Effect of other benefits.

Police officer who was retired as the result of a job related illness or injury, in addition to retirement benefits, was entitled to whatever total permanent disability benefits might be available pursuant to subsection (d) of this section. 9 V.I. Op. Att’y Gen. 40.

There is no prohibition against a worker receiving permanent total disability benefits under the Workmen’s Compensation Law while receiving sick leave benefits from his employer, and there is no prohibition against a worker drawing Workmen’s Compensation benefits for a permanent total disability while drawing Retirement Benefits from any source. 6 V.I. Op. Att’y Gen. 21.

An injured worker who qualifies for total disability benefits may receive these benefits while drawing sick leave benefits from his employer and any retirement income which the disabled worker may be receiving need not be deducted from the Workmen’s Compensation permanent disability benefits. 6 V.I. Op. Att’y Gen. 21.

24 V.I.C. § 254, VI ST T. 24 § 254

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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24 V.I.C. § 254a

§ 254a Medical rehabilitation

(a) For any injury covered by this chapter, and the employee shall be entitled to all medical services, including chiropractic, optometric and dental services, appliances, supplies and transportation which are required by the nature of his injury and which will relieve pain and promote and hasten his restoration to health and employment. This includes such services, appliances and supplies and necessary replacements or repairs of such appliances unless the need for such replacements or repair is due to lack of proper care by the employee. In addition to the income benefits otherwise payable, the employee, who is entitled to income benefits shall be paid an additional sum as for a medical benefit of not more than \$200 weekly, as may be deemed necessary, when the service of an attendant is necessary constantly to be used by reason of the employee's being totally blind or having lost both hands or both feet or the use thereof being paralyzed and unable to walk, or by reason of other disability resulting from the injury actually rendering him so helpless as to require the constant attendance. An employee shall have the right to select the medical or chiropractic physician or dentist of his choice, however, the Administrator shall have the authority to determine the necessity, character and sufficiency of any medical services furnished or to be furnished and shall have authority to order a change of practitioner, hospital or rehabilitation facility when in his judgment such change is desirable or necessary.

(b) All practitioners attending injured employees shall comply with any rules and regulations adopted by the Administrator and shall make such reports as may be required by him at any and such times as required by him upon the condition or treatment of any injured employee, or upon any other matters concerning cases in which they are employed. Generally all medical information relevant to the particular injury shall, on demand, be made available to the employer, employee, fund, and the Administrator. No relevant information developed in connection with treatment or examination which compensation is sought shall be considered a privileged communication. When a physician willfully fails to make any report required of him under this section the Administrator may in his discretion order the forfeiture of his right to all or part of payments due for services rendered in connection with the particular case.

(c) If the employee unreasonably refuses to submit to medical examination or treatment, the Administrator shall, by order, suspend the payment of further compensation and his right to further proceedings during such time as such refusal continues.

(d) Whenever the Administrator deems it necessary, in order to assist him in resolving any issue of medical fact or opinion he shall cause such employee to be examined by a physician or physicians selected by the Administrator and obtain from such physician or physicians a report upon the condition or matter which is the subject of injury.

(e) All fees and other charges for medical services shall not be higher than such charges as prevail in the Virgin Islands for similar services to injured persons and shall be subject to approval by the Administrator.

(f) An employee shall be entitled to a maximum of \$75,000 in benefits under this section, except that in cases determined by the Administrator to require specialized medical attendance in institutions outside of the Virgin Islands, the maximum

allowable benefit shall be \$200,000. However, an employee classified pursuant to section 371 of this title, as a member of any Class III bargaining unit that consists of police officers, corrections officers, firefighters, prison guards, or other persons employed in similar positions to protect the public safety and welfare or protect the property of a public employer, who is injured in the line of duty, is entitled to a maximum allowable benefit of \$750,000, of which the first \$250,000 must be covered by the Government Insurance Fund. Thereafter, the health care bills must be paid first by claimant's primary insurance carrier and second by the Government Insurance Fund up to the maximum allowable benefit of \$750,000. For purposes of this subsection 'injured in the line of duty' means the employee sustained an injury during the active performance and actual discharge of the duties of the position.

(g) Any bill for medical or hospitalization expenses which is submitted more than 30 days after a written request from the Administrator for such billing shall be uncollectible, from both the claimant and the Government Insurance Fund, provided that in the case of a private physician, the Administrator may, for good cause, permit a reasonable extension of this time.

(h) An employee who receives his initial treatment for a compensable injury in the out-patient or emergency ward at a Government facility shall be considered a public patient and billing for his care shall be made accordingly until such time as the employee designates a private physician in writing.

(i) A physician employed by the Virgin Islands Government may not charge for services rendered a claimant which are rendered during the time that the claimant is a public patient or during such time that the physician is performing his duties for the Government. No physician shall charge for the use of any facilities or for materials furnished by the Virgin Islands Government.

### Credits

-Added June 3, 1970, No. 2733, § 3, Sess. L. 1970, p. 140; amended Oct. 17, 1978, No. 4217, § 1(b), Sess. L. 1978, p. 238; Dec. 14, 1989, No. 5493, Sess. L. 1989, p. 160; Jan. 7, 1992, No. 5824, § 31, Sess. L. 1992, p. 182; Oct. 13, 1994, No. 6033, § 1(h), Sess. L. 1994, p. 245; amended Sept. 11, 2012, No. 7406, § 1, Sess. L. 2012, p. 268.

### HISTORY

#### Revision notes.

Substituted 'Administrator' for 'Commissioner' in the fourth sentence of subsection (a), throughout subsection (b), in subsection (c), in two places in subsection (d), in subsections (e) and (f), and in two places in subsection (g) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

#### Amendments -2012.

Act 7406, § 1, in subsection (f), substituted 'section' for 'subsection' and added the last three sentences. -1992.

Subsection (a): Inserted 'chiropractic and' following 'including' in the first sentence, inserted 'medical or chiropractic' following 'to select the' and substituted 'practitioner' for 'physician' preceding 'hospital' in the fourth sentence.

Subsection (b): Substituted 'practitioners' for 'physicians' preceding 'attending injured' in the first sentence. -1989.

Subsection (f): Substituted ‘\$40,000’ for ‘\$16,000’ and ‘\$75,000’ for ‘\$30,000’. -1978.

Subsection (f): Substituted the figures ‘\$16,000’ for ‘\$10,000’ and ‘\$30,000’ for ‘\$16,000’.

**Effective date of amendments**

**-1978.**

For effective date of 1978 amendment, see note set out under section 251 of this title.

**-1994.**

See note set out under [24 V.I.C. § 250](#).

24 V.I.C. § 254a, VI ST T. 24 § 254a

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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24 V.I.C. § 254b

§ 254b Vocational rehabilitation

(a) One of the primary purposes of this act shall be restoration of the injured employee to gainful employment and to assist in lessening or removing any handicaps resulting from his injuries.

(b) An employee who has suffered an injury covered by this act who, as a result of the injury, is unable to perform work for which he has previous training or experience, shall be entitled to such vocation rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. The Administrator shall refer to the Director of Vocational Rehabilitation Services all cases which in his opinion might be potential rehabilitation cases, and shall refer all cases of serious head injuries, severe back injuries, major amputations, loss of eye or hearing, heart attacks, injuries to nervous system and all cases of falls of considerable distance and severe explosions or fires.

(c) The Director of Vocational Rehabilitation Services shall evaluate the practicability of, need for, and kind of service, treatment or training.

(d) If the injured employee is not eligible for benefits under the Vocational Rehabilitation statute, the Administrator may refer such employee and the Director of Vocational Rehabilitation Services shall process such injured employee in the same manner as other vocational rehabilitation claimants and the cost of these services may be paid under this chapter provided that all costs shall be subject to the approval of the Administrator prior to the rendering of the services.

(e) If in the opinion of both the Director of Vocational Rehabilitation and of the Administrator, an employee unreasonably refuses the services and treatment recommended by the Director of Vocational Rehabilitation, the Administrator shall, by written order which sets forth the reasons, suspend the payment of further income benefits and the employee's right to further proceedings during such time as such unreasonable refusal continues; Provided, however, that the administrator shall consult with the district directors and the claimant and take into consideration any extenuating circumstances brought to light, and given a time certain, not in excess of 15 working days, consult with the claimant whenever necessary. Refusal of vocational rehabilitation benefits shall not affect the employee's right to receive medical rehabilitation.

(f) Where vocational rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, the reasonable cost of his board, lodging or travel may be allowed by the Administrator; provided that such costs arise during the period of time wherein the employee is receiving rehabilitation income benefits.

(g) The Administrator, subject to the approval of the employee and the Director of Vocational Rehabilitation Services, may allow a lump sum payment of any scheduled income benefits which an employee may be entitled to, to be utilized for the establishment or improvement of any type of small business including such things as tools, equipment, initial stocks and supplies.

(h) Rehabilitation income benefits during the period of vocational rehabilitation shall be 75% of the employee's earnings at the time of injury, not to exceed the average weekly wage in the Virgin Islands nor be less than \$75 a week, except that if the wages earned were less than \$75 a week, compensation shall be in a sum equal to said wages.

### Credits

-Added June 3, 1970, No. 2733, § 3, Sess. L. 1970, p. 142; amended Oct. 17, 1978, No. 4217, § 1(c), Sess. L. 1978, p. 238; Oct. 13, 1994, No. 6033, § 1(i), Sess. L. 1994, p. 245.

### HISTORY

#### Revision notes.

Substituted 'Administrator' for 'Commissioner' in the second sentence of subsection (b), in two places in subsection (d), in two places in the first sentence of subsection (e) and in subsections (f) and (g) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

#### Amendments -1994.

Subsection (e): Added the proviso in the first sentence. -1978.

Subsection (h): Added.

#### Effective date of amendments

-1978.

For effective date of 1978 amendment, see note set out under section 251 of this title.

-1994.

See note set out under 24 V.I.C. § 250.

24 V.I.C. § 254b, VI ST T. 24 § 254b

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24 V.I.C. § 254c

§ 254c Income benefits

(a) Income benefits for temporary total disability shall be  $66 \frac{2}{3}$  percent of the employee's weekly wage rate at the time of injury, not to exceed  $66 \frac{2}{3}$  percent of the average weekly wage of the Virgin Islands nor be less than \$60.00 a week, except that if the wages earned were less than \$60.00 a week, the benefits shall be awarded in a sum equal to said wages. Income benefits under this subsection shall be paid for the total period of temporary total or partial disability as supported by medical evidence including unemployed periods spent waiting for prostheses in case of bodily losses. Income benefits shall be paid for temporary partial disability equal to  $66 \frac{2}{3}$  percent of the difference between the weekly wage rate at the time of injury and the wages, if any, earned by the injured worker during his partial disability, limited to the minimum and maximum as set forth by this subsection, payable weekly or as the Administrator may order. An employee shall not be entitled to compensation for disability as above for any period during which he received from his employer full wages or wages not less than the compensation rate provided above; provided, however, that an insured employer shall be entitled to reimbursement for wages paid the employee which said employee would otherwise have been entitled to receive as benefits hereunder.

(b) Scheduled income benefits for permanent partial disability, provided that such disability is a consequence of the injury, shall be  $66 \frac{2}{3}$  percent of the average weekly wage rate in the Virgin Islands, payable weekly or as the Administrator may order. Scheduled income benefits shall be in addition to income benefits, and rehabilitation income benefits under this section and section 245b respectively, and shall be paid pursuant to the following schedule:

Bodily Losses	Weeks of Payment
(1)Foot.....	200
(2)Leg.....	250
(3)Hand.....	200
(4)Arm.....	250
(5)Eye.....	250
(6)A testicle.....	180
(7)Both testicles.....	250
(8)Penis.....	270
(9)Penis and both testicles.....	270
(10)Total loss of hearing in one ear.....	180
(11)Total loss of hearing in both ears.....	250
(12)Thumb.....	150
(13)Index finger.....	100
(14)Middle finger.....	100
(15)Ring finger.....	100
(16)Little finger.....	100
(17)Great toe.....	100
(18)Toe other than great toe.....	100
(19)One breast.....	180
(20)Both breasts.....	270

(21) Phalanges: For the loss of distal phalanx, one half of the benefits for the loss of the entire digit. For loss of more than one phalanx of a digit, the same as for loss of entire digit.

(22) Amputated arm or leg: For an arm or leg amputated at or above the elbow or knee, shall be the same as for the loss of the arm or leg, but if amputated below the elbow or knee, shall be the same as for the loss of a hand or foot.

(23) Two or more digits: For loss of two or more digits, or one or more phalanges of two or more digits on a hand or foot, scheduled income benefits may be proportioned to the loss of use of the hand or foot occasioned thereby, but shall not exceed the scheduled income benefits for the loss of a hand or foot.

(24) Total loss of use: Scheduled income benefits for permanent total loss of use shall be the same as for the loss of a

member.

(25) Partial loss or partial loss of use: Scheduled income benefits for permanent partial loss of use of a member, or vision or hearing shall be for a period proportionate to the benefits payable for the total loss of the member, or vision or hearing.

(26) In any case where there is a loss or loss of use of more than one member or parts of more than one member, scheduled income benefits shall run consecutively, except that where the injury sustained affects only two or more digits of the same hand or foot, benefits may be paid as set forth in paragraph (21) of this subsection.

(27) Other losses: Proper and equitable scheduled income benefits shall be paid for serious permanent disfigurement of face, head, neck or other area normally exposed and for loss of function of a major member or organ when such disfigurement or loss is a kind likely to handicap the employee in securing or holding employment, not to exceed 100 weeks, in addition to other scheduled income benefits payable under this section. However, where scheduled benefits are paid or payable for a particular member or organ, no additional benefits shall be paid under this paragraph.

(28) In any case of total loss or partial loss or loss of use of a member or organ, or hearing or vision, or in any case of disfigurement, determination of the period for which scheduled income benefits are payable shall not be made until the maximum of hearing and of restoration of function has been attained.

(29) Occupational deafness: No claim for scheduled income benefits for occupational deafness shall be filed until the lapse of six full calendar months after the termination of exposure to harmful noise in employment.

(30) The experience rating of no employer shall be affected by the payment of scheduled income benefits for occupational deafness unless the employee claiming benefits shall have worked for such employer in employment exposing the employee to harmful noise for a total period of at least 90 days.

(31) No consideration shall be given to the question of whether or not the ability of an employee seeking compensation under this subsection to understand speech is improved by the use of a hearing aid.

(32) Occupational deafness shall be evaluated as to percentage of loss utilizing accepted medical standards.

(33) Compensation for any other permanent partial disability not scheduled shall be determined on the basis of such scheduled disability as it resembles most, and compensation shall be awarded for a similar number of weeks.

(34) Compensation for back and internal injuries: Proper and equitable scheduled income benefits shall be paid for back, internal and other trunk injuries where there exists some degree of permanent partial disability, where medical evaluation places the permanent functional loss with that of the whole body. The product obtained by multiplying the percentage of functional loss by 200 weeks shall equal the number of weeks of scheduled income benefits, rounded off to the nearest number of weeks, except that such injuries, if not medically evaluated as to percentage of functional loss, shall be awarded equitably as the Administrator may determine, but not in excess of 200 weeks.

(35) Benefits for temporary or permanent, total or partial disability shall be paid in addition to rehabilitation income benefits. Medical rehabilitation shall be the first step in benefits to the injured worker, and during the healing period, disability income

benefits are payable. After the healing period scheduled income benefits may be paid for bodily losses (permanent partial disability), then rehabilitation income benefits may be paid for vocational rehabilitation, except that scheduled income benefits shall be suspended while the employee is receiving rehabilitation income benefits and resumed, without reduction in the number of weeks of eligibility, when rehabilitation income benefits payment are terminated.

(36) When an employee who is receiving scheduled income benefits dies from any cause, whether related to the injury or not, the unpaid portion of those benefits shall be paid to his dependent relatives, if any, in the manner provided in section 254(i) hereof. If no dependent relative is discovered and the death is unrelated to the injury, said benefits shall lapse as of the date of death.

(37) When an employee receiving scheduled income benefits hereunder becomes mentally incompetent, and such incompetence is adjudged as provided in Title 19, chapter 45 of this Code, his benefits shall be paid to his guardian or other legal representative until such time as he recovers.

(38) Unless otherwise authorized by this chapter, lump sum payments may not be made unless the employee is entitled to receive scheduled income benefits for 5 weeks or less.

(c) [Deleted.]

(d) Disability income benefits and scheduled income benefits are in addition to rehabilitation income payments and are to be paid after rehabilitation income payments have ceased. If for any reason it is determined that additional medical or vocational rehabilitation is warranted after disability or scheduled income benefit payments have begun, the Administrator may order a continuance of rehabilitation income benefits during the payment of which disability income and scheduled income benefits payments are to temporarily cease.

(e) When an employee, who has sustained disability compensable as a scheduled income benefit, and who has filed a valid claim in his lifetime, dies from causes other than the injury before expiration of the compensable period specified, the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this subsection, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in the provisions for death benefits.

(f) Unless otherwise authorized by this chapter, lump sum payments may not be authorized under this section unless the employee is entitled to receive 5 or less weeks of scheduled benefits.

### **Credits**

-Added June 3, 1970, No. 2733, § 3, Sess. L. 1970, p. 143; amended Nov. 15, 1971, No. 3120, § 1, Sess. L. 1971, p. 355; Oct. 17, 1978, No. 4217, § 1(d), (e), Sess. L. 1978, p. 238; Oct. 13, 1994, No. 6033, § 1(j), Sess. L. 1994, p. 24

5.

### **HISTORY**

#### **Revision notes.**

Substituted ‘Administrator’ for ‘Commissioner’ in the third sentence of subsection (a), in the first sentence of the introductory paragraph, and paragraph (34) of subsection (b) and in the second sentence of subsection (d) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers’ Compensation Administration and the transfer of functions pertaining to workers’ compensation from Commissioner of Labor to the Administrator of Workers’ Compensation Administration by section 2(a) of that act.

#### **Amendments -1994.**

Subsection (b): Amended paragraphs (1)-(18), added new paragraphs (19) and (20) and redesignated former paragraphs (19)-(36) as paragraphs (21)-(38). **-1978.**

Subsection (a): Former subsections (a) and (b) were deleted and a new subsection (a) added.

Subsection (b): Former subsection (c) was deleted and similar provisions are covered in a new subsection (b).

Subsection (c): Deleted. **-1971.**

Subsection (c): Amended generally.

#### **Effective date of amendments**

**-1978.**

For effective date of 1978 amendment, see note set out under section 251 of this title.

**-1994.**

See note set out under [24 V.I.C. § 250](#).

#### **ANNOTATIONS**

##### **1. Evidence.**

Doctor’s statement that he estimated injured workman had permanent disability consequential to fractures of lower right leg and lumbosacral spine at about 35 percent of the general physiological functions of his body was inadequate basis for workmen’s compensation finding, by District Director, of a permanent partial disability, and failure of Director to consider relevant economic aspects of workman’s situation was reversible error as the finding could not be said to be supported by substantial evidence. [BERMUDEZ v. GOVERNMENT OF THE VIRGIN ISLANDS, 9 V.I. 385, 1973 U.S. Dist. LEXIS 5185 \(D.V.I. 1973\)](#).

24 V.I.C. § 254c, VI ST T. 24 § 254c

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

24 V.I.C. § 254d

§ 254d Permanent total disability

Compensation, known as continuous income benefits, shall be paid for permanent total disability, provided such disability is a consequence of the injury and ensues within 4 years thereof. Continuous income benefits shall be equal to  $66 \frac{2}{3}$  percent of the employee's weekly wage rate at the time of injury, the rate of compensation not to exceed 90 percent of the average weekly wage rate, and shall be paid during the continuance of such disability lapsing upon the death of the recipient. Permanent total disability shall be considered to be total and permanent loss of vision in both eyes, the loss of both feet at or above the ankle, the loss of both hands at or above the wrists, the loss of one hand and one foot or one arm and one leg, or both arms or both legs. Permanent total disability shall also include such other injuries as result in the total and permanent disability of the person to perform any kind of labor in remunerative occupations as determined by the Administrator.

**Credits**

-Added June 30, 1970, No. 2733, § 3, Sess. L. 1970, p. 148; amended Nov. 15, 1971, No. 3120, § 1, Sess. L. 1971, p. 356; Oct. 17, 1978, No. 4217, § 1(f), Sess. L. 1978, p. 242.

**HISTORY**

**Revision notes.**

Substituted 'Administrator' for 'Commissioner' in the third sentence of subsection (a), in the fourth sentence for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

**Amendments -1978.**

Amended section generally. -1971.

Deleted former subsection (a) and redesignated former subsections (b) and (c) as present subsections (a) and (b); respectively.

**ANNOTATIONS**

**1. Generally.**

Where an employee injured in the course of his employment claims that he is entitled to benefits under this section, that claim

must be ruled out as a possibility before permanent partial disability becomes an issue. 18 V.I. 269, 1981 U.S. Dist. LEXIS 9370.

## 2. Factors considered in making award.

This section defining permanent total disability in part as ‘such other injuries as result in the total and permanent disability of the person to perform any kind of labor in remunerative occupations’ encompasses a concept of permanent total disability which includes economic as well as medical factors, and the economic factors must be considered in making an award. 18 V.I. 269, 1981 U.S. Dist. LEXIS 9370.

When deciding a claim for benefits under this section, the District Director must determine what kind of work the claimant is still able to perform and the availability of such work to the claimant in the area in which he lives. 18 V.I. 269, 1981 U.S. Dist. LEXIS 9370.

Provision of workmen’s compensation law defining permanent total disability in part as ‘such other injuries as result in the total and permanent disability of the person to perform any kind of labor in remunerative occupations’ encompasses a concept of permanent total disability which includes economic as well as medical factors, and the economic factors must be considered in making an award. *BERMUDEZ v. GOVERNMENT OF THE VIRGIN ISLANDS*, 9 V.I. 385, 1973 U.S. Dist. LEXIS 5185 (D.V.I. 1973).

## 3. Burden of proof.

When an employee injured in the course of his employment proves that he is disabled from his regular employment, the burden is on the employer to demonstrate that there are jobs available in the local economy which the claimant, considering his age, past experiences and disability, is capable of performing. 18 V.I. 269, 1981 U.S. Dist. LEXIS 9370.

24 V.I.C. § 254d, VI ST T. 24 § 254d

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 254e

§ 254e Rights of minors

In the case of minors employed in hazardous occupations in violation of the laws in force on the date of employment who suffer injuries or contract industrial disease under the terms of this chapter, the compensation accruing to them in case of disability, or to their dependents in the case of death, shall be 30% higher than the amount due a workman legally employed; provided, that the additional amount provided herein shall be paid by the employer.

#### Credits

-Added June 23, 1970, No. 2733, § 3, Sess. L. 1970, p. 149; amended Oct. 17, 1978, No. 4217, § 1(g), Sess. L. 1978, p. 242.

#### HISTORY

##### Amendments -1978.

Amended section generally.

24 V.I.C. § 254e, VI ST T. 24 § 254e

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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24 V.I.C. § 254f

§ 254f Pre-existing disabilities

(a) If an employee who has a permanent physical impairment from any cause or origin incurs a subsequent disability by injury arising out of and in the course of his employment resulting in compensation liability for disability that is substantially greater by reason of the combined effects of the pre-existing impairment and subsequent injury or by reason of the aggravation of the pre-existing impairment than that which would have resulted from the subsequent injury alone, the employer's experience rating will only be affected by all compensation payments subsequent to those payable for the first 104 weeks of disability.

(b) If the subsequent injury of such an employee shall result in the death of the employee and it shall be determined that the death would not have occurred except for such pre-existing permanent physical impairment, the employer's experience rating will not be affected by any compensation payable.

(c) In order to qualify under this section the employer must establish within 1 year of the award of the Administrator by written records that the employer had knowledge of the permanent physical impairment at the time that the employee was hired, or at the time the employee was retained in employment after the employer acquired such knowledge.

(d) As used in this section, 'permanent physical impairment' means any permanent condition, whether congenital or due to injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee should become unemployed. No condition shall be considered a 'permanent physical impairment' unless it is one of the following conditions:

(1) Epilepsy

(2) Diabetes

(3) Cardiac disease

(4) Arthritis

(5) Amputated foot, leg, arm or hand

(6) Loss of sight of one or both eyes or a partial loss of corrected vision of more than 75 percent bilaterally

- (7) Residual disability from poliomyelitis
- (8) Cerebral palsy
- (9) Multiple sclerosis
- (10) Parkinson's disease
- (11) Cerebral vascular accident
- (12) Tuberculosis
- (13) Silicosis
- (14) Psychoneurotic disability following treatment in a recognized medical or mental institution
- (15) Hemophilia
- (16) Chronic osteomyelitis
- (17) Ankylosis of joints
- (18) Hyperinsulism
- (19) Muscular dystrophies
- (20) Arteriosclerosis
- (21) Thrombophlebitis
- (22) Varicose veins
- (23) Heavy metal poisoning
- (24) Ionizing radiation injury

(25) Compressed air sequelae

(26) Ruptured intervertebral disk

or unless it would support a rating of disability of 200 weeks or more if evaluated according to standards applied in compensation claims.

(e) No employer shall refuse to employ, continue in his employ or reemploy any person who is otherwise qualified for employment because of any permanent physical impairment which could be a factor or major contributing factor in a subsequent injury which could adversely affect the employer's experience rating; provided that notwithstanding any other provision in this chapter to the contrary, upon application by either employer or disabled employee the Administrator may require that the employee waive all rights under this chapter for all benefits for that portion of an injury which is directly attributable to the pre-existing disability.

#### Credits

-Added June 3, 1970, No. 2733, § 3, Sess. L. 1970, p. 149.

#### HISTORY

##### Revision notes.

Substituted 'Administrator' for 'Commissioner' in subsections (c) and (e) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

#### ANNOTATIONS

##### 1. Loss of vision.

If a person is blind in one eye and as the result of a work-related injury loses total vision in his good eye, he is entitled to compensation for the loss of total vision. 7 V.I. Op. Att'y Gen. 381.

24 V.I.C. § 254f, VI ST T. 24 § 254f

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24 V.I.C. § 254g

§ 254g Benefit adjustment

When the maximum weekly income benefit is changed as provided in section 254d, any person who has been totally continuously disabled for over two years shall, without application, have his benefit adjusted with the provisions of this section.

(a) In any case where a totally disabled person is presently receiving the maximum weekly income benefit applicable at the time such award was made, the adjusted award shall equal the new maximum weekly benefit.

(b) In any case where a totally disabled person is presently receiving less than the maximum weekly income benefit rate applicable at the time such award was made, a new weekly income benefit shall be computed by multiplying the new maximum by a fraction the numerator of which is his present award and the denominator of which is the maximum weekly rate applicable at the time such award was made.

**Credits**

-Added June 3, 1970, No. 2733, § 3, Sess. L. 1970, p. 151.

24 V.I.C. § 254g, VI ST T. 24 § 254g

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 254h

§ 254h Alien dependents, payments through consular officers

In case a deceased employee whose injury or death is compensable leaves surviving dependents residing outside of the United States, the duly accredited consular officer of the country in which such dependents are residing may, with the officer's consent, be the representative of such dependents, and his office is authorized to receive and forward payments made to such dependents, such payments to be payable to the dependents on checks drawn on banks in the Virgin Islands.

**Credits**

-Added June 3, 1970, No. 2733, § 3, Sess. L. 1970, p. 151; amended Oct. 17, 1978, No. 4217, § 1(h), Sess. L. 1978, p. 242.

**HISTORY**

**Amendments -1978.**

Amended section generally.

24 V.I.C. § 254h, VI ST T. 24 § 254h

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 254i

§ 254i Death benefits, lump sum payments, aggregate benefits

(a) If death ensues at the time of injury, or within four years as a consequence thereof, and the employee leaves no relative who depended upon him for support, the benefits by reason of such death shall be limited to the payment of funeral expenses not exceeding up to \$4,000 and other expenses for medical services, medicines and hospitalization. If the employees is survived by a spouse or parents or any heirs, including illegitimate children who were dependent upon him for support, partially or totally at the time of his death, they shall receive compensation payable in the manner hereinafter indicated in an amount not less than \$25,000 nor more than \$50,000, except that in the case of a marshal, Deputy marshal, enforcement officer of the Department of Planning and Natural Resources, the directors of the Fire Service, fire marshal, fire inspector, fireman, appointed volunteer firemen, investigator of the Department of Justice as designated by the Attorney General, enforcement officer of the Department of Licensing and Consumer Affairs, special agent of the Criminal Investigation Division of the Bureau of Internal Revenue, enforcement officer of the Treasury of the Department of Finance, enforcement officer of the Virgin Islands Port Authority, internal affairs agent of the Bureau of Corrections and the Police Department, or a member of the Police Force or Police Auxiliary compensation shall be not less than \$25,000 nor more than \$50,000, taking into account the earnings of such employee and his expectancy, in accordance with regulations that the Administrator shall prescribe.

The compensation shall be payable as follows:

- (1) If the decedent is survived by a parent or parents only, all of the compensation shall be payable to such surviving parent or parents respectively; or
- (2) If the decedent is survived by parents and a spouse, compensation shall be payable 1/3 to the parents and 2/3 to the spouse; or
- (3) If the decedent is survived by parents, a spouse and children, compensation shall be awarded 20% to the parents, 20% to the spouse and 60% to the children; or
- (4) If the decedent is survived by a spouse and children, compensation shall be awarded 40% to the spouse and 60% to the children. As used in this section, the term 'spouse' shall be construed to include any female, in the case of a male decedent, and any male, in the case of a female decedent, who has lived with the decedent, for three consecutive years immediately preceding his or her death.

The payments shall cease-

(1) To any beneficiary upon death; or

(2) To a minor upon reaching the age of 18 years unless

(A) The minor is permanently physically or mentally disabled, or

(B) The beneficiary is between the ages of eighteen (18) and twenty-two (22) years and is regularly attending an accredited school or a school approved by a court in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational technical training either as a regular school program or under special arrangements adapted to the individual person's needs, or is, in good faith, a full-time student in a college, university, or area school, or has been accepted for admission to a college, university or area school and the next regular term has not yet begun, or

(C) For other good cause shown to the Administrator, in all of which cases payment shall not be made after the beneficiary reaches age 22.

(b) Upon application of the beneficiary, compensation may be paid in a lump sum or installments, in the discretion of the Administrator. Only for good cause shown may lump sum payments be awarded.

(c) The total aggregate compensation for injury and death under this chapter shall not exceed \$36,000 in the case of employees other than a marshal, deputy marshal, enforcement officer employed by the Department of Justice as designated by the Attorney General, enforcement officer of the Department of Licensing and Consumer Affairs, special agent of the Criminal Investigation Division of the Bureau of Internal Revenue and enforcement officer of the Treasury Division of the Department of Finance, enforcement officer of the Virgin Islands Port Authority, internal affairs agent of the Bureau of Corrections and the Police Department, or a member of the Police Force or Police Auxiliary, whose injury or death shall be compensated in a total aggregate amount not to exceed \$75,000.

(d)

(1) Dependents of a deceased employee, living in another country, who are entitled to benefits under this chapter are limited to the surviving spouse and/or children, or if there is no spouse or child, to parents who were partially or wholly supported by the deceased employee for at least one year prior to the compensable death;

(2) the proof necessary to establish to the Worker's Compensation Administration, that one is the dependent spouse, child or parent may be based upon one or more of the following: transcripts of birth, certificates of marriage, certified and authenticated documents or affidavits, sworn personal statements to a U.S. diplomatic or consular officer;

(3) if a dependent-claimant cannot appear before a U.S. diplomatic or consular officer, the Workers' Compensation Administration may designate a person who is not related to a party or otherwise interested in the claim.

The designated person shall be paid for services and expenses by the party making the application. The parties may agree upon the amount to be paid or the Workers' Compensation Administration shall set the amount.



## Credits

-Amended June 3, 1970, No. 2733, §§ 3, 4, Sess. L. 1970, p. 152; Oct. 17, 1978, No. 4217, § 1(i), Sess. L. 1978, p. 243; Oct. 13, 1994, No. 6033, § 1(l), (m), Sess. L. 1994, p. 247.

## HISTORY

### Revision notes.

Substituted ‘Administrator’ for ‘Commissioner’ in two places in subparagraph (a) and in subsection (b) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers’ Compensation Administration and the transfer of functions pertaining to workers’ compensation from Commissioner of Labor to the Administrator of Workers’ Compensation Administration by section 2(a) of that act.

### Codification.

This section was formerly set out as subsection (e) of section 254.

### Amendments -1994.

Subsection (a): Amended generally.

Subsection (c): Amended generally.

Subsection (d): Added. -1978.

Amended section generally. -1970.

Fourth paragraph, second subparagraph amended by adding reference to unmarried minors attending full time an accredited school or college.

### Effective date of amendments

-1978.

For effective date of 1978 amendment, see note set out under section 251 of this title.

-1994.

See note set out under [24 V.I.C. § 250](#).

## ANNOTATIONS

### 1. Residence of beneficiary.

Neither this section nor any other provision of law imposes a residence restriction as to beneficiary of death compensation, and payment of death compensation to decedent’s mother who resided in British Virgin Islands would be proper. 4 V.I. Op. Att’y Gen. 166.

**§ 254i Death benefits, lump sum payments, aggregate benefits, 24 V.I.C. § 254i**

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24 V.I.C. § 254i, VI ST T. 24 § 254i

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 254j

§ 254j Death benefits for policemen and firemen

Any fireman or policeman employed by the Government of the Virgin Islands whose death results from a personal injury arising out of and in the course of his employment, irrespective of fault as a cause of the injury or death, shall be entitled to compensation for death in a sum not less than \$12,500 or more than \$25,000, taking into account the earnings of such employee and his life expectancy. The Administrator shall determine the sum payable.

**Credits**

-Added Nov. 15, 1971, No. 3120, § 3, Sess. L. 1971, p. 356; amended Oct. 13, 1994, No. 6033, § 2(b), Sess. L. 1994, p. 254.

**HISTORY**

**Amendments -1994.**

Substituted 'Administrator' for 'Commissioner of Labor' in the second sentence.

24 V.I.C. § 254j, VI ST T. 24 § 254j

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 255

§ 255 Assignment or waiver of compensation; exemption from execution, etc.; priority as lien

No assignment of compensation, or release, sale or conveyance of compensation due or payable under this chapter shall be valid, and such compensation shall be exempt from levy, execution and attachment, which exemption shall not be waived. Compensation shall constitute a first priority lien against the assets of an employer. No agreement by any employee to waive his right to compensation under this chapter shall be valid.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. March 9, 1954 (Bill no. 289), § 6.

**ANNOTATIONS**

**1. Assignment to pay child support.**

This section, section 305 of this title, and section 13 of Title 34, providing that workmen's compensation, unemployment compensation and social welfare payment may not be assigned, were inapposite to proceeding in which father sought to reverse assignment of his pension benefits to pay child support ordered by divorce decree. *Government of the Virgin Islands v. Hodge*, 14 V.I. 438, 1977 U.S. Dist. LEXIS 6028 (D.V.I. 1977).

24 V.I.C. § 255, VI ST T. 24 § 255

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 256

§ 256 Administration of chapter; proceedings on claims; judicial review and enforcement of orders

(a) The provisions of this chapter shall be administered uniformly throughout the Virgin Islands by an administrator under the general supervision of the board of the Worker's Compensation Administration. The administrator assigned to administer this chapter shall devote his full time to such duties, and in the name of the board, shall have the power to compile a register of employers affected by this chapter for that purpose; to inspect and examine places of employment, receive claims in writing, to notarize claims and other pertinent documents filed with the Board of the WCA, to prescribe rules and regulations, make studies of safety devices and to issue safety orders to employers, and to bring suit on behalf of the board or in the name and on the behalf of any beneficiary.

(b) An Administrative Law Judge appointed by the board of the Worker's Compensation Administration shall be authorized to demand all pertinent information and relevant documents filed with the board, issue subpoenas, compel attendance of witnesses, take testimony, rule on questions of evidence, regulate the course of proceedings and make determinations of fact.

(c) Proceedings before the Administrative Law Judge shall be according to such rules as he shall prescribe. Parties shall have the right to be represented by counsel. The board of the Worker's Compensation Administration shall approve the fee for attorneys appearing for employees.

(d) Orders of the Administrative Law Judge shall be served by personal delivery or by registered mail. Any person aggrieved by a final order of the Administrative Law Judge may obtain a review of the order by filing a written petition with the board or any court of competent jurisdiction in the Virgin Islands within thirty (30) days after its issuance. The findings of the Administrative Law Judge as to facts, if supported by substantial evidence, shall be conclusive. Upon application of the administrator or any beneficiary, any court of competent jurisdiction shall enforce obedience to the orders of the Administrative Law Judge.

**Credits**

-Amended May 16, 1957, No. 160, § 72, Sess. L. 1957, p. 45; Mar. 5, 1965, No. 1323, § 13.1, Sess. L. 1965, Pt. I, p. 42; Mar. 17, 1965, No. 1343, § 6, Sess. L. 1965, Pt. I, p. 81; Apr. 23, 1968, No. 2177, § 4, Sess. L. 1968, Pt. I, p. 459; Oct. 13, 1994, No. 6033, § 1(n), Sess. L. 1994, p. 247.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. March 9, 1954 (Bill no. 289), §§ 7, 8.

**Amendments -1994.**

Amended section generally. -1968.

Subsection (c): Amended to provide for appeal from Commissioner's final order to any court of competent jurisdiction. -1965.

Subsection (a): Act No. 1323, § 6 substituted 'Commissioner of Labor' for 'Commissioner of Agriculture and Labor'.

Act No. 1323, § 13.1 vested administrative authority in a full-time Deputy Commissioner under the general supervision of the Commissioner of Agriculture and Labor.

Act No. 1343 substituted 'Commissioner of Labor' for references in such subsection to 'Commissioner of Agriculture and Labor'. -1957.

Subsection (c): Provided for an intermediate review by the Government Employees Service Commission before appeal to the district court.

**Effective date of amendments**

**-1965, Act No. 1343.**

For effective date of amendment, see note set out under section 2 of this title.

**-1965, Act No. 1323.**

For effective date of amendment, see note set out under 251 of this title.

**-1994.**

See note set out under [24 V.I.C. § 250](#).

**-1968 amendment.**

Section 9 of Act April 23, 1968, No. 2177, Sess. L. 1968, Pt. I, p. 464, provided:

'The provisions of subsections 3(a), (c) and (d) and section 4 [amending last sentence of subsection (a) and second paragraph and last sentence of subsection (e) of section 254, and amending subsection (c) of section 256] of this Act shall have retroactive application to all unsatisfied claims before the Commissioner on the effective date of this Act. This Act shall become effective upon approval by the Governor.'

**ANNOTATIONS**

**1. Prior law.**

The Workmen's Compensation Act of the Municipality of St. Thomas and St. John, approved May 5, 1941, did not authorize an appeal from an order rejecting a claim for compensation. [Hammer v. Workmen's Co. Com.](#), 156 F.2d 402, 2 V.I. 478, 1946 U.S. App. LEXIS 2588 (3d Cir. V.I. 1946).

## 2. Burden of proof.

The burden of proving his case beyond speculation and conjecture is on the claimant, and this burden should not be ‘beyond a reasonable doubt’ but by the ‘preponderance of the evidence’ standard of civil cases. [Virgin Islands Telephone Co. v. Upton](#), 19 V.I. 263 (D.V.I. 1982).

Where at a hearing on a worker’s compensation claim, once the claimants set forth a prima facie case, the Deputy Commissioner of Labor then put the burden of proof on the employer to show that the alleged injuries could not have occurred or were not work related, since the alleged injuries were wholly subjective, the burden of proof should have remained on the claimants to show, by a preponderance for the evidence, that they have suffered compensable injuries; therefore, the case would be remanded for a new hearing. [Virgin Islands Telephone Co. v. Upton](#), 19 V.I. 263 (D.V.I. 1982).

## 3. Review.

Factual determinations by the Commissioner of Labor are conclusive, if supported by substantial evidence. [Virgin Islands Telephone Co. v. Upton](#), 19 V.I. 263 (D.V.I. 1982).

In reviewing a worker’s compensation case, the court has authority to review all question of law. [Virgin Islands Telephone Co. v. Upton](#), 19 V.I. 263 (D.V.I. 1982).

In reviewing final workmen’s compensation award, District Court is limited to review of Commissioner’s finding to ascertain if they are bases upon substantial evidence. [BERMUDEZ v. GOVERNMENT OF THE VIRGIN ISLANDS](#), 9 V.I. 385, 1973 U.S. Dist. LEXIS 5185 (D.V.I. 1973).

De novo hearing was not available to injured workman seeking judicial review of final order of Commissioner of Labor, entered by District Director, for award of compensation. [BERMUDEZ v. GOVERNMENT OF THE VIRGIN ISLANDS](#), 9 V.I. 385, 1973 U.S. Dist. LEXIS 5185 (D.V.I. 1973).

Finding of Workmen’s Compensation Commission that workman’s death by carbon monoxide poisoning in his garage was not in the course of his employment was based on necessary inferences drawn from the evidence and the District Court upon review would not be empowered to disturb them. [Hammer v. Workmen’s Co. Com.](#), 156 F.2d 402, 2 V.I. 478, 1946 U.S. App. LEXIS 2588 (3d Cir. V.I. 1946).

## 4. Disposition of case.

A workmen’s compensation case may remain on the docket for hearing until such time as the reasons for its pendency have been terminated either by the acquisition of the information awaited or by lapse of a reasonable time. 1 V.I. Op. Att’y Gen. 208.

## 5. Negotiation.

Taken as a whole, the worker’s compensation statute clearly envisions the Commissioner and Deputy Commissioner of Labor as the administrators of the worker’s compensation laws, and as the parties most knowledgeable about those laws, they should be the ones to negotiate claims brought in the worker’s compensation area. [Jennings v. Richards](#), 31 V.I. 188, 1995 V.I. LEXIS 1 (V.I. Terr. Ct. 1995).

## Cited.

Cited in [Arts-Bermudez v. Commissioner of Labor](#), 31 V.I. 51, 1995 V.I. LEXIS 7 (Terr. Ct. St. C. 1995); [Etienne v. Commissioner of Labor](#), 18 V.I. 616, 1981 U.S. Dist. LEXIS 9352 (D.C.V.I. 1981).

**§ 256 Administration of chapter; proceedings on claims; judicial..., 24 V.I.C. § 256**

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Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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24 V.I.C. § 257

§ 257 Notice, by employee, of injury; report by employer

(a) By personal delivery or by mail, written notice of an accidental injury shall be given by the person injured or someone in his behalf to the employer or any of his agents within 48 hours after the injury. In the case of an occupational disease notice shall be given by the person injured or someone in his behalf to the employer or any of his agents within 30 days from the first distinct manifestation thereof. Such notice shall contain the name of the person, the nature of the injury or occupational disease, and when and where it occurred. Unless written notice of injury or occupational disease is given as above, or unless the employee's immediate superior has actual knowledge of the injury or occupational disease, compensation may be denied. For reasonable cause shown, the Administrator may accept written notice of injury given later than 48 hours, but not later than 30 days, after the injury and in the case of an occupational disease, the Administrator may accept written notice given later than 30 days, but not later than 90 days after the first distinct manifestation thereof; which time limit for filing of reports shall also be applicable to injuries of a tuberculous origin arising out of employment.

(b) Within eight days after the receipt of the written notice of injury referred to in subsection (a) hereof, the employer shall complete an employer's report of injury and forward same together with the employee's notice of injury to the Administrator by personal delivery or by mail. The failure of the employer to file such reports within such period shall not prejudice the claim of the employee.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 9.

**Revision notes.**

Substituted 'Administrator' for 'Commissioner' in the fifth sentence of subsection (a) and in the first sentence of subsection (b) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

**Amendments -1965.**

Designated existing provisions of the section as subsection (a) and added subsection (b).

**Effective date of amendments**

-1965.

For effective date of amendment, see note set out under section 251 of this title.

## ANNOTATIONS

### 1. Purpose of notice requirement.

The purpose of subsection (a) of this section, which requires a claimant for benefits to notify his employer of the injury giving rise to his claim within 48 hours after the injury, is to enable the employer to protect himself by prompt investigation and treatment of the injury. *ETIENNE v. COMMISSIONER OF LABOR*, 18 V.I. 616, 1981 U.S. Dist. LEXIS 9352 (D.V.I. 1981).

### 2. Actual or constructive notice.

Defendant was not entitled to summary judgment under plaintiff's workers' compensation claim as plaintiff had tendered sufficient evidence, including doctor's notes and a telephone message, from which it could be concluded that defendant had actual notice of the fact that he had a work-related injury. *Hodge v. Daily News Publ. Co., Inc.*, 52 V.I. 186, 2009 V.I. LEXIS 26 (V.I. Super. Ct. 2009).

Employee's claim that an employer wrongfully prevented the employee from collecting workers' compensation benefits was dismissed where Virgin Islands law did not provide a cause of action against an employer for failing to report an accident or file an employer's first report; 24 V.I.C. § 257(b) stated that failure of an employer to file a report of injury did not prejudice the claim of the employee. *Herman v. HOVENSA, LLC*, 49 V.I. 24, 2007 V.I. LEXIS 20 (V.I. Super. Ct. 2007).

If a claimant for benefits can demonstrate that his immediate supervisor had actual or constructive notice of the injury giving rise to his claim, then the notice requirements of subsection (a) of this section can have no effect on the issue of compensation; conversely, if the employer can demonstrate that he was not put on notice of the injury through any means, compensation may be denied. *ETIENNE v. COMMISSIONER OF LABOR*, 18 V.I. 616, 1981 U.S. Dist. LEXIS 9352 (D.V.I. 1981).

24 V.I.C. § 257, VI ST T. 24 § 257

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 258

§ 258 Filing of claim

(a) The first claim for compensation for an injury shall be filed in writing within sixty days after the injury on forms to be furnished by the Administrator. Such claims shall be filed at the office of the Administrator or deposited in the mail properly stamped and addressed to the Administrator or to any person whom the Administrator may designate. Each claim shall be sworn to by the injured person or whoever acts in his behalf, and shall be accompanied by a doctor's certificate stating the nature and probable extent of the disability, or by a death certificate.

(b) Supplementary claims, if any, for protracted disability or for any additional compensation claimed, shall be filed in the manner directed by the Administrator.

(c) For good and reasonable cause shown, the Administrator may extend the time limit set by this section.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. March 9, 1954 (Bill no. 289), § 10.

**Revision notes.**

Substituted 'Administrator' for 'Commissioner' in the first and second sentences of subsection (a) and in subsections (b) and (c) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

**Amendments -1961.**

Subsection (c): Substituted 'good and reasonable' for 'reasonable', and deleted 'but under no circumstances may such time limit be extended beyond six months'.

**ANNOTATIONS**

**1. Timely filing.**

In construing the 60-day time limit for filing claim, the fairer and more equitable rule is that, where injury at time of accident was slight, the limitation begins to run from the time when it becomes reasonably apparent that a compensable injury was sustained. 4 V.I. Op. Att’y Gen. 171.

A workmen’s compensation claim filed subsequent to the time limit set by rule and regulation of the commission may not be refused where it was filed within the six-month period fixed by the Workmen’s Compensation Act and good cause for late filing was shown. 3 V.I. Op. Att’y Gen. 61.

Where an employee had been injured and filed his claim in time with the Compensation Commission and was further awarded compensation, the date on which the Municipal Hospital submitted a bill for services to such person was immaterial, and such bill would be honored under provisions of section 10, Act of Feb. 21, 1949. 2 V.I. Op. Att’y Gen. 26.

## **2. Late filing.**

When the Municipal Hospital treated an injured employee who failed to make timely claim under the Workmen’s Compensation Act of Feb. 21, 1949, the Compensation Commission acquired no jurisdiction over the matter and could not pay bills of the Hospital for treatment of such person. 2 V.I. Op. Att’y Gen. 26.

## **3. Extension.**

Subsection (c) of this section, which provides that the Commissioner of Labor may extend the statutory time period for filing a claim for benefits, was not intended to bar the filing of late or even stale claims. [ETIENNE v. COMMISSIONER OF LABOR](#), 18 V.I. 616, 1981 U.S. Dist. LEXIS 9352 (D.V.I. 1981).

Where the Commissioner of Labor refused to grant petitioner an extension of the time period set forth in subsection (a) of this section for filing a claim for benefits without giving an opinion on the merits of the claim, the cause would be remanded for a determination under subsection (c) of this section of whether good and reasonable cause existed to extend the time in which petitioner might file his claim. [ETIENNE v. COMMISSIONER OF LABOR](#), 18 V.I. 616, 1981 U.S. Dist. LEXIS 9352 (D.V.I. 1981).

Where injury occurred in December 1958 and appeared to be slight, and it was not until February 1960 that cancer was discovered which led to amputation of the leg, there was ‘good and sufficient cause’ shown for Commissioner to extend the 60-day limit to allow filing claim for compensation. 4 V.I. Op. Att’y Gen. 171.

## **4. Generally.**

Employee’s claim that an employer wrongfully prevented the employee from collecting workers’ compensation benefits was dismissed where Virgin Islands law did not provide a cause of action against an employer for failing to report an accident or file an employer’s first report; employee was not diligent in pursuing the employee’s rights because the employee could have filed a claim. [Herman v. HOVENSA, LLC](#), 49 V.I. 24, 2007 V.I. LEXIS 20 (V.I. Super. Ct. 2007).

## **Cited.**

Cited in [Chinnery v. Government of V.I.](#), 865 F.2d 68, 1989 U.S. App. LEXIS 185 (3d Cir. 1989); [Arts-Bermudez v. Commissioner of Labor](#), 31 V.I. 51, 1995 V.I. LEXIS 7 (Terr. Ct. St. C. 1995).

24 V.I.C. § 258, VI ST T. 24 § 258

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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24 V.I.C. § 259

§ 259 Examination and treatment; autopsy

(a) After an injury, the employee shall, as frequently and at such times and places as may be reasonably required, submit himself to examination by such doctor as the Administrator may designate. The employee may have his own doctor present at all such examinations at employee's expense. If any employee refuses to submit to an examination, his right to claim compensation under this chapter shall be suspended until such refusal ceases.

If an injured worker delays submission to treatment and/or examination without just cause, the Administrator shall disallow compensation for the period involved.

(b) Upon application of the employer or duly authorized agent, or someone in behalf of the deceased employee, and for reasonable cause shown, the Administrator may order an autopsy of the body of a deceased employee by a duly registered physician in order to determine the cause of death. In the event the beneficiary of the deceased or anyone for him refuses an autopsy so ordered no compensation shall be paid for the death of such employee.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 11.

**Revision notes.**

Substituted 'Administrator' for 'Commissioner' in the fifth sentence of subsection (a) and in the first sentence of subsection (b) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

24 V.I.C. § 259, VI ST T. 24 § 259

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023



Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 260

§ 260 Determination of heirs; survival of rights

In cases where it may be necessary to determine the heirs of a deceased employee, the proceeding in the district court shall be free of all court costs. Any right given by this chapter to any employee shall survive to his personal representative for the benefit of his heirs.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. March 9, 1954 (Bill no. 289), § 12.

24 V.I.C. § 260, VI ST T. 24 § 260

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24 V.I.C. § 261

§ 261 Uninsured employers

(a)

(1) Claims for expenses for medical attendance, hospitalization, medicines, compensation and other expenses in the case of an employee working for an employer who, in violation of law, is not insured, hereinafter referred to as 'uninsured employer', shall be processed and paid for from the Fund in the same manner as claims against insured employers with the exception that any payments made shall be chargeable to the Uninsured-Employer Subfund, hereinafter created.

(2) In the case of an injury to an employee, who was injured while working for an uninsured employer, the Administrator shall determine the proper compensation plus the expenses in the case, and shall collect from the employer, to be covered into the Uninsured-Employer Cases Fund hereinafter created, such compensation and expenses, provided that the Administrator shall include a penalty equivalent to 30 percent of the compensation and expenses but in no case shall such penalty be less than \$10.

(3) The Administrator shall grant the employer and the employee in such case an opportunity to be heard in their defense, following, as far as practical, the practice observed in the courts of the Virgin Islands. If the parties have been summoned by such means as the Administrator may adopt and they or either of them should fail to appear to be heard in their defense, it shall be understood that such party or parties waive their rights, and the Administrator may decide the case in default, without further delay.

(b)

(1) The injured employee of an uninsured employer, or the employee's beneficiaries, instead of receiving compensation under this chapter may elect, at any time prior to the rendering of a decision by the Administrator, to bring suit for damages against the employer, just as if this chapter were not applicable.

(2) Such employee or beneficiaries shall be entitled in such action to attach the property of the employer without furnishing bond, in order to insure satisfaction of such judgment as may be rendered, provided the court considers there is good cause for such action, after examining the claim which shall be sworn to. Such attachment shall include attorney's fees to be fixed by the court, and shall be effective until the case has been decided and the amount of the judgment paid.

(3) In such proceedings, the fact that the workman or employee was guilty of contributory negligence or that he assumed the risk of injury, or the fact that the workman's or employee's injury or death was caused by the negligence of a fellow employee, shall not constitute a defense for the employer and no contract purporting to allow the use of any of these defenses

shall be valid.

(c)

(1) All expenses in the case of uninsured employers shall be paid by the Government Insurance Fund chargeable to the Uninsured-Employer Subfund. The Uninsured-Employer Subfund shall be made up from the amount of the collections made as a result of the liquidation of cases of uninsured employers.

(2) There shall be maintained in the Uninsured-Employer Subfund, through transfer from the Reserve Fund when necessary, and subject to reimbursement, sufficient funds for the prompt payment of claims involving uninsured employers.

(d)

(1) In cases declared uninsured in which the accident is due to negligence of a third person, the uninsured employer who has paid to the Government Insurance Fund the total amount of the liquidation of the case or who has secured payment by depositing a bond to the satisfaction of the Commissioner, may subrogate himself to the rights of the employee to recover the expenses incurred by him as a result of the accident.

(2) The workman or employee or his beneficiaries shall be parties to such proceeding brought in the cause of action against a third person and any sum collected in excess of the sum paid to the Government Insurance Fund by the uninsured employer to cover the liquidation of the case shall be paid to the injured person or to his beneficiaries in case of death and no extra-judicial transaction shall be valid without their consent.

## HISTORY

### Source.

Based on Ord. Mun. C. St. T. and St. J. app. March 9, 1954 (Bill no. 289), § 13.

### Revision notes.

Substituted 'Administrator' for 'Commissioner' in two places in subsection (a)(2) and (3) and in subsection (b)(1) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

Section, on advice of the Code Advisory Committee, was entirely rewritten so as to follow the second paragraph of 11 Laws of Puerto Rico Annotated § 16.

The above-cited section of the ordinance of St. Thomas and St. John, which on the advice of the Code Advisory Committee is replaced by this section, merely provided that the enumerated common laws defenses were abolished.

### Amendments -1968.

Section amended generally.

## ANNOTATIONS

### 1. Common law action.

The Workmen's Compensation Act for St. Thomas did not abolish common law actions for damages. 1 V.I. Op. Att'y Gen. 288.

### 2. Prior law.

Employer's failure to pay premiums required by St. Croix Workmen's Compensation Act resulted in loss of insurance coverage and employee injured after due date for premiums could not collect compensation. 3 V.I. Op. Att'y Gen. 235.

The only recourse of employee injured during employer's delinquency in payment of workmen's compensation insurance premiums required by St. Croix municipal ordinance was action against the employer. 3 V.I. Op. Att'y Gen. 235.

Where employee was injured while employer was in default of workmen's compensation insurance premiums required by St. Croix municipal ordinance, thus losing insured status, it was the Government's duty to diligently and without delay refer a claim for legal action against the employer. 3 V.I. Op. Att'y Gen. 235.

If injury or death resulted to an employee during the period when an employer defaulted in his payment of premium, recovery could be had directly against the employer by civil action brought by the Compensation Commission on behalf of the employee or his representatives. 1 V.I. Op. Att'y Gen. 319.

### 3. Election.

Because the employer did not make its final payment on the estimated workers' compensation premium for 1996 until 1997, there was no coverage in effect at the time of the employee's 1996 injury, and the injury was not subject to the exclusivity provision of the Workers' Compensation Act, so that the employee could elect to either accept workers' compensation benefits or to pursue a tort claim against the employer. [Estate of Modeste v. C&C Construction & Maintenance, Inc.](#), 72 V.I. 38, 2019 V.I. LEXIS 156 (V.I. Super. Ct. 2019). SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

Because the employee had elected to receive workers' compensation benefits, and would realize double redress if allowed to pursue his tort claim, his estate's claim for negligence and his wife's derivative claim for loss of consortium were barred. [Estate of Modeste v. C&C Construction & Maintenance, Inc.](#), 72 V.I. 38, 2019 V.I. LEXIS 156 (V.I. Super. Ct. 2019). SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

Fact that employee had sought workmen's compensation benefits did not constitute an election which would preclude a direct action against employer, where employee at time of the election did not know his employer was uninsured. [Harris v. No. 1 Contracting Corp.](#), 24 V.I. 116, 1988 U.S. Dist. LEXIS 19395 (D.V.I. 1988).

### 4. Determination of insured status.

Although the Workers' Compensation Administration retains the role of determining whether an employer is insured for the purposes of seeking indemnification, that does not deprive the court of jurisdiction to determine whether an employer is insured for the purpose of determining whether a plaintiff has stated a claim for relief. [Bertrand v. Cordiner Enters., Inc.](#), 55 V.I. 267, 2011 V.I. LEXIS 64 (V.I. Super. Ct. 2011), *aff'd in part*, 57 V.I. 596, 2012 V.I. Supreme LEXIS 81 (VI 2012).

24 V.I.C. § 261 makes clear that employees of uninsured employers can receive compensation from the Workers' Compensation Administration; therefore, because employees of uninsured employers may still receive prompt compensation from the Administration, proof that a plaintiff received such compensation is not probative of whether a defendant was an insured employer. [Bertrand v. Cordiner Enters., Inc.](#), 55 V.I. 267, 2011 V.I. LEXIS 64 (V.I. Super. Ct. 2011), *aff'd in part*, 57

V.I. 596, 2012 V.I. Supreme LEXIS 81 (VI 2012).

If it was true, as an administratrix asserted, that an employer failed to adequately report the number and type of its employees and therefore failed to pay the required premium sum, the employer was an uninsured employer. Therefore, the administratrix did not fail to state a claim against the employer. *Bertrand v. Cordiner Enters., Inc.*, 55 V.I. 267, 2011 V.I. LEXIS 64 (V.I. Super. Ct. 2011), aff'd in part, 57 V.I. 596, 2012 V.I. Supreme LEXIS 81 (VI 2012).

24 V.I.C. § 272 specifically requires the employer to file the reports required by the statute and pay the premium required by the statute. If the employer does not do both, it is uninsured. *Bertrand v. Cordiner Enters., Inc.*, 55 V.I. 267, 2011 V.I. LEXIS 64 (V.I. Super. Ct. 2011), aff'd in part, 57 V.I. 596, 2012 V.I. Supreme LEXIS 81 (VI 2012).

### 5. Application.

Because a decedent's employer was an 'uninsured employer' under V.I. Code Ann. tit. 24, § 261, not a 'third person' under V.I. Code Ann. tit. 24, § 263, the Government was not entitled under § 263 to recover the sum paid out by the Government Insurance Fund from the settlement between the decedent's estate and the employer. *Bertrand v. Mystic Granite & Marble, Inc.*, 63 V.I. 772, 2015 V.I. Supreme LEXIS 36 (VI 2015). SUPREME COURT OF THE VIRGIN ISLANDS

### Cited.

Cited in *Vanterpool v. Hess Oil Virgin Islands Corp.*, 21 V.I. 40, 589 F. Supp. 334, 1984 U.S. Dist. LEXIS 16098 (1984); *Harris v. No. 1 Contr. Corp. Excavation Constr. Co.*, 22 V.I. 3, 1986 V.I. LEXIS 4 (1986); *Moore v. A.H. Riise Gift Shops*, 23 V.I. 227, 659 F. Supp. 1417, 1987 U.S. Dist. LEXIS 6513 (1987).

24 V.I.C. § 261, VI ST T. 24 § 261

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 262

§ 262 Violation of safety orders; penalties

(a) Where injury or death results from failure to obey a safety order of the Administrator fifteen percent penalty shall be added to any award by the Administrator, which penalty shall be payable directly by the employer.

(b) Whoever, after citation by the Administrator, violates any safety order or safety regulation of the Administrator shall be fined not more than \$500 or imprisoned not more than six months, or both.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), §§ 8, 14.

**Revision notes.**

Substituted 'Administrator' for 'Commissioner' in subsections (a) and (b) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

The remainder of section of the 1954 Ordinance cited above is covered by section 256 of this title.

**Amendments -1969.**

Subsection (b): Added 'after citation by the Commissioner' and 'or safety regulations'.

24 V.I.C. § 262, VI ST T. 24 § 262

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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24 V.I.C. § 263

§ 263 Liability of third persons; subrogation

In cases where the injury, the occupational disease or the death entitling the workman or employee or his beneficiaries to compensation in accordance with this chapter has been cause under circumstances making third persons responsible for such injury, disease or death, the injured workman or employee or his beneficiaries may claim and recover damages from the third person responsible for said injury, disease, or death within two years following the date of the injury. The Administrator may subrogate himself to the rights of the workman or employee or his beneficiaries to institute the same action in the following manner:

When an injured workman or employee, or his beneficiaries in case of death, may be entitled to institute an action for damages against a third person in cases where the Government Insurance Fund, in accordance with the terms of this chapter, is obliged to compensate in any manner or to furnish treatment, the Administrator shall subrogate himself to the rights of the workman or employee or of his beneficiaries, and may institute proceedings against such third person in the name of the injured workman or employee or of his beneficiaries, within two years following the date of the injury, and any sum which as a result of the action, or by virtue of a judicial compromise, may be obtained in excess of the expenses incurred in the case shall be delivered to the injured workman or employee or to his beneficiaries entitled thereto. The workman or employee or his beneficiaries shall be parties in every proceeding instituted by the Administrator under the provisions of this section, and it shall be the duty of the Administrator to serve written notice on them of such proceedings within five days after the action is instituted.

The injured workman or employee or his beneficiaries may not institute any action, nor may compromise any right of action they may have against the third person responsible for the damages, unless the Administrator is a party to the action or agrees to the compromise, but the failure to join the Administrator shall not deprive the courts of jurisdiction over the claim or otherwise result in dismissal of the claim, so long as the injured worker or employee acknowledges that all sums due the Government Insurance Fund are secured by any recovery.

No compromise between the injured workman or employee, or his beneficiaries in case of death, and the third person responsible shall be valid or effective in law unless the expenses incurred by the Government Insurance Fund in the case are first paid. No judgment shall be entered in actions of this nature and no compromise whatsoever as to the rights of parties to said actions shall be approved, without making express reserve of the rights of the Government Insurance Fund to reimbursement of all expenses incurred. The clerk of the court taking cognizance of any claim of the above-described nature, shall notify the Administrator of any order entered by the case, as well as the final deposition thereof.

The Administrator may compromise as to his rights against a third party responsible for the damages. No such extrajudicial compromise, however, shall affect the rights of the workman or employee, or of his beneficiaries, without their express consent and approval.

Any sum obtained by the Administrator through the means provided in this section shall be covered into the Government Insurance Fund.

### Credits

-Amended Jan. 16, 1975, No. 3662, § 1, Sess. L. 1974, p. 296; June 19, 2002, No. 6529, § 13, Sess. L. 2002, p. 341.

### HISTORY

#### Source.

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 15.

#### Revision notes.

Substituted ‘Administrator‘ for ‘Commissioner‘ in the second sentence of the first paragraph, in three places in the second paragraph and in the fourth through sixth paragraphs for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers’ Compensation Administration and the transfer of functions pertaining to workers’ compensation from Commissioner of Labor to the Administrator of Workers’ Compensation Administration by section 2(a) of that act.

Section is entirely rewritten, on advice of the Code Advisory Committee, to provide in greater detail for the liability of third parties and to provide for the subrogation of the Commissioner to the rights of the workman or employee where the government has incurred expenses. The section as so rewritten is patterned after 11 Laws of Puerto Rico Annotated § 32.

#### Amendments -2002.

Act 6529, § 13, added the language at the end of the third undesignated paragraph following ‘compromise.’ -1975.

Amended generally.

#### Retroactive effect of 1975 amendment.

Act Jan. 16, 1975, No. 3662, § 2, Sess. L. 1974, p. 297, provided:

‘The amendments to this section shall have retroactive application to all causes of action occurring before the date of enactment.’

### ANNOTATIONS

#### 1. Derivation.

The provisions of this section are patterned after [section 32 of Title 11, Laws of Puerto Rico Annotated](#) and are with certain language changes, identical. [Ayala v. Conrad, 6 V.I. 615, 1968 V.I. LEXIS 4 \(V.I. Mun. Ct. 1968\)](#).

#### 2. Purpose.

Purpose of this section is to provide for subrogation by Commissioner in cases where the injured employee seeks both compensation under the workmen's compensation law and damages from a third party tort-feasor. *Ayala v. Conrad*, 6 V.I. 615, 1968 V.I. LEXIS 4 (V.I. Mun. Ct. 1968).

### 3. Common law action.

By granting an injured employee the right to seek both compensation and damages from a third party this section does not deprive such employee of the right to seek such damages alone at common law. *Ayala v. Conrad*, 6 V.I. 615, 1968 V.I. LEXIS 4 (V.I. Mun. Ct. 1968).

It is clear that employees who in the course of their employment are injured by the negligence of a third person have a common-law remedy against such third person. *Ayala v. Conrad*, 6 V.I. 615, 1968 V.I. LEXIS 4 (V.I. Mun. Ct. 1968).

### 4. Construction.

Since language of this section was virtually identical with that of Puerto Rico statute from which it was derived, this section was to be construed to mean what the highest court of Puerto Rico had, prior to enactment of this section, construed the Puerto Rico statute to mean. *Berkeley v. West Indies Enterprises, Inc.*, 480 F.2d 1088, 10 V.I. 619, 1973 U.S. App. LEXIS 9504 (3d Cir. V.I. 1973).

### 5. Third party liability.

Co-employee of an injured worker was not an 'employer' under 24 V.I.C. § 284(a) and therefore was a 'third person' whom the injured worker could sue for negligence under 24 V.I.C. § 263. *Defoe v. Phillip*, 56 V.I. 109, 2012 V.I. Supreme LEXIS 4 (VI 2012).

Plain language of the Virgin Islands Workers' Compensation Act does not support extending an employer's immunity from suit to a co-employee; the legislature intended courts to deem co-employees as 'third persons' rather than 'employers.' *Defoe v. Phillip*, 56 V.I. 109, 2012 V.I. Supreme LEXIS 4 (VI 2012).

Under 24 V.I.C. § 284, an individual was entitled to dismissal for acts he performed on behalf of a decedent's employer, as there was no independent personal duty to operate a forklift carefully on the employer's property, and manipulating marble slabs was not an ultrahazardous activity. The worker could be held liable for his own allegedly tortious acts under 24 V.I.C. § 263, however, regardless of the fact that he was acting on behalf of his own business or of the seller of the slab. *Bertrand v. Cordiner Enters., Inc.*, 53 V.I. 280, 2010 V.I. LEXIS 38 (V.I. Super. Ct. 2010), different results reached on reconsid., 55 V.I. 267, 2011 V.I. LEXIS 64 (V.I. Super. Ct. 2011).

Because a worker injured by a vehicle driven by a co-worker inside the refinery in which they both worked had not identified a breach by the co-worker of a duty owed to him under Virgin Islands law, 24 V.I.C. § 284 barred his claims against the co-worker; furthermore, a co-worker could be held liable under 24 V.I.C. § 263 only to the extent he owed a personal legal duty of care separate from that of the common employer. *Defoe v. Phillip*, 51 V.I. 34, 2009 V.I. LEXIS 2 (V.I. Super. Ct. 2009), rev'd, 56 V.I. 109, 2012 V.I. Supreme LEXIS 4 (VI 2012).

24 V.I.C. § 263 does not, by its express terms, define the liability of a third person to an employee, but rather defines the rights of the Administrator of the Workers Compensation Fund as against the employee and the third person. *Defoe v. Phillip*, 51 V.I. 34, 2009 V.I. LEXIS 2 (V.I. Super. Ct. 2009), rev'd, 56 V.I. 109, 2012 V.I. Supreme LEXIS 4 (VI 2012); *Defoe v. Phillip*, 2009 V.I. LEXIS 15 (V.I. Super. Ct. Jan. 12, 2009).

The court adopted the 'Wisconsin Approach,' under which a supervisor who performs the nondelegable duty of the employer to provide a safe workplace does not thereby assume a personal duty toward his fellow employees. Employees acting for the employer are considered the 'employer' for purposes of tort immunity. *Nicco v. Atl. Tele-Network Co.*, 45 V.I. 149, 2003 V.I. LEXIS 1 (V.I. Terr. Ct. 2003).

Supervisor could not be held liable to an employee for negligence, as the supervisor was not a 'third person' excluded from



immunity under 24 V.I.C. § 263 of the Virgin Islands Workmen's Compensation Act. The supervisor's alleged failure to change an unsafe tire on a company truck fell within the employer's non-delegable duty to maintain a safe working environment. *Tavarez v. Klingensmith*, 267 F. Supp. 2d 448, 2003 U.S. Dist. LEXIS 10385 (D.V.I. 2003), *aff'd*, 372 F.3d 188, 2004 U.S. App. LEXIS 11729 (3d Cir. V.I. 2004).

Because the Virgin Islands Workmen's Compensation Act, 24 V.I. Code Ann. § 250 *et seq.*, does not alter individuals' legal duties established by common law, a co-employee may face tort liability as a 'third person' under limited instances, where he is shown to have breached an independent duty of care; however, where the challenged conduct falls within those duties which the law reserves solely to an employer, responsibility for its breach cannot be imputed to the co-employee. *Tavarez v. Klingensmith*, 267 F. Supp. 2d 448, 2003 U.S. Dist. LEXIS 10385 (D.V.I. 2003), *aff'd*, 372 F.3d 188, 2004 U.S. App. LEXIS 11729 (3d Cir. V.I. 2004).

Under 24 V.I.C. § 263, an injured worker's supervisors were not individually liable to him even if negligent, because they were acting on behalf of the employer when they decided how many workers were required to do a dangerous job. *Nickeo v. Atl. Tele-Network Co.*, 45 V.I. 149, 2003 V.I. LEXIS 1 (V.I. Terr. Ct. 2003).

Immunity from suit granted by the Workmen's Compensation Act does not extend to fellow employees. *Anthony v. Lettsome*, 22 V.I. 328, 1986 U.S. Dist. LEXIS 23484 (D.C.V.I. 1986).

Third party actions against those responsible for an injury are permitted against non-employers under this section. *Vanterpool v. Hess Oil Virgin Islands Corp.*, 589 F. Supp. 334, 21 V.I. 40, 1984 U.S. Dist. LEXIS 16098 (D.V.I. 1984), *aff'd in part and rev'd in part*, 766 F.2d 117, 1985 U.S. App. LEXIS 20148 (3d Cir. V.I. 1985).

Where third party's act of negligence was the sole inducing and proximate cause of injuries sustained by employee and for which workmen's compensation had been paid, third party was liable. *Commissioner of Agriculture & Labor ex rel. Halliday v. Robert Merwin & Co.*, 252 F. Supp. 637, 5 V.I. 356, 1966 U.S. Dist. LEXIS 8095 (D.V.I. 1966).

## 6. Recovery by government against third party.

Under this section, the government has a right to be subrogated to the rights of a government employee against 'third persons responsible' for the injury entitling the employee to compensation. *JONES v. JAMES*, 17 V.I. 361, 1980 U.S. Dist. LEXIS 8922 (D.V.I. 1980).

Under this section, whenever the government is compelled to pay compensation to an employee for injuries aggravated by an accident unrelated to work, the government is simultaneously subrogated to the employee's right against 'third persons responsible'. *JONES v. JAMES*, 17 V.I. 361, 1980 U.S. Dist. LEXIS 8922 (D.V.I. 1980).

Where verdict of jury which determined liability of alleged tortfeasor involved in an accident in which government employee sustained injuries, for which workmen's compensation benefits were paid, included any potential liability for aggravation of employee's injuries in subsequent accidents, since the employee had already recovered all of the damages to which she was entitled by virtue of their being caused by aggravation of earlier injuries, the employee could not recover the same damage again from the alleged tortfeasor in subsequent accident and, therefore, the government, which had a lien under this section against the recovery in the first action for workmen's compensation benefits paid, had no basis upon which to assert its lien in the subsequent action. *JONES v. JAMES*, 17 V.I. 361, 1980 U.S. Dist. LEXIS 8922 (D.V.I. 1980).

Where government employee, after securing verdict which included potential liability for aggravation of injuries in subsequent accidents against alleged tortfeasor in accident in which employee sustained injuries-for which workmen's compensation benefits were paid-was involved in a subsequent accident, the employee could recover from the alleged second tortfeasor only that percentage of the injuries caused by the second alleged tortfeasor and, thus, no portion of the aggravation of employee's injuries attributable to the first accident were included in a proposed settlement between employee and alleged tortfeasor in second accident; consequently, the government had no basis to proceed for subrogation under this section because the compensation payments it had made to the employee after the first accident were for different injuries than those covered by the proposed settlement. *JONES v. JAMES*, 17 V.I. 361, 1980 U.S. Dist. LEXIS 8922 (D.V.I. 1980).

Where government employee was allowed, and received, compensation for number of weeks disabled, plus medical

expenses, and suit was brought by Government at relation of employee against third party. Government was entitled to recover amount it had paid to employee from the judgment rendered against third party. [Commissioner of Agriculture & Labor ex rel. Halliday v. Robert Merwin & Co.](#), 252 F. Supp. 637, 5 V.I. 356, 1966 U.S. Dist. LEXIS 8095 (D.V.I. 1966).

Where person received an out-of-court settlement plus medical costs in his action against tort-feasor involved in his accident, and because of accident said person was paid a sum of money from the Government Insurance Fund, and where Commissioner of Agriculture and Labor did not institute an action against anyone within the term of 90 days from date of final decision of Workmen's Compensation case, the Government had no right of reimbursement. 4 V.I. Op. Att'y Gen. 149.

#### **7. Limitation of actions.**

Session law extending this section's statute of limitations for suit by employee against third party, and providing that the amendment extending time for suit was retroactive to all causes of action accruing before the date of the session law, allowed finding that the limitation period as amended applied to suit at hand where cause of action accrued on June 1, 1973 and amending statute was dated January 16, 1975. [Galvan v. Hess Oil Virgin Islands Corp.](#), 549 F.2d 281, 13 V.I. 636, 1977 U.S. App. LEXIS 10141 (3d Cir. V.I. 1977).

Section 36 of Title 5, providing that if any person entitled to bring an action was, at the time the cause of action accrued, under the age of 21, then the time of disability shall not be a part of the time limit for commencement of the action, applies to suits which this section states injured employees must bring against a third party within two years of the date of the injury. [Galvan v. Hess Oil Virgin Islands Corp.](#), 549 F.2d 281, 13 V.I. 636, 1977 U.S. App. LEXIS 10141 (3d Cir. V.I. 1977).

Workman's personal injury action against third party for damages caused by injury for which workman was compensable under workmen's compensation law was governed by this section's statute of limitations providing that suit be instituted within a year of the final decision of the case by the commissioner, not by general two-year statute of limitations for injury to the person. [Berkeley v. West Indies Enterprises, Inc.](#), 480 F.2d 1088, 10 V.I. 619, 1973 U.S. App. LEXIS 9504 (3d Cir. V.I. 1973).

#### **8. Compromise and negotiation.**

Under the strict wording of 24 V.I.C. § 263 an injured government employee can neither institute an action nor compromise the right of action without the assent and participation of the Commissioner of Labor, and the statute as a whole contemplates that all parties to a suit to recover damages for an injured employee may compromise their claims in aid of settlement, as long as each party expressly consents to the compromise. [Jennings v. Richards](#), 31 V.I. 188, 1995 V.I. LEXIS 1 (V.I. Terr. Ct. 1995).

Taken as a whole, the worker's compensation statute clearly envisions the Commissioner and Deputy Commissioner of Labor as the administrators of the worker's compensation laws, and as the parties most knowledgeable about those laws, they should be ones to negotiate claims brought in the worker's compensation area. [Jennings v. Richards](#), 31 V.I. 188, 1995 V.I. LEXIS 1 (V.I. Terr. Ct. 1995).

#### **9. Uninsured employer.**

Because an employer was not an insured company, it had no immunity to share with its employee, who thus was a 'third person' for purposes of the Workers' Compensation Act. Therefore, the Administrator of the Workers' Compensation Administration had to be made a party to the present action. [Bertrand v. Cordiner Enters., Inc.](#), 55 V.I. 267, 2011 V.I. LEXIS 64 (V.I. Super. Ct. 2011), *aff'd in part*, 57 V.I. 596, 2012 V.I. Supreme LEXIS 81 (VI 2012).

#### **10. Application.**

Because a decedent's employer was an 'uninsured employer' under V.I. Code Ann. tit. 24, § 261, not a 'third person' under V.I. Code Ann. tit. 24, § 263, the Government was not entitled under § 263 to recover the sum paid out by the Government Insurance Fund from the settlement between the decedent's estate and the employer. [Bertrand v. Mystic Granite & Marble](#),

Inc., 63 V.I. 772, 2015 V.I. Supreme LEXIS 36 (VI 2015). SUPREME COURT OF THE VIRGIN ISLANDS

**Cited.**

Cited in *Rhymer v. Rhymer*, 21 V.I. 176, 1984 V.I. LEXIS 2 (Terr. Ct. St. T. and St. J. 1984); *Prevost v. Hess Oil Virgin Islands Corp.*, 22 V.I. 340, 640 F. Supp. 1220, 1986 U.S. Dist. LEXIS 21812 (1986); *Hood v. Hess Oil V.I. Corp.*, 22 V.I. 456, 650 F. Supp. 678, 1986 U.S. Dist. LEXIS 16098 (D.C.V.I. 1986); *Gomez v. Government of Virgin Islands*, 882 F.2d 733, 1989 U.S. App. LEXIS 11655 (3d Cir. V.I. 1989); *Gomez v. Government of Virgin Islands*, 882 F.2d 733, 1989 U.S. App. LEXIS 11655 (3d Cir. V.I. 1989).

24 V.I.C. § 263, VI ST T. 24 § 263

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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24 V.I.C. § 263a

§ 263a Abrogation of the borrowed employee doctrine

It shall not be a defense to any action brought by or on behalf of an employee, that the employee at the time of his injury or death, was the borrowed, loaned, or rented employee of another employer. Any oral or written agreement between an employer and employee which makes the employee the borrowed, loaned or rented employee of another employer shall be null and void as being against the public policy of this Territory.

**Credits**

-Added Oct. 19, 1984, No. 5014, § 213, Sess. L. 1984, p. 364.

**ANNOTATIONS**

**1. Construction with other laws.**

Legislature manifested its intent to apply the common meaning of 'employer' through its 1984 and 1986 amendments to the Virgin Islands Workers' Compensation Act, which, respectively, added 24 V.I.C. §§ 263a and 284(b). *Defoe v. Phillip*, 56 V.I. 109, 2012 V.I. Supreme LEXIS 4 (VI 2012).

While this section abrogated the borrowed servant doctrine for purposes of the Virgin Islands workmen's compensation statute, it has no effect upon the federal Longshore and Harbor Workers' Compensation Act (LHWCA) (33 U.S.C.A. § 901 et seq.). *Peter v. Hess Oil Virgin Islands Corp.*, 903 F.2d 935, 1990 U.S. App. LEXIS 7939 (3d Cir. V.I. 1990), cert. denied, 498 U.S. 1067, 111 S. Ct. 783, 112 L. Ed. 2d 846, 1991 U.S. LEXIS 521 (U.S. 1991).

**Cited.**

Cited in *Prevost v. Hess Oil Virgin Islands Corp.*, 22 V.I. 340, 640 F. Supp. 1220, 1986 U.S. Dist. LEXIS 21812 (1986).

24 V.I.C. § 263a, VI ST T. 24 § 263a

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023



Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 264

§ 264 Repealed. Apr. 23, 1968, No. 2177, § 6, Sess. L. 1968, Pt. 1, p. 461.

**HISTORY**

Former Section 264, which was derived from Ord. Mun. C. St. T. and St. J. app. March 9, 1954 (Bill no. 289), § 16, related to requirement of employer to insure with Government Insurance Fund and penalty for failure to insure, and is now covered by section 272 of this title.

24 V.I.C. § 264, VI ST T. 24 § 264

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 265

§ 265 Government Insurance Fund

There is hereby created a fund to be known as 'The Government Insurance Fund' for the purpose of insuring employers against liabilities under this chapter and of assuring to the persons entitled thereto the compensation provided by this chapter. This Fund shall consist of all premiums received and paid into the Fund, of properties and securities acquired by the Fund, ten percent (10%) of all monies collected for traffic violations pursuant to 20 V.I.C., chapter 43, and of interest earned upon monies belonging to the Fund. Such Fund shall be administered by the Commissioner of Finance. The Fund shall be applicable to the payment of losses sustained on account of injuries and to the payment of expenses in the manner provided in this chapter.

The Government Insurance Fund shall be in force and effect from July 1, 1941.

**Credits**

-Amended Jan. 27, 2010, No. 7143, § 3, Sess. L. 2009, p. 308.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), §§ 17, 32.

**Revision notes.**

'The Municipal Insurance Fund' was changed to 'The Government Insurance Fund' in this section and throughout this chapter.

A provision authorizing the appointment of additional personnel by the Governor with the advice and consent of the Municipal Council was omitted as no longer necessary.

A provision authorizing use of the fund to provide capital for construction of public building was omitted. It is felt that this is a matter which should be subject to decision and action in particular cases.

**Amendments -2009.**

Act 7143, § 3, inserted 'ten percent (10%) of all monies collected for traffic violations pursuant to 20 V.I.C., chapter 43'

following ‘securities acquired by the Fund‘.

**Transfer of fund from Department of Finance to Workers’ Compensation Administration.**

Act Oct. 13, 1994, No. 6033, § 2(a), Sess. L. 1994, p. 254, as amended by Act May 3, 1995, No. 6071, § 2(c), Sess. L. 1995, p. 188, provided:

‘The Commissioner of Labor shall continue as the Administrator of the Workers’ Compensation Administration until the board appoints a new administrator. The Commissioner of Labor shall provide any necessary assistance for the orderly transition of the entity from being administered with the Department of Labor to its administration as a separate and independent agency. Such assistance shall include, but shall not be limited to, the loaning of personnel, office space, office equipment and technical advice to be used until the administrator appointed by the board can organize his staff and acquire appropriate office space as required provided however, all personnel currently employed by the Government shall maintain their status as government employees with all of their rights and retirement benefits and all fiscal balances, office space, office equipment shall be transferred to the Workers’ Compensation Administration.’

**ANNOTATIONS**

**Cited.**

Cited in [Nieves v. Hess Oil Virgin Islands Corp.](#), 819 F.2d 1237, 1987 U.S. App. LEXIS 15122 (3d Cir. 1987).

24 V.I.C. § 265, VI ST T. 24 § 265

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 266

§ 266 Custody of Fund; payment of compensation; investments

(a)

(1) The Commissioner of Finance shall be the custodian of the Government Insurance Fund. All compensation shall be paid by him upon vouchers authorized and signed by the Administrator. The Commissioner of Finance may deposit any portion of the Government Insurance Fund not needed for immediate use in the same manner as other governmental funds are deposited by him. Interest earned by the Government Insurance Fund shall be collected by the Commissioner of Finance and placed to the credit of the said Fund.

(2) Whenever there is in the Fund cash in the sum of \$1 million the balance shall be considered surplus which an investment board, consisting of the Director of the Office of Management and Budget, the Commissioner of Finance, and the Administrator may invest in like manner and subject to the same restrictions thereto as other public monies of the Virgin Islands may be invested.

(b)

(1) Notwithstanding any other law, there is established within the Government Insurance Fund, a Worker's Compensation Emergency Employee Payment Checking Account (hereinafter, in this Subsection called 'the account').

(2) The account shall consist of not more than \$200,000 transferred each fiscal year from the Government Insurance Fund, other sums appropriated thereto by the Legislature, and all donations, gifts and bequests.

(3) Monies from the fund shall be deposited each fiscal year by the Commissioner of Finance into the account and the Fund Administrator shall write checks against the funds in the account. The checks authorized to be issued under this subsection shall be issued to claimants who have been authorized to be paid under the provisions of this chapter to cover up to three payments until compensation checks can be paid from the Government Insurance Fund.

(4) The Commissioner of Finance and the Fund Administrator shall maintain a record of all monies deposited into and disbursed from the account and shall annually report to the Governor and the Legislature of the Virgin Islands on the status of the account.

**Credits**

-Amended Mar. 5, 1965, No. 1323, § 15, Sess. L. 1965, Pt. I, p. 43; Mar. 17, 1965, No. 1343, § 6, Sess. L. 1965, Pt. I, p. 81; Apr. 23, 1968, No. 2177, § 6, Sess. L. 1968, Pt. I, p. 461; Oct. 13, 1994, No. 6033, § 1(o), Sess. L. 1994, p. 248; May 8, 1995, No. 6071, § 2(b), Sess. L. 1995, p. 188.

## HISTORY

### Source.

Based on Ord. Mun. C. St. T. and St. J. app. March 9, 1954 (Bill no. 289), § 18.

### Revision notes.

‘Municipal Insurance Fund’ was changed to ‘Government Insurance Fund’; ‘municipal funds’ was changed to ‘governmental funds’; and ‘in this Municipality’ was changed to ‘in The Virgin Islands’. ‘Municipal Council’ was changed to ‘Legislature’.

‘Vouchers authorized by the Compensation Commission and signed by the Chairman’ were changed to ‘vouchers authorized and signed by the Commissioner of Agriculture and Labor’; see note under section 256 of this title.

Substituted ‘Director of the Office of Management and Budget’ for ‘Director of the Budget’ in the second paragraph in view of Act June 24, 1987, No. 5265, § 1202(a), Sess. L. 1987, p. 190 pursuant to section 14 of Title 1. See section 4a of Title 3.

### Amendments -1995.

Subsection (b)(2): Substituted ‘\$200,000’ for ‘\$200,00’. -1994.

Designated the existing provisions of the section as subsection (a), substituted ‘Administrator’ for ‘Commissioner of Labor’ in the second sentence of paragraph (1) and ‘\$1 million’ for ‘\$200,000’ and ‘Administrator’ for ‘Commissioner of Labor’ in paragraph (2) of that subsection and added subsection (b). -1968.

In second paragraph substituted ‘\$200,000’ for ‘\$100,000’ and added provisions relating to investment of surplus. -1965.

Act No. 1343, § 6 substituted ‘Commissioner of Labor’ for ‘Commissioner of Agriculture and Labor’ in the first sentence of the first paragraph.

Act No. 1323 § 15 substituted ‘100,000’ for ‘50,000’ in the second paragraph.

### Effective date of amendments

#### -1965, Act No. 1343.

For effective date of amendment, see note set out under section 2 of this title.

#### -1965, Act. No. 1323.

For effective date of amendment, see note set out under section 251 of this title.

#### -1994.

**§ 266 Custody of Fund; payment of compensation; investments, 24 V.I.C. § 266**

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See note set out under [24 V.I.C. § 250](#).

24 V.I.C. § 266, VI ST T. 24 § 266

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 267

§ 267 Administrative expenses

The expenses of administering the Government Insurance Fund and operating expenses of the Workers' Compensation Administration under this chapter, including wages of salaried employees, shall be fixed by the Governor upon the recommendation of the Legislature and paid from the proceeds of the Fund, following the legal requirements for the expenditure of public funds. The expenses of maintenance of any of the construction projects built with monies from the Fund shall also be paid from the proceeds of the Fund.

**Credits**

-Amended Mar. 17, 1965, No. 1343, § 6, Sess. L. 1965, Pt. I, p. 81; Oct. 13, 1994, No. 6033, § 1(q), Sess. L. 1994, p. 249.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 19.

**Revision notes.**

'Municipal Committee' was changed to 'Legislature'.

**Amendments -1994.**

Substituted 'Workers' Compensation Administration' for 'Department of Labor' in the first sentence. **-1965.**

Substituted 'Department of Labor' for 'Department of Agriculture and Labor'.

**Effective date of amendments**

**-1965.**

For effective date of amendment, see note set out under section 2 of this title.

**-1994.**

**§ 267 Administrative expenses, 24 V.I.C. § 267**

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See note set out under [24 V.I.C. § 250](#).

24 V.I.C. § 267, VI ST T. 24 § 267

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 268

§ 268 Schedule of classifications; premium rates

It shall be the duty of the Commissioner of Finance in the exercise of the power hereby conferred upon him to prepare a schedule of classifications according to the hazards of the occupations or industries. He shall also fix the lowest possible premium rates, including minimum premiums consistent with the establishment of a solvent Government Insurance Fund and creation of a reasonable surplus, covering the period beginning July 1, 1941, and each year thereafter.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 20.

**Revision notes.**

'Municipal Insurance Fund' was changed to 'Government Insurance Fund'.

24 V.I.C. § 268, VI ST T. 24 § 268

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 269

§ 269 Annual revision of classifications and premiums

On July 1, 1958, and annually thereafter, the Commissioner of Finance shall revise such classifications and premiums as, in his judgment, should be revised. Such revision shall be in accordance with underwriting experience and other incidental experience and available statistics in regard to the hazards and underwriting risks.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. March 9, 1954 (Bill no. 289), § 21.

**Revision notes.**

The date for the first revision under this section was fixed as July 1, 1958.

24 V.I.C. § 269, VI ST T. 24 § 269

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 270

§ 270 Accounts and statistics

The Commissioner of Finance shall keep an accurate account of the money paid in for premiums by each of the several groups of occupations or industries, and the expenses of administering the Government Insurance Fund, as well as the disbursements and expenses incurred on account of injuries or deaths of workmen and employees in each of said groups of occupations and industries; he shall also keep an account of premiums received from each employer; he shall also keep an account of payments and cost of injuries and deaths of the workmen and employees of each employer, and all other necessary accounts and statistics consistent with the efficient administration of a solvent Government Insurance Fund.

#### HISTORY

##### Source.

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 22.

24 V.I.C. § 270, VI ST T. 24 § 270

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24 V.I.C. § 271

§ 271 Review of classifications and rates; use of Experience Rating Plan in fixing rates

(a) The decision of the Commissioner of Finance fixing and regulating the premium rates for each group of occupations or industries, or any order increasing the premium rate, may be reviewed by the Governor if the aggrieved employer files a complaint with the Governor within thirty days after the decision of the Commissioner of Finance becomes effective. The Governor shall proceed to render a final decision. During the pendency of this appeal the collection of the premiums shall continue in accordance with the decision of the Commissioner of Finance; nor shall the courts issue writs of injunction enjoining the collection of said premiums during the pendency of such appeal. If the decision of the Governor reduces the rate of premium fixed by the Commissioner of Finance, the Commissioner of Finance shall not be ordered to return the excess paid in premiums, but such excess, computed from the date of the filing of the petition, shall be deducted from premiums to be collected in the future from the employers filing the petitions. In case any classification is modified by an order of the Governor as herein provided, the Commissioner of Finance shall compute new rates of premiums for all such employers as have workmen or employees within the challenged classification or classifications.

(b) In fixing the premium rates for employers the Commissioner of Finance shall apply the following Experience Rating Plan provisions:

(1) Only an employer having paid premiums of \$1,000 or more during the period of 3 consecutive years immediately prior to the rating date, and having paid premiums in each of these three years, shall be eligible for experience rating.

(2) The amount of charges to be considered in such experience rating shall consist of the payments actually made by the Government Insurance Fund during such consecutive period of 3 years on account of accident or occupational disease attributable to the particular employer, inclusive of benefits, medical, hospital and funeral costs.

(3) The credit to be allowed any employer shall be applied against the subsequent year's premium payment rather than as a cash refund and shall be determined according to the ratio which the chargeable claim costs paid by the Government Insurance Fund bears to the premiums received from the employer for the 3 year period in question, as follows:

Ratio of chargeable claim cost to premium payments	Credit to employer on premium for the subsequent year
50% or less	20%
51% to 60%	10%
61% to 70%	5%
71% and over	None

(4) If the losses of any employer are such as to produce a ratio of chargeable claims to premium payments in excess of 80%, the employer's premium rate shall be increased for the year next following the rating date, as follows:

Ratio of chargeable claim cost to premium payments	Increase to employer in premium for the subsequent year
71% to 80%	

None 81% to 90% 5% 91% to 100% 15% Over 100% 25%

### Credits

-Amended Mar. 5, 1965, No. 1323, § 20, Sess. L. 1965, Pt. I, p. 44; Mar. 11, 1977, No. 3932, Sess. L. 1977, p. 5.

### HISTORY

#### Source.

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 23.

#### Revision notes.

‘Compensation Commission’ was changed to ‘Governor’. Although other functions of the Commission were transferred to the Commissioner of Agriculture and Labor, it would not be appropriate for one Commissioner to review the decisions of another Commissioner.

#### Amendments -1977.

Subsection (b)(1): Substituted ‘\$1,000’ for ‘\$50’ following ‘premiums of’, ‘during the period of 3’ for ‘in each year comprising the period of 5’ preceding ‘consecutive’ and ‘paid premiums in each of these three years’ for ‘had coverage during such period for at least one year’ preceding ‘shall be eligible’.

Subsection (b)(2): Substituted ‘3’ for ‘5’ preceding ‘years’ and made a minor stylistic change.

Subsection (b)(3): Substituted ‘3 year’ for ‘5-year’ preceding ‘period’ and lowered percentages in credit to employer column from ‘30%’, ‘20%’ and ‘10%’ to ‘20%’, ‘10%’ and ‘5%’.

Subsection (b)(4): In the ratio of chargeable claims column, substituted ‘71%’ for ‘70%’, and in the increase to employer column substituted ‘5%’, ‘15%’ and ‘25%’ for ‘10%’, ‘20%’ and ‘30%’. -1965.

Designated existing provisions of the section as subsection (a) and added subsection (b).

#### Effective date of amendments

-1965.

For effective date of amendment, see note set out under section 251 of this title.

### ANNOTATIONS

#### 1. Prior law.

Employer’s failure to pay premiums required by St. Croix Workmen’s Compensation Act resulted in loss of insurance coverage and employee injured after due date for premiums could not collect compensation. 3 V.I. Op. Att’y Gen. 235.

The only recourse of employee injured during employer's delinquency in payment of workmen's compensation insurance premiums required by St. Croix municipal ordinance was action against the employer. 3 V.I. Op. Att'y Gen. 235.

**2. New owner of business.**

Where an established corporation qualified to receive benefits under the Workmen's Compensation Experience Rating Plan is purchased by an off-island corporation and dissolved and a new corporation is formed and assumes many of the functions of the dissolved corporation, the functions of the dissolved corporation, the new corporation is not entitled to the lower rates of the Workmen's Compensation Experience Rating Plan established by the dissolved corporation and must establish its own work record to qualify for lower rates. 7 V.I. Op. Att'y Gen. 3

**30.**

**3. Application of credits.**

Credits for a good health safety record, which an employer earns and which are applied against his workmen's compensation premiums, are to be applied against estimated premiums for the subsequent year. 8 V.I. Op. Att'y Gen. 58.

**Cited.**

Cited in [Nieves v. Hess Oil Virgin Islands Corp.](#), 819 F.2d 1237, 1987 U.S. App. LEXIS 15122 (3d Cir. 1987).

24 V.I.C. § 271, VI ST T. 24 § 271

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 272

§ 272 Insurance required, period of coverage

(a) Every employer shall secure the payment of compensation under this chapter by insuring with the Government Insurance Fund created by this chapter.

(b) The insurance of each employer shall be in force immediately after his statement has been filed with the Commissioner of Finance together with the amount of the premium corresponding to the wages declared in said statement and in accordance with the rates fixed by the Commissioner of Finance, provided that an accident that occurs before payment of said premium is made shall be considered as a case of an uninsured employer, unless the employer pays within the term fixed by the Commissioner of Finance, in which case, the insurance shall become effective from the date the employer filed the statement.

(c) Any employer who has been covered by the Government Insurance Fund at the end of the preceding year shall be covered during the period January 1st to March 31st, provided that such employer submits the necessary reports to the Government Insurance Fund no later than February 28th, and pays the premium due by March 31st. Every employer who has not filed the required reports and paid the premium due to which this section refers within the term herein fixed shall be considered an uninsured employer.

(d) [Reserved.]

(e) when an employer becomes insolvent, a claim by the Government Insurance Fund for premiums and interest due shall be a preferred claim in the bankruptcy, trustee or receivership process.

**Credits**

-Amended Apr. 23, 1968, § 7, Sess. L. 1968, Pt. I, p. 461; Apr. 23, 1968, § 7, Sess. L. 1968, Pt. I, p. 461; June 24, 1969, No. 2481, § 1, Sess. L. 1969, p. 132; Sept. 24, 1990, No. 5620, § 1, Sess. L. 1990, p. 326; Oct. 13, 1994, No. 6033, § 1(r), Sess. L. 1994, p. 249.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 24.

**Amendments -1994.**

Subsection (e): Added. -1990.

Subsection (b): Added the proviso at the end of the subsection.

Subsection (c): Substituted ‘the‘ for ‘any‘ following ‘pays‘ in the first sentence and added the second sentence. -1969.

Subsection (c): Amended generally. -1968.

Amended section generally. -1958.

Substituted ‘February 28‘ for ‘January 31‘ in second sentence.

**Effective date of amendments**

**-1994.**

See note set out under [24 V.I.C. § 250](#).

**Retroactive effect of 1969 amendment.**

Act June 24, 1969, No. 2481, § 3, Sess. L. 1969, p. 132, provided:

‘The provisions of this Act [which amended this section and section 273 of this title] shall have retroactive application to February 28, 1969.’

**CROSS REFERENCES**

Uninsured employer, see section 261 of this title.

**ANNOTATIONS**

**1. Prior law.**

Virgin Islands Government is not liable for, and it would be illegal to pay, individual’s hospital expenses beyond that provided for by Workmen’s Compensation Statute. 8 V.I. Op. Att’y Gen. 133.

Where employee was injured while employer was in default in payment of workmen’s compensation insurance premiums required by St. Croix municipal ordinance, thus losing insured status, it was the Government’s duty to diligently and without delay refer a claim for legal action against the employer. 3 V.I. Op. Att’y Gen. 235.

An employer who failed to insure with the Compensation Fund was subject to both criminal penalties and to civil actions by the municipality for the amount of premium which he should have paid. 1 V.I. Op. Att’y Gen. 288.

**2. Borrowed employees.**

Because the employer did not make its final payment on the estimated workers’ compensation premium for 1996 until 1997, there was no coverage in effect at the time of the employee’s 1996 injury, and the injury was not subject to the exclusivity provision of the Workers’ Compensation Act, so that the employee could elect to either accept workers’ compensation

benefits or to pursue a tort claim against the employer. *Estate of Modeste v. C&C Construction & Maintenance, Inc.*, 72 V.I. 38, 2019 V.I. LEXIS 156 (V.I. Super. Ct. 2019). SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

When a worker who is employed by one employer is borrowed by another employer to provide temporary services, that employee is barred by section 284 of this title from filing any common law action for damages, if he is injured, against the borrowing employer in the same manner as he is barred from an action against his regular employer, since the definitions of ‘employee’ and ‘employer’ in section 251 of this title are broad enough to include the status of the borrowing employer and the requirement of subsection (a) of this section, that the employer pay workmen’s compensation insurance premiums, can be met by a contractor, by the expedient of requiring as part of the contract that the subcontractor meet the burden of insurance premiums, with the cost passed on to the contractor. *Vanterpool v. Hess Oil Virgin Islands Corp.*, 21 V.I. 40, 589 F. Supp. 334, 1984 U.S. Dist. LEXIS 16098 (1984), aff’d on other grounds, 766 F.2d 117, 1985 U.S. App. LEXIS 20148 (3d Cir. 1985). But see section 263a of this title.

### 3. Exclusivity.

Injured employee’s negligence claim against employer was barred because it was undisputed that the employer had obtained workers’ compensation coverage. *Herman v. HOVENSA, LLC*, 49 V.I. 24, 2007 V.I. LEXIS 20 (V.I. Super. Ct. 2007).

### 4. Requisites for insured status.

24 V.I.C. § 272 specifically requires the employer to file the reports required by the statute and pay the premium required by the statute; if the employer does not do both, it is uninsured. *Bertrand v. Cordiner Enters., Inc.*, 55 V.I. 267, 2011 V.I. LEXIS 64 (V.I. Super. Ct. 2011), aff’d in part, 57 V.I. 596, 2012 V.I. Supreme LEXIS 81 (VI 2012).

If it was true, as an administratrix asserted, that an employer failed to adequately report the number and type of its employees and therefore failed to pay the required premium sum, the employer was an uninsured employer. Therefore, the administratrix did not fail to state a claim against the employer. *Bertrand v. Cordiner Enters., Inc.*, 55 V.I. 267, 2011 V.I. LEXIS 64 (V.I. Super. Ct. 2011), aff’d in part, 57 V.I. 596, 2012 V.I. Supreme LEXIS 81 (VI 2012).

### 5. Uninsured employer.

24 V.I.C. § 272(c) was clear in setting forth the conditions that had to be met for an employer to be considered uninsured: whether done intentionally or unintentionally, defendant failed to adequately report the number and type of its employees and therefore did not pay the required sum; accordingly, the court declined to reconsider its opinion that defendant was uninsured. *Bertrand v. Cordiner Enters., Inc.*, 2012 V.I. LEXIS 26 (V.I. Super. Ct. June 21, 2012).

### 6. Penalties.

Key portion in 24 V.I.C. § 277(a) is the phrase ‘or other remedies provided for in this chapter,’ and one of the other remedies provided for is that in 24 V.I.C. § 272(c). Accordingly, defendant could face penalties under both statutes for its reporting and payment deficiencies. *Bertrand v. Cordiner Enters., Inc.*, 2012 V.I. LEXIS 26 (V.I. Super. Ct. June 21, 2012).

### Cited.

Cited in *Prevost v. Hess Oil Virgin Islands Corp.*, 22 V.I. 340, 640 F. Supp. 1220, 1986 U.S. Dist. LEXIS 21812 (1986); *District 2A, Transportation, Technical, etc. v. Government of Virgin Islands*, 794 F.2d 915, 1986 U.S. App. LEXIS 27052 (3d Cir. 1986).

24 V.I.C. § 272, VI ST T. 24 § 272

**§ 272 Insurance required, period of coverage, 24 V.I.C. § 272**

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 273

§ 273 Reports by employer, payment of premiums

(a) Every employer affected by this chapter shall file with the Commissioner of Finance not later than February 28th of each year on forms supplied by the Commissioner of Finance, an actual report for the previous year and an estimated report for the current year, showing the number of workmen employed by said employer, the kind of occupation or industry of the workmen, the total amount of wages paid and to be paid and the amount of premium payable.

(b) The premium prescribed by this chapter shall be computed and paid on the first \$8,424 of each worker's wages for each year.

(c) The annual premium prescribed by this chapter may be paid in two installments. The first installment, which is payable on or before March 31st, shall consist of one-half or more of the annual premium plus any additional premium due. The remaining portion of the premium shall be paid on or before June 30th.

(d) On receipt of payment, the Commissioner of Finance shall forward to the employer a receipt which shall be prima facie evidence of said payment of the premium and insurance coverage.

(e) The Commissioner of Finance shall collect such premiums, interest, and penalties provided for in this chapter and shall deposit them in the Government Insurance Fund established by this chapter.

(f) Prior to January 1 of each year, notices requesting compliance with this section shall be published at least once a week for four weeks in a newspaper of general circulation in the Virgin Islands and the forms to be filed by the employers shall be mailed to every employer currently insured.

(g) Should an employer fail to pay the total amount of the preliminary or additional premiums legally levied on him within the time fixed by the Commissioner of Finance, the latter may grant an extension of thirty (30) days so that the employer may make payment in full, which shall be an indispensable requirement for the Administrator to make an insurance policy.

**Credits**

-Amended Apr. 23, 1968, No. 2177, § 7, Sess. L. 1968, Pt. I, p. 461; June 24, 1969, No. 2481, § 2, Sess. L. 1969, p. 132; May 23, 1980, No. 4437, Sess. L. 1980, p. 59; Sept. 24, 1990, No. 5620, §§ 2, 3, Sess. L. 1990, p. 327.



## HISTORY

### Source.

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 279), § 25.

### Revision notes.

Substituted 'Administrator' for 'Commissioner' in subsection (g) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

### Amendments -1990.

Subsection (a): Substituted '28th' for '28' following 'February', deleted 'a statement' preceding 'on forms', inserted 'an actual report for the previous year and an estimated report for the current year' preceding 'showing' and substituted 'and to be paid' for 'to the workmen' following 'wages paid'.

Subsection (b): Substituted '\$8,424' for '\$6,700'.

Subsection (g): Added. -1980.

Subsection (b): Substituted '\$6,700' for '\$5,200'. -1969.

Subsection (c): Substituted 'March 31st' for 'February 28' and added 'plus any additional premium due'. -1968.

Amended section generally.

### Retroactive effect of 1969 amendment.

For retroactive effect of 1969 amendment of this section see note set out under section 272 of this title.

## ANNOTATIONS

### 1. Basis for fixing premium.

Employer is entitled to have premium which is fixed and assessed by Commissioner on basis of semi-annual statement of estimated future payroll, which employer submits but which type of statement is not mentioned in this chapter, treated as premium the payment of which will, within meaning of proviso in section 277 of this title, operate to continue his insured status, for an employer is entitled to rely upon assessment and levy by Commissioner of premiums which are due from him as representing premiums which he owes and must pay in order to maintain his insured status. [Carribbean Eng'g Corp. v. Acting Comm'r of Agri. & Labor, 162 F. Supp. 193, 3 V.I. 339, 1958 U.S. Dist. LEXIS 4092 \(D.V.I. 1958\).](#)

### 2. Corporate officers.

Officers of corporations seeking coverage as employees are obligated to pay premiums for specified services in addition to their duties as officers and computed on wages paid. 3 V.I. Op. Att'y Gen. 66.

### 3. Receipt for payment.

Where the cashier's receipt incorrectly states the period of an employer's coverage, the receipt, being only prima facie evidence, cannot be used by the employer as against other evidence conclusively showing the correct period of coverage. 1 V.I. Op. Att'y Gen. 319.

The cashier's receipt constitutes prima facie evidence of payment of premium and insurance coverage, and the certificate of payment is a confirmation of the cashier's receipt. 1 V.I. Op. Att'y Gen. 319.

#### **4. Failure to pay.**

Where, prior to 1969, Commissioner of Finance had assessed Workmen's Compensation premiums after receipt from employers of statement of wages paid the previous year and estimated wages to be paid in current year, but procedure was changed in 1969, and defendant employer of employee killed on February 6, 1970, while on the job did not make payments due in March and June of 1969 until February 27, 1970, employer could not successfully claim that its failure to pay was excusable since it expected a bill and that government was thus estopped from finding employer uninsured and ordering reimbursement of award paid employee's heirs and imposing thirty percent penalty. *Heirs of Denena v. Communication, Splicing & Engineering Co.*, 474 F.2d 1249, 9 V.I. 567, 1973 U.S. App. LEXIS 11370 (3d Cir. V.I. 1973).

#### **5. Certificate of coverage.**

Defendant failed to show on summary judgment that related entities carried workers' compensation insurance when it failed to submit certificates of insurance coverage, only an affidavit from a former employee stating that he had reviewed documents from the Department of Finance from 1974 to 1980 and from 1986 to 1989 reflecting payments to the workers' compensation insurance fund. *Ayala v. Lockheed Martin Corp.*, 72 V.I. 489, 2020 V.I. LEXIS 17 (V.I. Super. Ct. 2020). SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

Since the legislature has decreed that a Certificate of Government Insurance Coverage only establishes 'prima facie evidence'-as opposed to 'conclusive evidence'-of one's status as an insured employer, the trial court correctly rejected defendant's argument in a wrongful death suit that plaintiff could not proceed with her claims against it simply because it received such a certificate. *Island Tile & Marble, LLC v. Bertrand*, 57 V.I. 596, 2012 V.I. Supreme LEXIS 81 (VI 2012).

24 V.I.C. § 273, VI ST T. 24 § 273

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 274

§ 274 New employers, change in business, cessation of business

(a) Any new employer or employer who was not insured at the end of the previous year shall file a statement on forms to be provided by the Commissioner of Finance including the estimated wages to be paid his workmen and shall pay the portion of the annual premium due on such wages to the Commissioner of Finance before commencement of work.

(b) Should any employer substantially increase his payroll during the term of insurance, he shall file a supplementary statement and pay the additional premiums based thereupon within 30 days after such increase.

(c) Any employer who prior to July 1 or January 1 of any year ceases to be subject to the provisions of this chapter may be excused from payment of premiums by giving notice and such proof required by the Commissioner of Finance.

**Credits**

-Amended Apr. 23, 1968, No. 2177, § 7, Sess. L. 1968, Pt. I, p. 461.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 26.

**Amendments -1968.**

Amended section generally.

24 V.I.C. § 274, VI ST T. 24 § 274

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 275

§ 275 Adjustment of premium on basis of payroll; application of excess premium

At the end of the period of insurance, an adjustment of premium shall be made according to the actual expenditures of wages. The Commissioner of Finance shall compare the payroll of each employer paying premiums in accordance with this chapter for such calendar year with the payroll of the preceding year on the basis of which the premiums were assessed, levied and collected. If the payroll for the year during which the insurance was effected was greater than that of the previous calendar year, the Commissioner of Finance shall assess, levy and collect additional premiums in the same manner and on the same basis as the original premiums were assessed, levied, and collected. If the payroll is less than that of the previous calendar year, the Commissioner of Finance shall refund from the Government Insurance Fund the proportion of the premiums corresponding to the difference between the actual payroll for the year during which the insurance was effected and the year on the basis of which said premiums were assessed, levied, and collected; provided, however, that where the employer continues to employ workers affected by this chapter, the Administrator shall apply any excess premium to the payment of the premium due for the ensuing calendar year.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 27.

**Revision notes.**

Substituted 'Administrator' for 'Commissioner' in the fourth sentence for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

**Amendments -1990.**

Added the first sentence, deleted 'at the end of the calendar year' preceding 'the Commissioner' in the second sentence, and made minor stylistic changes in the third and fourth sentences. -1965.

Added proviso relating to application of excess premium.

**Effective date of amendments**

-1965.

**§ 275 Adjustment of premium on basis of payroll; application of..., 24 V.I.C. § 275**

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For effective date of amendment, see note set out under section 251 of this title.

24 V.I.C. § 275, VI ST T. 24 § 275

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 276

§ 276 Uncollectible premiums

The Administrator shall from time to time prepare and certify to the Legislature, through the Governor, a list showing in detail the dates and steps taken by the Government for the collection of unpaid premiums, interest, and penalties owed to the Government Insurance Fund as may have remained in arrears, wholly or partially, for more than four fiscal years, and which in the judgment of the Administrator are uncollectible. If such claims are not cancelled or otherwise disposed of by the Legislature by the end of the regular session following the date of certification of the same to the Legislature, they shall be deemed cancelled and the Commissioner of Finance shall cause appropriate entries to be made in the records of the Government Insurance Fund.

**Credits**

-Amended Dec. 17, 1958, No. 381, § 1; Apr. 21, 1960, No. 533, Sess. L. 1960, p. 38; Apr. 23, 1968, No. 2177, § 7, Sess. L. 1968, Pt. I, p. 461.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 28.

**Revision notes.**

Substituted 'Administrator' for 'Commissioner' in two places in the first sentence for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

The minimum fine of \$50 was omitted in conformity with the policy of this Code.

**Amendments -1968.**

Amended section generally. -1960.

Substituted 'January' for 'February', and, after 'statement', omitted 'under oath'; (2) in second paragraph, second sentence, substituted 'aforesaid statement' for 'aforesaid duplicate statement, under oath', and substituted 'file a statement' for 'file a sworn statement'; and (3) added paragraph subjecting signers of statements filed to the penalties of perjury. -1958.

Substituted 'February' for 'January' in first sentence of first paragraph.

**ANNOTATIONS**

**Cited.**

Cited in *Caribbean Engg. Corp. v. Acting Commr. of Agric. & Labor*, 3 V.I. 339, 162 F. Supp. 193, 1958 U.S. Dist. LEXIS 4092 (D.C.V.I. 1958).

24 V.I.C. § 276, VI ST T. 24 § 276

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 277

§ 277 Penalties, interest, action for collection injunction

(a) Every employer who fails to insure as provided in this chapter, or who fails to file such statements as required by this chapter, or who fails to make such payments as required by this chapter shall be fined not more than \$500 or imprisoned not more than six months, or both, which shall be in addition to any interest, penalties, or remedies provided for in this chapter.

(b) The statements to be filed by the employer as herein required shall subject the signers to the penalties of perjury, as defined in Title 14 of this Code, for false or wrongful statements knowingly made.

(c) The Commissioner of Finance is hereby authorized and empowered to assess and levy penalties and late charges on every employer affected by this chapter. If an employer defaults in the payment of a premium in whole or in part within the term legally fixed by the Commissioner of Finance the outstanding balance shall bear interest at the rate of one percent (1%) per month, or any fraction thereof, from the due date until payment is received by the Commissioner of Finance and the outstanding balance and interest will be levied upon including a lien on all property, if necessary, and such employer's compliance with the provisions of this chapter requiring payment to be made to the Government Insurance Fund shall date from the time of payment of said money to the Government Insurance Fund.

(d) Upon the written request of the Commissioner of Finance, the Attorney General, in addition to the other remedies provided in this chapter, may institute an action in any court of competent jurisdiction to enjoin any such delinquent employer from conducting his business until the outstanding balance, all interest thereon, and all penalties have been paid in full.

**Credits**

-Amended Dec. 17, 1958, No. 381, § 2, Sess. L. 1958, p. 174; Apr. 23, 1968, No. 2177, § 7, Sess. L. 1968, Pt. I, p. 461; Sept. 24, 1990, No. 5620, § 5, Sess. L. 1990, p. 328.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. March 9, 1954 (Bill no. 289), § 29.

**Amendments -1990.**

Subsection (c): Amended generally. -1968.

Amended section generally. -1958.

Substituted 'February 28' for 'January 31'.

## CROSS REFERENCES

Action by injured employee against uninsured employer, see section 261 of this title.

## ANNOTATIONS

### 1. Uninsured employer.

Employers who had been covered during any particular preceding year could, by failure to pay the premium within the grace period, incur the penalty of being considered 'uninsured'. 2 V.I. Op. Att'y Gen. 9.

There was nothing in the language of the Compensation Law of Oct. 10, 1946, that would support the argument that, when an employer commenced operation during the course of a year, the fact that he failed to pay his premium within the 30-day period did not render him uninsured. 2 V.I. Op. Att'y Gen. 9.

Untimely payment of Workmen's Compensation premium by employer on September 24 did not provide coverage from July 1 to December 31, so that the employer remained uninsured during the period of the delinquency. 2 V.I. Op. Att'y Gen. 9.

If a tardy Workmen's Compensation premium payment by employer would operate to provide coverage for the period of delinquency, there would be no necessity of allowing a grace period, since payment after the grace period would have the same effect as payment in the period. 2 V.I. Op. Att'y Gen. 9.

### 2. Injunction.

This section could not be authority for injunction in a cause of action which arose years before enactment of this section. *Gov't of the V.I. v. George De Werd & Sons*, 9 V.I. 193, 1973 V.I. LEXIS 8 (V.I. Mun. Ct. 1973).

### 3. Penalties.

Key portion in 24 V.I.C. § 277(a) is the phrase 'or other remedies provided for in this chapter,' and one of the other remedies provided for is that in 24 V.I.C. § 272(c). Accordingly, defendant could face penalties under both statutes for its reporting and payment deficiencies. *Bertrand v. Cordiner Enters., Inc.*, 2012 V.I. LEXIS 26 (V.I. Super. Ct. June 21, 2012).

## Cited.

Cited in *Carmona v. De Jongh*, 3 V.I. 281, 157 F. Supp. 540, 1958 U.S. Dist. LEXIS 2835 (D.C.V.I. 1958); *Caribbean Engg. Corp. v. Acting Commr. of Agric. & Labor*, 3 V.I. 339, 162 F. Supp. 193, 1958 U.S. Dist. LEXIS 4092 (D.C.V.I. 1958); *Moore v. A.H. Riise Gift Shops*, 23 V.I. 227, 659 F. Supp. 1417, 1987 U.S. Dist. LEXIS 6513 (1987).

24 V.I.C. § 277, VI ST T. 24 § 277

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

**§ 277 Penalties, interest, action for collection injunction, 24 V.I.C. § 277**

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

#### 24 V.I.C. § 278

§ 278 Repealed. Apr. 23, 1968, No. 2177, § 7, Sess. L. 1968, Pt. I, p. 461.

### HISTORY

Former section 278, which was based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 30 and Act Mar. 5, 1965, No. 1323, § 19, Sess. L. 1965, Pt. I, p. 44, related to the receipt for premiums, time for payment, interest, action for collection and injunction, and is now covered by section 277 of this title.

24 V.I.C. § 278, VI ST T. 24 § 278

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 279

§ 279 Records of employers; inspection; penalty for false records or reports

Every employer insured in the Government Insurance Fund shall keep a true and accurate record of the number of his employees and of the wages paid by him, and such records shall be open to inspection at any time by the Administrator and by the Commissioner of Finance. Any employer who fails to keep true and accurate records or who wilfully misrepresents the amount of the payroll upon which the premium chargeable is based shall be liable to a fine of five times the amount of the difference between the premium paid and the premiums which should have been paid, and the Commissioner of Finance shall assess and collect said fine in the same manner as premiums are assessed and collected.

**HISTORY**

**Source.**

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 31.

**Revision notes.**

Substituted 'Administrator' for 'Commissioner' in the first sentence for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

**Amendments -1965.**

Substituted 'Commissioner of Labor' for 'Commissioner of Agriculture and Labor', in the first sentence.

**Effective date of amendments**

**-1965.**

For effective date of amendment, see note set out under section 2 of this title.

**-1994.**

See note set out under [24 V.I.C. § 250](#).

24 V.I.C. § 279, VI ST T. 24 § 279

**§ 279 Records of employers; inspection; penalty for false records..., 24 V.I.C. § 279**

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Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 280

§ 280 Pending cases

The provisions of this chapter shall be applicable to all compensation cases pending at the time it takes effect.

### HISTORY

#### Source.

Based on Ord. Mun. C. St. T. and St. J. app. Mar. 9, 1954 (Bill no. 289), § 33.

24 V.I.C. § 280, VI ST T. 24 § 280

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24 V.I.C. § 281

§ 281 Compensation for persons engaged in public recreational activity; reimbursement

(a) As used in this section, 'public recreational activity' means active and regular participation, without remuneration and whether as player, coach, referee, umpire, manager or other participant in any athletic or sport event sponsored, approved or supervised by the Department of Education, Department of Sports, Parks and Recreation, or the University of the Virgin Islands or in any athletic or sport event involving the use of government owned or controlled recreational areas or facilities where permission for such use has been duly granted by the Department of Education, Department of Sports, Parks and Recreation, or the University of the Virgin Islands, including any supervised practicing or rehearsing for such event and preliminary activities occurring immediately prior to and incidental to such event.

(b) Persons engaged in a particular form or forms of public recreational activity and who are bona fide residents in the territory, shall, upon certification to the Commissioner of Finance as provided for in this section, be entitled to the medical attendance and all other benefits provided for by this chapter for disability or death resulting from personal injury or disease suffered while engaged in such particular form or forms of public recreational activity.

(c) To secure compensation hereunder a person shall file with the Commissioner of Planning and Natural Resources, on a regular form to be prescribed by him, a statement under oath to the effect that he participates in a particular form or forms of public recreational activity as above defined, or that he intends to so participate. The statement shall also include such other information as the Commissioner of Planning and Natural Resources may require. If it appears to the satisfaction of the Commissioner of Planning and Natural Resources that the person filing the statement participates in or has a bona fide intention to participate in a particular form or forms of public recreational activity, the Commissioner of Planning and Natural Resources shall forthwith certify such person to the Commissioner of Finance as a participant in such particular form or forms of activity and such person shall thereafter be entitled to compensation benefits hereunder. The Commissioner of Planning and Natural Resources may refuse to certify a person to the Commissioner of Finance if after proper medical examination it appears that the physical condition of the person is such that his participation in public recreational activity would involve undue risk.

(d) Any person aggrieved by a decision of the Commissioner of Planning and Natural Resources, made pursuant to subsection (c) of this section, may file an appeal within thirty days from the date of the decision with the Governor whose decision on the appeal shall be final and conclusive. If the decision of the Governor is in favor of the appellant, said decision shall be retroactive to the date of the decision on which the appeal was based.

(e) Notices of injury and claims for compensation, hearings, and awards, with respect to the compensation of persons engaged in public recreational activity shall be filed, made, heard and determined in the same manner and on the same basis as provided for with respect to the compensation of employees under this chapter, and all provisions of this chapter, except as otherwise provided in this section, shall be applicable to the greatest extent practicable in the administration and enforcement of this section. For the purpose of determining compensation for disability or death suffered by a person engaged in public recreational activity, the wages of such person shall be determined on the basis of his actual earnings at the time of the injury,



or if such person is at such time unemployed, then his wages shall be determined on the basis of the actual wages he received at his last place of employment within the preceding twelve months, or if the person has not been employed within such period then his wages shall be deemed to be the minimum wage prescribed by law.

(f) The Commissioner of Education, in lieu of paying premiums into the Government Insurance Fund, shall annually, at a time designated by the Commissioner of Finance, reimburse the said Fund for all payments made by it on account of and pursuant to the provisions of this section in cases involving athletic or sport events sponsored or supervised by the Commissioner of Education. Such reimbursements shall be made out of funds to be appropriated by the Legislature.

(g) The Commissioner of Education, in lieu of paying premiums into the Government Insurance Fund, shall annually, at a time designated by the Commissioner of Finance, reimburse the said Fund for all payments made by it on account of and pursuant to the provisions of this section in cases involving athletic or sport events approved by the Commissioner of Education or involving the use of government owned or controlled recreational areas or facilities where permission for such use has been duly granted by the Bureau of Recreation. Such reimbursements shall be made out of the Athletic Fund established by section 3010 of Title 33, notwithstanding any provision in said title to the contrary; Provided, That the amounts so paid out of the Athletic Fund shall be refunded by the Legislature through annual appropriations.

### Credits

-Amended June 13, 1960, No. 604, §§ 1-3, Sess. L. 1960, p. 115; June 29, 1965, No. 1448, §§ 1-3, Sess. L. 1965, Pt. I, p. 335; Mar. 4, 1966, No. 1598, § 4, Sess. L. 1966, p. 71; Mar. 3, 1967, No. 1862, § 1, Sess. L. 1967, p. 30; June 4, 1968, No. 2238, § 8, Sess. L. 1968, Pt. II, p. 45; Oct. 23, 1970, No. 2850, Sess. L. 1970, p. 341; Oct. 13, 1994, No. 6033, § 1(p), Sess. L. 1994, p. 249; amended Oct. 5, 2012, No. 7442, § 1, Sess. L. 2012, p. 340.

### HISTORY

#### Source.

Based on Ord. Mun. C. St. T. and St. J. app. Jan. 29, 1948 (Bill no. 145); Ord. Mun. C. St. C. app. Feb. 6, 1953 (Bill no. 8).

#### Revision note -2012.

‘Department of Sports, Parks and Recreation’ was substituted for ‘Department of Housing, Parks and Recreation’ pursuant to Act Oct. 5, 2012, No. 7442.

#### Revision notes.

Subsections (a)-(f) of this section are from sections 1-6 of the Ordinances cited above.

References to the ‘Recreation Commission’ in St. Thomas and St. John and the ‘Parks and Playgrounds Commission’ in St. Croix were changed to ‘Commissioner of Education’. See sections 91 and 96 of Title 3 and notes thereunder.

References to the ‘Workmen’s Compensation Commission’ and ‘Compensation Commissioner’ were changed to ‘Governor’. See note under section 271 of this title.

Substituted ‘Commissioner of Planning and Natural Resources’ for ‘Commissioner of Conservation and Cultural Affairs’ wherever it appeared in subsections (c) and (d) in view of Act June 24, 1987, No. 5265, § 301, Sess. L. 1987, p. 29 pursuant

to section 14 of Title 1. See section 407 of Title 3.

In subsection (e) of this section ‘minimum wage prescribed by law’ was substituted for ‘minimum wage of a utility worker, as defined and prescribed by local law working forty hours a week’ in St. Thomas and St. John and ‘minimum wage of a semi-skilled worker, as defined and prescribed by the Harrigan Wage and Hour Laws’ in St. Croix.

#### **Amendments -1994.**

Subsection (a): Substituted ‘Department of Education, Department of Housing, Parks and Recreation, or the University of the Virgin Islands’ for ‘Commissioner of Education’ and for ‘Bureau of Recreation’. -1970.

Subsection (a): Public recreational activity definition amended to include supervised practicing or rehearsing. -1968.

Substituted ‘Commissioner of Conservation and Cultural Affairs’ for ‘Commissioner of Agriculture and Recreation’. -1967.

‘Commissioner of Agriculture and Recreation’ was substituted for ‘Commissioner of Agriculture’, wherever it appeared. -1966.

Substituted ‘Commissioner of Agriculture’ for ‘Commissioner of Education’ wherever it appeared. -1965.

Subsection (a) amended by section 1 of 1965 Act to include within scope of section any event approved by the Commissioner though not sponsored or supervised by him; any event involving use of government-owned or controlled areas or facilities on permission duly granted; and preliminary activities occurring immediately prior to and incidental to any event included within section.

Subsection (f) amended by section 2 of 1965 Act by addition of words ‘in cases involving athletic or sport events sponsored or supervised by the Commissioner of Education’.

Subsection (g) added by section 3 of 1965 Act. -1960.

Subsection (b): Deleted ‘in the Virgin Island’ following ‘public recreational activity’.

Subsection (e): ‘and the determinations of premiums’ following ‘compensation, hearings, and awards’.

Subsection (f): Amended generally.

#### **Effective date of amendments**

**-1968.**

Act June 4, 1968, No. 2238, § 15, Sess. L. 1968, Pt. II, p. 47, provided that the effective date of section 8 of the act, which amended this section, was to be established by the Legislature after the approval required by section 16(a) of the Revised Organic Act of the Virgin Islands had been received. Pursuant to Act July 18, 1968, No. 2301, § 3, Sess. L. 1968, Pt. II, p. 263, the amendment to this section by section 8 of Act No. 2238 was declared effective as of July 16, 1968.

**-1994.**

See note set out under [24 V.I.C. § 250](#).

#### **Transfer of functions.**

Act Mar. 4, 1966, No. 1598, § 4, Sess. L. 1966, p. 71, eff. Apr. 1, 1966, provided: ‘Section 4. All powers, duties and functions conferred or imposed on the Commissioner of Education or the Department of Education by virtue of the

provisions of section 281, Title 24 [this section], chapters 1 and 9, Title 32 [sections 1-12 and 161-171 of Title 32], and sections 3010 to 3015, Title 33 of the Virgin Islands Code are hereby transferred to the Commissioner of Agriculture or the Department of Agriculture, as the case may be, and all references in the aforesaid section and chapters of the said Code to the ‘Commissioner of Education’ and the ‘Department of Education’ are changed to read the ‘Commissioner of Agriculture’ and the ‘Department of Agriculture’.

**Popular name.**

Each of the Ordinances cited above provided that it might be cited as the ‘Recreation Compensation Act.’

**Functions, personnel, etc., not affected by 1967 amendment.**

Amendment of this section by Act Mar. 3, 1967, as requiring no transfer, addition, or change of functions, personnel, etc., see section 2 of such Act, set out in note preceding section 291 of Title 3.

**ANNOTATIONS**

**1. Filing.**

High school football player’s claim under this section should not be denied where he properly prepared the necessary forms and gave them to the proper person, who forgot to file them. 7 V.I. Op. Att’y Gen. 96.

**2. Minors.**

Minors engaged in inter-school sports can be compensated for injuries incurred in public recreational activity by filing appropriate form with the Commissioner of Conservation and Cultural Affairs. 7 V.I. Op. Att’y Gen. 168.

24 V.I.C. § 281, VI ST T. 24 § 281

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 282

§ 282 Compensation for members and trainees of Civil Defense Volunteer Corps, Volunteer Fire Service and Police Auxiliary

(a) Members, officers and trainees of:

(1) the National Guard of the Virgin Islands;

(2) the Volunteer Fire Service of the Virgin Islands, the Virgin Islands Police Auxiliary;

(3) St. Croix Rescue, Inc., St. Thomas Rescue, Inc., St. John Rescue, Inc., Water Island Search and Rescue, Inc., Community Emergency Response Teams (CERT), and Emergency Medical Technicians certified by the Department of Health when working as a volunteer with any other volunteer emergency responder while off duty; and

(4) EMTs licensed in the Virgin Islands who are not otherwise covered by this section and who volunteer their services in the field, within territorial healthcare facilities and while carrying out emergency land, air or sea medical transports;

(5) Qualified members of the Virgin Islands Medical Reserve Corps adhering to the policies and procedures of that body. For purposes of this section 'Medical Reserve Corps' means 'the community-based network of medical and public health volunteers that assists public health efforts in times of special need or disaster, including during a major communicable disease outbreak a mass casualty incident, an earthquake, hurricane, flood, fire, evacuation or an act of terrorism'; and

(6) volunteers from outside the Territory;

who, at the request of the Governor a host entity as defined in 23 V.I.C., § 1092(10) or the VITEMA, render service in the Virgin Islands in connection with an emergency or a disaster, shall be deemed with respect to the performance of their duties as such members, officers or trainees, to be in the employment of the Government of the Virgin Islands for the purposes of this section, and every such member, officer, or trainee or his survivors, shall be entitled to the benefits accorded by this chapter to employees covered by its provisions; provided, that any officer, member, or trainee of Water Island Search and Rescue, Inc., (CERT), St. Croix Rescue, Inc., St. Thomas Rescue, Inc. and St. John Rescue, Inc., in addition to the foregoing will be deemed, with respect to the performance of his duties as such officer, member, or trainee, to be in the employment of the Government of the Virgin Islands, when rendering service, traveling to, at the scene or activity, and returning from rendering service in the Virgin Islands in connection with the authorized activities of Water Island Search and Rescue, Inc., (CERT), St. Croix Rescue, Inc., St. Thomas Rescue, Inc. and St. John Rescue, Inc., or an emergency as defined in subsection (d) of this section, and provided, further that officers, members and trainees of Water Island Search and Rescue, Inc., (CERT), St. Croix Rescue, Inc., St. Thomas Rescue, Inc. and St. John Rescue, Inc., Virgin Islands-licensed EMTs, in order to

be deemed in the employment of the Government of the Virgin Islands entitled to the benefits as provided under this chapter shall not be required to have a request of the Governor or the VITEMA in connection with an emergency or disaster and need only be in the performance of their duties as such officer, member, or trainee.

(b) For the purpose of subsection (a) of this section, a member or trainee who receives no monetary compensation for services rendered as such member or trainee shall be deemed to have received such wages as will qualify him for maximum benefits applicable with respect to injury, disability, or death, according to the provisions of this chapter.

(c) In the event that any person who is entitled to receive benefits through the application of subsection (a) of this section receives, in connection with the injury, disability, or death giving rise to such settlement, benefits under an Act of Congress or Federal Program providing benefits for civil defense workers or their survivors, the benefits payable hereunder shall be reduced in proportion to the benefits received under such other Act or Program. The provisions of subsection (a) of this section shall not be applied in the case of any person who is otherwise entitled under this chapter to receive workers' compensation administration benefits for an injury, disability or death which would be compensable under subsection (a) of this section.

(d) The term emergency, when referring to Water Islands Search and Rescue, Inc., and CERT, St. Croix Rescue, Inc., St. Thomas Rescue, Inc., St. John Rescue, Inc., Virgin Islands-licensed EMTs and Medical Reserve Corps in addition to the meaning provided in Title 23, section 1124, subsection (a), shall mean an unexpected or unintended event, serious occurrence or situation which urgently requires prompt action by a volunteer officer, member or trainee of Water Islands Search and Rescue, Inc., and CERT, St. Croix Rescue, Inc., St. Thomas Rescue, Inc., St. John Rescue, Inc., Medical Reserve Corps and Virgin Islands-licensed EMTs and EMT trainees in order to save lives or prevent bodily injuries.

### **Credits**

-Amended June 10, 1959, No. 459, § 1, Sess. L. 1959, p. 66; Feb. 8, 1973, No. 3363, § 2, Sess. L. 1972, p. 561; Oct. 26, 1977, No. 4048, § 2, Sess. L. 1977, p. 243; Apr. 3, 1978, No. 4115, § 3, Sess. L. 1978, p. 53; Aug. 10, 1978, No. 4192, Sess. L. 1978, p. 211; Dec. 29, 1986, No. 5233, § 6, Sess. L. 1986, p. 413; July 19, 1990, No. 5585, §§ 1, 2, Sess. L. 1990, p. 251; Oct. 13, 1994, No. 6033, § 2(b), Sess. L. 1994, p. 254; Dec. 1, 2001, No. 6481, § 8, Sess. L. 2001, p. 351; Sept. 18, 2002, No. 6570, § 63, Sess. L. 2002, p. 558; Jan. 27, 2010, No. 7143, §§ 1(a), (b)(1)-(3), 2, 5(1.)-(3.)(A)-(C), Sess. L. 2009, pp. 307-309; Apr. 7, 2010, No. 7156, § 2, Sess. L. 2010, p. 12.

### **HISTORY**

#### **Source.**

Based on Ord. Mun. C. St. T. and St. J. app. July 20, 1953 (Bill no. 260); Ord. Mun. C. St. C. app. Aug. 6, 1953 (Bill no. 39).

#### **Revision notes.**

Subsections (a)-(c) of this section are from sections 1-3 of the Ordinances cited above.

#### **References in text.**

The reference to section 1124 of Title 23 mentioned in subsection (d) was repealed by Act No. 7074, § 1.

**Amendments -2010.**

Act 7156, § 2, inserted ‘a host entity as defined in 23 V.I.C. § 1092(10)’ following ‘at the request of the Governor’ in the carryover paragraph of subsection (a). -**2009.**

Act 7143, § 1(a), substituted ‘VITEMA’ for ‘Adjutant General’ twice in the unnumbered paragraph of subsection (a).

Act 7143, § 1(b)(1), added ‘Water Island Search and Rescue, Inc., Community Emergency Response Teams (CERT), and Emergency Medical Technicians certified by the Department of Health when working as a volunteer with any other volunteer emergency responder while off duty’ at the end of subsection (a)(5).

Act 7143, § 1(b)(2), deleted paragraphs (2) and (4) and renumbered the existing paragraphs accordingly.

Act 7143, § 1(b)(3), inserted ‘Water Island Search and Rescue, Inc., (CERT)’ following ‘St. Croix Rescue, Inc.’ throughout the last unnumbered paragraph of (a).

Act 7143, § 2, inserted ‘Water Islands Search and Rescue, Inc., and CERT’ preceding ‘St. Croix Rescue, Inc.’ twice in subsection (d).

Act 7143, § 5(1.), inserted ‘Virgin Islands-licensed EMT’s’ following ‘St. John Rescue, Inc.’ in the second proviso clause of the last unnumbered paragraph of (a).

Act 7143, § 5(2.), redesignated former paragraph (4) as (6) and added new paragraphs (4) and (5) to subsection (a).

Act 7143, § 5(3.)(A), inserted ‘Virgin Islands-licensed EMTs and Medical Reserve Corps’ following ‘St. John Rescue, Inc.’ in subsection (d).

Act 7143, § 5(3.)(B), deleted ‘or’ and inserted a comma after the second occurrence of ‘St. Croix Rescue, Inc.’ in subsection (d).

Act 7143, § 5(3.)(C), inserted ‘St. John Rescue, Inc., Medical Reserve Corps and Virgin Islands-licensed EMTs and EMT trainees’ following the second occurrence of ‘St. Thomas Rescue, Inc.’ in subsection (d). -**2002.**

Act 6570, § 63 inserted ‘and St. John Rescue, Inc.’ following ‘St. Thomas Rescue, Inc.’ three times in the undesignated paragraph following paragraph (6) of subsection (a). -**2001.**

Act 6481 deleted the first ‘and’ and inserted ‘St. John Rescue, Inc.’ following ‘St. Thomas Rescue, Inc.’ in subdivision (a)(5) and subsection (d). -**1994.**

Substituted ‘workers’ compensation administration’ for ‘workmen’s compensation’ preceding ‘benefits’ in the second sentence of subsection (c). -**1990.**

Subsection (a): Deleted ‘and’ following ‘Teams’ in paragraph (4), added a new paragraph (5), redesignated former paragraph (5) as paragraph (6), and added the proviso at the end of the subsection.

Subsection (d): Added. -**1986.**

Subsection (a): Amended generally. -**1978.**

Subsection (a): Act No. 4115 substituted the words ‘Police Auxiliary’ for ‘Home Guard’.

Act No. 4192 substituted ‘Radio Emergency Associated Citizens Teams’ for ‘Radio Emergency Alert Communications Team’; added the words ‘or the Director, Office of Civil Defense and Emergency Services or his designee’ following the words ‘at the request of the Governor’; and made the section applicable to an emergency. -**1977.**

Subsection (a): Inserted the word ‘Volunteer’ in ‘Civil Defense Volunteer Corps’ and included the phrase ‘and of any group

of civil defense workers, Radio Emergency Alert Communications Team, or volunteers from outside the Territory who, at the request of the Governor, render service in the Virgin Islands in connection with a disaster'. -1973.

Subsection (a): Inserted reference to National Guard of the Virgin Islands. -1959.

Subsection (a): The 1959 amendment inserted references to the Volunteer Fire Service and the Virgin Islands Home Guard, and conformed the other provisions of such subsection accordingly.

Subsection (b): Deleted 'civil defense' preceding 'member or trainee'.

#### **Effective date of amendments**

**-1986.**

Act Dec. 29, 1986, No. 5233, § 11(b), Sess. L. 1986, p. 414, provided that the section of the act which amended this section shall take effect Jan. 1, 198

7.

24 V.I.C. § 282, VI ST T. 24 § 282

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 283

§ 283 Policemen, prison guards, matrons and firemen suffering disability or death from hypertension or heart disease

Any condition of impairment of health caused by hypertension or heart disease resulting in total or partial disability or death to a member of the Virgin Islands Police Force, a prison guard and matron or a member of the Fire Division of the U.S. Virgin Islands Police Department (V.I.P.D.) who successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the performance of his duty and he shall be entitled to all benefits under this chapter.

**Credits**

-Added June 15, 1961, No. 762, Sess. L. 1961, p. 109; amended Jan. 27, 1966, No. 1557, Sess. L. 1966, p. 11; June 15, 1984, No. 4964, § 1(b), Sess. L. 1984, p. 177.

**HISTORY**

**Revision notes.**

Deleted 'of the Virgin Islands' preceding 'who successfully' as redundant in view of amendment of this section by Act June 15, 1984, No. 4964, § 1(b), Sess. L. 1984, p. 177, pursuant to section 14 of Title 1.

**Amendments -1984.**

Substituted 'U.S. Virgin Islands Police Department (V.I.P.D.)' for 'Department of Public Safety' following 'Fire Division of the'. -1966.

Section amended to include prison guards, matrons and firemen within benefits of chapter, and catchline changed to include prison guards, matrons and firemen.

**Effective date of amendments**

**-1984.**

Act June 15, 1984, No. 4964, § 1(c), Sess. L. 1984, p. 177, provided that the change of name of the Department of Public Safety shall take effect Jan. 1, 1985.



**Former section 283.**

Former section 283 of this title apparently was renumbered as section 284, by Act June 15, 1961, No. 762, Sess. L. 1961, p. 109.

24 V.I.C. § 283, VI ST T. 24 § 283

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 284

§ 284 Exclusiveness of remedy

(a) When an employer is insured under this chapter, the right herein established to obtain compensation shall be the only remedy against the employer; but in case of accident to, or disease or death of, an employee not entitled to compensation under this chapter, the liability of the employer is, and shall continue to be the same as if this chapter did not exist.

(b) For the purposes of this section, a contractor shall be deemed the employer of a subcontractor's employees only if the subcontractor fails to comply with the provisions of this chapter with respect to being an insured employer. The 'statutory employer and borrowed servant' doctrine are not recognized in this jurisdiction, and an injured employee may sue any person responsible for his injuries other than the employer named in a certificate of insurance issued under section 272 of this title.

**Credits**

-Amended June 15, 1961, No. 762, Sess. L. 1961, p. 109; Feb. 27, 1986, No. 5145, § 1(a), Sess. L. 1986, p. 25.

**HISTORY**

**Revision notes.**

Section is new.

Section was adopted on advice of the Code Advisory Committee. It is patterned after the language of 11 Laws of Puerto Rico Annotated § 21.

**Amendments -1986.**

Designated the existing provisions of the section as subsection (a) and added subsection (b). **-1961.**

Renumbered former section 283 of this title as this section.

**Application of 1986 amendment.**

Act Feb. 27, 1986, No. 5145, § 1(b), Sess. L. 1986, p. 26, provided:

'Title 24, section 284, subsection (b), as added by section 1 of this act shall apply to:

‘(1) claims filed after the effective date of this act; and

‘(2) claims pending as of the effective date of this act; regardless of when the accident which gave rise to the claim occurred.’

## ANNOTATIONS

### 0.5. Construction.

Plain language of the Virgin Islands Workers’ Compensation Act does not support extending an employer’s immunity from suit to a co-employee; the legislature intended courts to deem co-employees as ‘third persons’ rather than ‘employers.’ *Defoe v. Phillip*, 56 V.I. 109, 2012 V.I. Supreme LEXIS 4 (VI 2012).

#### 1. Generally.

Legislature manifested its intent to apply the common meaning of ‘employer’ through its 1984 and 1986 amendments to the Virgin Islands Workers’ Compensation Act, which, respectively, added 24 V.I.C. §§ 263a and 284(b). *Defoe v. Phillip*, 56 V.I. 109, 2012 V.I. Supreme LEXIS 4 (VI 2012).

Court interprets the Workers’ Compensation Act to require an employer to fully comply with its provisions before the employer can enjoy the benefits of the Act’s exclusivity provision. *Bertrand v. Cordiner Enters., Inc.*, 55 V.I. 267, 2011 V.I. LEXIS 64 (V.I. Super. Ct. 2011), aff’d in part, 57 V.I. 596, 2012 V.I. Supreme LEXIS 81 (VI 2012).

In a worker’s tort suit against a contractor for injuries sustained while working at the contractor’s refinery, the contractor, as a non-employer, was not bound by 24 V.I.C. § 284, and the arbitration provisions pertaining to the contractor were not void ab initio. *Moore v. HOVENSA, L.L.C.*, 46 V.I. 144, 2005 V.I. LEXIS 4 (V.I. Terr. Ct. 2005).

Under this chapter, when an employer is insured, the right established to obtain compensation is the only remedy against the employer. *Paez v. Pittsburg-Des Moines Corp.*, 21 V.I. 237, 1985 V.I. LEXIS 26 (V.I. Terr. Ct. 1985).

#### 2. Retroactive application of amendment.

Retroactive application of subsection (b) of this section to claims of borrowed employees pending on its effective date violates the Contract Clause of Article I, § 10 of the United States Constitution. *Nieves v. Hess Oil Virgin Islands Corp.*, 819 F.2d 1237, 23 V.I. 449, 1987 U.S. App. LEXIS 15122 (3d Cir. V.I.), cert. denied, 484 U.S. 963, 108 S. Ct. 452, 98 L. Ed. 2d 392, 1987 U.S. LEXIS 4860 (U.S. 1987).

Where borrowing employer’s expectation that its contracts of employment with its borrowed employees were covered by workmen’s compensation, provision of act which retroactively applied subsection (b) of this section to claims of borrowed employees pending on the effective date of the act represented a substantial impairment of borrowing employer’s contractual expectation. *Nieves v. Hess Oil Virgin Islands Corp.*, 819 F.2d 1237, 23 V.I. 449, 1987 U.S. App. LEXIS 15122 (3d Cir. V.I.), cert. denied, 484 U.S. 963, 108 S. Ct. 452, 98 L. Ed. 2d 392, 1987 U.S. LEXIS 4860 (U.S. 1987).

Since the 1984 enactment of section 263a of this title abolishing the borrowed employee doctrine in workmen’s compensation cases satisfied the legislature’s arm of protecting Virgin Islands’ workers, there was no general welfare to be served by provision of 1986 act which retroactively applied subsection (b) of this section to claims of borrowed employees pending on the effective date of the act, which could affect at most six or seven pending cases; thus, the retroactive application provision could not be justified as general legislation for the public welfare. *Nieves v. Hess Oil Virgin Islands Corp.*, 819 F.2d 1237, 23 V.I. 449, 1987 U.S. App. LEXIS 15122 (3d Cir. V.I.), cert. denied, 484 U.S. 963, 108 S. Ct. 452, 98 L. Ed. 2d 392, 1987 U.S. LEXIS 4860 (U.S. 1987).

Retroactive application of subsection (b) of this section, which eliminates the borrowed employee doctrine as a defense in workmen’s compensation cases, does not violate the due process clause of section 3 of the Revised Organic Act, since it is nationally related to the legitimate governmental purposes of protecting workmen’s compensation resources and Virgin

Islands' workers. *Prevost v. Hess Oil Virgin Islands Corp.*, 640 F. Supp. 1220, 22 V.I. 340, 1986 U.S. Dist. LEXIS 21812 (D.V.I. 1986).

Workmen's compensation is incidental to the employment relationship and not an implied term of the employment contract; therefore, retroactive application of subsection (b) of this section, which eliminates the borrowed employee doctrine as a defense in workmen's compensation cases, does not violate the contract clause of section 3 of the Revised Organic Act. *Prevost v. Hess Oil Virgin Islands Corp.*, 640 F. Supp. 1220, 22 V.I. 340, 1986 U.S. Dist. LEXIS 21812 (D.V.I. 1986).

Assuming, arguendo, that workmen's compensation is an implied term of the employment contract, retroactive application of subsection (b) of this section, which eliminates the borrowed employee doctrine as a defense in workmen's compensation cases, passes constitutional muster as an appropriate means to accomplish the legitimate public purposes of protecting workmen's compensation resources. *Prevost v. Hess Oil Virgin Islands Corp.*, 640 F. Supp. 1220, 22 V.I. 340, 1986 U.S. Dist. LEXIS 21812 (D.V.I. 1986).

### 3. Negligence.

Injured employee's negligence claim against employer was barred because it was undisputed that the employer had obtained workers' compensation coverage. *Herman v. HOVENSA, LLC*, 49 V.I. 24, 2007 V.I. LEXIS 20 (V.I. Super. Ct. 2007).

24 U.S.C.S. § 284(b) did not permit an employee to bring a negligence suit against a supervisor for allegedly failing to properly maintain a company vehicle; § 284 was clearly intended to ensure that the protections of the Virgin Islands Workmen's Compensation Act, 24 V.I.C. § 250 et seq., were not extended to secondary employers, and the court declined to read more into the section than intended. *Tavarez v. Klingensmith*, 267 F. Supp. 2d 448, 2003 U.S. Dist. LEXIS 10385 (D.V.I. 2003), aff'd, 372 F.3d 188, 2004 U.S. App. LEXIS 11729 (3d Cir. V.I. 2004).

When an employee's injury is compensable under this chapter, the employer is not liable for negligence at common law or under a statutory procedure permitting a recovery on negligence principles. *Chinnery v. Government of Virgin Islands*, 865 F.2d 68, 1989 U.S. App. LEXIS 185 (3d Cir. V.I. 1989).

Where assault on government employee by his supervisor arose out of and in the course of employment, employee's action against the government for negligent retention of the supervisor was barred by subsection (a) of this section. *Chinnery v. Government of Virgin Islands*, 865 F.2d 68, 1989 U.S. App. LEXIS 185 (3d Cir. V.I. 1989).

### 4. Loss of consortium.

This section, which prohibits an employee who receives a workmen's compensation award for injuries sustained in the course of his employment from suing his employer in tort for those injuries, bars an action for loss of consortium and services by the employee's spouse. *CLAXTON v. VICK*, 18 V.I. 337, 1981 U.S. Dist. LEXIS 9413 (D.V.I. 1981).

### 5. Joint ventures.

A workmen's compensation insurance policy carried by a joint venture inures to the benefit of both the joint venture and its individual members, and thus bars tort suits against all entities involved in the joint venture for compensable injuries. *CLAXTON v. VICK*, 18 V.I. 337, 1981 U.S. Dist. LEXIS 9413 (D.V.I. 1981).

### 6. Borrowed employees.

The district court held that only the employer actually named in the workers' compensation certificate is protected from suit and the 'injured employee may sue any other person responsible for his injuries.' 24 V.I.C. § 284(b). There is nothing to indicate that the words 'sue any other person responsible' in section 284(b) exclude employers of independent contractors. To the contrary, the limitation to those 'named in the certificate' is a clear statement that there is no such limitation with respect to those not listed, i.e. employers of independent contractors, statutory employers, borrowed employers, or employers of a rented employee of another employer. *Figuroa v. Hess Oil V.I. Corp.*, 198 F. Supp. 2d 632, 2002 U.S. Dist. LEXIS 7137

(D.V.I. 2002).

Where assault on government employee by his supervisor arose out of and in the course of employment, employee's action against the government for negligent retention of the supervisor was barred by subsection (a) of this section. *Chinnery v. Government of Virgin Islands*, 865 F.2d 68, 1989 U.S. App. LEXIS 185 (3d Cir. V.I. 1989).

Where borrowed employee expressly consented to contract of hire by signing appropriate form, borrowing employer was entitled to the benefit of the exclusive remedy provision of this chapter. *Cotto v. Hess Oil V.I. Corp.*, 21 V.I. 485, 1985 U.S. Dist. LEXIS 12137 (D.V.I. 1985).

For purposes of determining whether a borrowing employer was entitled to the benefit of the exclusive remedy provision of this chapter, a borrowed employee who expressly consented to a contract of law by signing appropriate form was bound to the legal consequences of the form even though he was illiterate. *Cotto v. Hess Oil V.I. Corp.*, 21 V.I. 485, 1985 U.S. Dist. LEXIS 12137 (D.V.I. 1985).

Borrowing employer was entitled to the exclusive remedy provision of this chapter where repeated rehiring of borrowed employee indicated implied consent of the employee to work for the borrowing employer. *Cotto v. Hess Oil V.I. Corp.*, 21 V.I. 485, 1985 U.S. Dist. LEXIS 12137 (D.V.I. 1985).

Borrowing employer was entitled to the exclusive remedy provision of this chapter where borrowed employee had ample opportunity to evaluate and acquiesce to the risks of his employment, having on at least four occasions worked for borrowing employer. *Cotto v. Hess Oil V.I. Corp.*, 21 V.I. 485, 1985 U.S. Dist. LEXIS 12137 (D.V.I. 1985).

Borrowing employer was entitled to the exclusive remedy provision of this chapter where borrowed employee consented to work for borrowing employer and evaluated and acquiesced to the risks of his employment. *Cotto v. Hess Oil V.I. Corp.*, 21 V.I. 485, 1985 U.S. Dist. LEXIS 12137 (D.V.I. 1985).

Borrowed employee consented to a contract of hire with borrowing employer by signing applicable form, thereby entitling borrowing employer to benefit of the exclusive remedy provision of this chapter. *Nieves v. Hess Oil V.I. Corp.*, 21 V.I. 491, 1985 U.S. Dist. LEXIS 12138 (D.V.I. 1985).

For purposes of determining whether borrowing employer was entitled to benefit of exclusive remedy provision of this chapter, number of rehiring of borrowed employee was irrelevant so long as the employee worked for the borrowing employer long enough to acquiesce to the conditions of employment. *Nieves v. Hess Oil V.I. Corp.*, 21 V.I. 491, 1985 U.S. Dist. LEXIS 12138 (D.V.I. 1985).

For purposes of determining whether borrowing employer was entitled to the benefit of the exclusive remedy provision of this chapter, employee's three month tenure with borrowing employer provided employee with ample opportunity to evaluate the risks of his employment. *Nieves v. Hess Oil V.I. Corp.*, 21 V.I. 491, 1985 U.S. Dist. LEXIS 12138 (D.V.I. 1985).

Borrowing employer was immune from suit under this chapter where borrowed employee consented to an express or implied contract of hire with the borrowing employer and employee evaluated and acquiesced to the risks of his employment. *Nieves v. Hess Oil V.I. Corp.*, 21 V.I. 491, 1985 U.S. Dist. LEXIS 12138 (D.V.I. 1985).

When a worker who is employed by one employer is borrowed by another employer to provide temporary services, that employee is barred by this section from filing any common law action for damages, if he is injured, against the borrowing employer in the same manner as he is barred from an action against his regular employer, since the definitions of 'employee' and 'employer' in section 251 of this title are broad enough to include the status of the borrowing employer and the requirement of section 272(a) of this title, that the employer pay workmen's compensation insurance premiums, can be met by a contractor, by the expedient of requiring as part of the contract that the subcontractor meet the burden of insurance premiums, with the cost passed on to the contractor. *Vanterpool v. Hess Oil Virgin Islands Corp.*, 21 V.I. 40, 589 F. Supp. 334, 1984 U.S. Dist. LEXIS 16098 (1984), *aff'd* on other grounds, 766 F.2d 117, 1985 U.S. App. LEXIS 20148 (3d Cir. 1985). But see section 263a of this title.

## 7. Intentional infliction of emotional distress.

Exception to workers' compensation exclusivity under 24 V.I.C. § 284 was applicable in an employee's action against an employer and its management representative, alleging that they intentionally inflicted emotional distress on the employee when they attempted to have the employee commit perjury regarding a vehicle collision that occurred in the course and scope of employment. [Smith v. Elias](#), 49 V.I. 65, 2007 V.I. LEXIS 33 (V.I. Super. Ct. 2007).

Because the emotional distress and the physical injuries the employee suffered as a result of the accident were compensable under an intentional infliction of emotional distress theory, the employee's post-accident emotional distress claim came within the literal scope of the Virgin Islands Workers' Compensation Act (WCA), 24 V.I.C. § 250 *et seq.*; however, because the employee could not show that the employer had an affirmative desire to inflict severe emotional distress on the employee, the employee's claim was barred by the exclusive remedy provision of 24 V.I.C. § 284. [Eddy v. V.I. Water & Power Auth.](#), 369 F.3d 227, 2004 U.S. App. LEXIS 10066 (3d Cir. V.I. 2004).

### 8. Contractual provisions.

In a worker's toxic tort suit against a company, the company's motion to compel arbitration was granted as the company was not bound by 24 V.I.C. § 284 as it was a non-employer contractor; thus, the arbitration provisions in the employment agreement pertaining to the company were not void ab initio. [St. Rose v. Hovensca, L.L.C.](#), 46 V.I. 151, 2005 V.I. LEXIS 1 (V.I. Super. Ct. 2005).

### 9. Exception.

Based on the clear indication in 1 V.I.C. § 4 that there is no intention by the Virgin Island Legislature to adopt a minority rule, the Virgin Islands Supreme Court holds that the intentional tort exception to the exclusivity provision of the Workers' Compensation Act, at 24 V.I.C. § 284(a), applies only to situations in which an employer had an actual, specific and deliberate intention to cause injury. [Robles v. HOVENSA, L.L.C.](#), 49 V.I. 491, 2008 V.I. Supreme LEXIS 1 (VI 2008).

Employee's complaint failed to state a claim for relief under V.I. Code Ann. App. I, R. 8 and 12(b)(6) where it contained only conclusory contentions that the employer acted with actual, specific, and deliberate intent to injure the employee, who was exposed to a harmful gas in the course of employment, such that the common law tort claims alleged against the employer were not within the intentional tort exception to the exclusivity bar of the Workers' Compensation Act under 24 V.I.C. § 284(a). [Robles v. HOVENSA, L.L.C.](#), 49 V.I. 491, 2008 V.I. Supreme LEXIS 1 (VI 2008).

### 10. Particular cases.

Defendant was not entitled to summary judgment based on the exclusive remedy provision of the Virgin Islands Workers' Compensation Act, as the evidence showed that plaintiff worked for an entity related to defendant only for six months at the end of the time period when he claimed he was exposed to bauxite and other industrial dusts. [Ayala v. Lockheed Martin Corp.](#), 72 V.I. 489, 2020 V.I. LEXIS 17 (V.I. Super. Ct. 2020).SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

Because the employer did not make its final payment on the estimated workers' compensation premium for 1996 until 1997, there was no coverage in effect at the time of the employee's 1996 injury, and the injury was not subject to the exclusivity provision of the Workers' Compensation Act, so that the employee could elect to either accept workers' compensation benefits or to pursue a tort claim against the employer. [Estate of Modeste v. C&C Construction & Maintenance, Inc.](#), 72 V.I. 38, 2019 V.I. LEXIS 156 (V.I. Super. Ct. 2019).SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

Because a Certificate of Government Insurance Coverage established only a rebuttable presumption that an employer was insured, the fact that defendant produced a copy of the certificate did not in itself establish that it was immune under the exclusive remedy provision of the Virgin Islands Workers' Compensation Act. [Edward v. Genoa Inc.](#), 67 V.I. 210, 2017 V.I. LEXIS 11 (V.I. Super. Ct.), *aff'd in part and rev'd in part*, 67 V.I. 745, 2017 V.I. Supreme LEXIS 46 (VI 2017).SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

With regard to whether defendant was immune under the exclusive remedy provision of the Virgin Islands Workers' Compensation Act, there was a material dispute as to the business relationship between defendant and plaintiff's employer at the time of the incident, as their subcontract was not executed until after the incident and there was no language in it indicating that it was intended to be retroactive. [Edward v. Genoa Inc.](#), 67 V.I. 210, 2017 V.I. LEXIS 11 (V.I. Super. Ct.), aff'd in part and rev'd in part, 67 V.I. 745, 2017 V.I. Supreme LEXIS 46 (VI 2017).SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

Defendant was not entitled to invoke the immunity provided by the workers' compensation exclusivity provision, as it never claimed that it was an insured employer or that it was an employer named in a certificate of insurance, no such certificate of insurance or affidavits or documents to that effect was attached to defendant's motion for summary judgment, and defendant remained silent even after plaintiff raised the issue. [Edward v. Genoa Inc.](#), 67 V.I. 50, 2016 V.I. LEXIS 211 (V.I. Super. Ct. 2016).SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

As it was undisputed that the first defendant was named in a certificate of insurance and that plaintiff received workers' compensation benefits under its insurance policy, plaintiff's negligence claims against the first defendant were barred by the workers' compensation exclusivity provision; but because the second defendant was not named in a certificate of insurance in the Virgin Islands, the exclusivity provision did not bar plaintiff's negligence claims against it. [O'Neal v. PSMT, LLC](#), 2014 V.I. LEXIS 61 (V.I. Super. Ct. Aug. 7, 2014).SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. THOMAS AND ST. JOHN

Plaintiff's intentional tort claims for assault and intentional infliction of emotional distress, which stemmed from an assault by an employee who was being terminated, did not fall within the exception to the workers' compensation exclusivity provision, as the facts supported only a claim of negligence on defendants' part and did not show that either defendant acted with the intention to cause harm to plaintiff. [O'Neal v. PSMT, LLC](#), 2014 V.I. LEXIS 61 (V.I. Super. Ct. Aug. 7, 2014).SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. THOMAS AND ST. JOHN

Exclusivity provision barred plaintiff's breach of contract claims because these were essentially tort claims in disguise. [O'Neal v. PSMT, LLC](#), 2014 V.I. LEXIS 61 (V.I. Super. Ct. Aug. 7, 2014).SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. THOMAS AND ST. JOHN

Exclusivity provision did not bar an implied contract claim, as there was insufficient evidence as to whether a contract had been created because neither party had submitted the employee handbook upon which it was based. [O'Neal v. PSMT, LLC](#), 2014 V.I. LEXIS 61 (V.I. Super. Ct. Aug. 7, 2014).SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. THOMAS AND ST. JOHN

Defendant in an asbestos exposure case was not entitled to summary judgment on the ground that plaintiff's claims were barred by the exclusivity provision of the Workers' Compensation Act. The documents it submitted were contradictory regarding whom the decedent worked for, when he began working for defendant, and for how long; furthermore, defendant had not submitted any proof showing that it was the 'insured employer' under the act. [Der Weer v. Hess Oil V.I. Corp.](#), 2014 V.I. LEXIS 51 (V.I. Super. Ct. Mar. 4, 2014).SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

Co-employee of an injured worker was not an 'employer' under 24 V.I.C. § 284(a) and therefore was a 'third person' whom the injured worker could sue for negligence under 24 V.I.C. § 263. [Defoe v. Phillip](#), 56 V.I. 109, 2012 V.I. Supreme LEXIS 4 (VI 2012).

Virgin Islands Supreme Court's decision rejecting the holding of the United States Court of Appeals for the Third Circuit in [Taverez](#) that V.I. Code Ann. tit. 24, § 284 prevented suits by injured employees against coworkers was not manifestly erroneous or inescapably wrong. The supreme court's interpretation was defensible on textual grounds, and the supreme court considered the implications of its decision. [Defoe v. Phillip](#), 702 F.3d 735, 2012 U.S. App. LEXIS 26138 (3d Cir. V.I. 2012).UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Under 24 V.I.C. § 284, an individual was entitled to dismissal for acts he performed on behalf of a decedent's employer, as there was no independent personal duty to operate a forklift carefully on the employer's property, and manipulating marble slabs was not an ultrahazardous activity. The worker could be held liable for his own allegedly tortious acts under 24 V.I.C. § 263, however, regardless of the fact that he was acting on behalf of his own business or of the seller of the slab. [Bertrand v. Cordiner Enters., Inc.](#), 53 V.I. 280, 2010 V.I. LEXIS 38 (V.I. Super. Ct. 2010), different results reached on reconsid., 55 V.I.

267, 2011 V.I. LEXIS 64 (V.I. Super. Ct. 2011).

Because a worker injured by a vehicle driven by a co-worker inside the refinery in which they both worked had not identified a breach by the co-worker of a duty owed to him under Virgin Islands law, 24 V.I.C. § 284 barred his claims against the co-worker; furthermore, a co-worker could be held liable under 24 V.I.C. § 263 only to the extent he owed a personal legal duty of care separate from that of the common employer. *Defoe v. Phillip*, 51 V.I. 34, 2009 V.I. LEXIS 2 (V.I. Super. Ct. 2009), rev'd, 56 V.I. 109, 2012 V.I. Supreme LEXIS 4 (VI 2012).

There was no merit to a refinery worker's argument that he was not acting in the course and scope of his employment when he was struck by a co-worker operating an employer-owned vehicle, but was heading toward the refinery gate to go home, as 24 V.I.C. § 252(a) expressly provided that a plaintiff would be entitled to workers' compensation while traveling to and from work; thus 24 V.I.C § 284 barred the worker's action against the co-worker. *Defoe v. Phillip*, 51 V.I. 34, 2009 V.I. LEXIS 2 (V.I. Super. Ct. 2009), rev'd, 56 V.I. 109, 2012 V.I. Supreme LEXIS 4 (VI 2012).

Because an employee who was injured within his employer's refinery had not identified a breach by a co-worker of a duty owed to him under Virgin Islands law which was separate and apart from the nondelegable duty of his employer to provide safe working conditions, 24 V.I.C. § 284 barred his claims against the co-worker. *Defoe v. Phillip*, 2009 V.I. LEXIS 15 (V.I. Super. Ct. Jan. 12, 2009).

### 11. Subject matter jurisdiction.

Workers' compensation immunity under V.I. Code Ann. tit. 24, § 284(a) does not deprive the trial court of subject matter jurisdiction. *Edward v. GEC, LLC*, 67 V.I. 745, 2017 V.I. Supreme LEXIS 46 (VI 2017). SUPREME COURT OF THE VIRGIN ISLANDS

### 12. Affirmative defense.

Workers' compensation immunity was a waivable affirmative defense. *Edward v. GEC, LLC*, 67 V.I. 745, 2017 V.I. Supreme LEXIS 46 (VI 2017). SUPREME COURT OF THE VIRGIN ISLANDS

### Cited.

Cited in *Richards v. B & L Dev., Inc.*, 18 V.I. 85, 1980 U.S. Dist. LEXIS 9592 (D.C.V.I. 1980); *Etienne v. Commissioner of Labor*, 18 V.I. 616, 1981 U.S. Dist. LEXIS 9352 (D.C.V.I. 1981); *Choate v. Skinner*, 19 V.I. 399, 1983 V.I. LEXIS 59 (1983); *Harris v. No. 1 Contr. Corp. Excavation Constr. Co.*, 22 V.I. 3, 1986 V.I. LEXIS 4 (1986); *Anthony v. Lettsome*, 22 V.I. 328, 1986 U.S. Dist. LEXIS 23484 (D.C.V.I. 1986); *Ferris v. V.I. Industrial Gases, Inc.*, 23 V.I. 183, 1987 U.S. Dist. LEXIS 3451 (1987); *Peter v. Hess Oil V.I. Corp.*, 903 F.2d 935, 1990 U.S. App. LEXIS 7939 (3d Cir. 1990).

24 V.I.C. § 284, VI ST T. 24 § 284

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 285

§ 285 Mandatory rehiring of injured employee

(a) An employer shall rehire any employee who-

(1) has been disabled and thereby unable to continue his employment, as certified under this chapter, and

(2) immediately after the termination of the disability, applies to the employer for reemployment in the position which he held, at the time of the injury, or in a substantially equivalent position, unless the employer satisfies the Administrator either that the employee, as a result of the injury, will be unable to resume in full his previous obligations and duties, or that the employer had terminated the employment after the accident for just cause. No employee rehired under this section may be subsequently dismissed without just cause.

(b) The Administrator shall enforce the provisions of this section by order after hearing.

**HISTORY**

**Revision notes.**

Substituted 'Administrator' for 'Commissioner' in subsections (a)(2) and (b) for purposes of conformity with Act No. 6033, § 2(b), Sess. L. 1994, p. 254, in light of the creation of the Workers' Compensation Administration and the transfer of functions pertaining to workers' compensation from Commissioner of Labor to the Administrator of Workers' Compensation Administration by section 2(a) of that act.

**ANNOTATIONS**

**1. Retaliatory discharge.**

The theory of recovery for retaliatory discharge is a valid means of redressing a violation of this section. [Ferris v. V.I. Industrial Gases, Inc.](#), 23 V.I. 183, 1987 U.S. Dist. LEXIS 3451 (D.V.I. 1987).

**Cited.**

Cited in [Moore v. A.H. Riise Gift Shops](#), 23 V.I. 227, 659 F. Supp. 1417, 1987 U.S. Dist. LEXIS 6513 (1987).

**§ 285 Mandatory rehiring of injured employee, 24 V.I.C. § 285**

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 286

§ 286 Recording and reporting of injuries by employers

(a) Every employer shall keep a record of all injuries, fatal, or otherwise, received by its employees in the course of their employment. Within 48 hours after notice is received, or should have been received by the employer of an accident resulting in personal injury, which shall cause a loss of time from regular duties beyond the working day or shift on which the accident occurred, or which shall require medical attention beyond ordinary first aid or more than two treatments by a physician or person rendering first aid, a report thereof shall be made in writing by the employer to the administrator of the Workers' Compensation Administration upon forms, procured from the officer of the Workers' Compensation Administration for that purpose. Such report shall state the name and nature of the business of the employer, the location of its establishment or place of work, the name, address and occupation of the injured and such other information as may be required by the administrator. An employer shall furnish a report of an occupational disease incurred by an employee in the course of his or her employment upon the same form. Upon receiving a report, the administrator, within 48 hours, shall provide the injured employee, or in the case of death, his or her dependents with a written statement of their rights under this chapter, in a form prescribed by the administrator.

(b) An employer who refuses or neglects to make a report as required by this section shall be guilty of a misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000). The administrator may, after a hearing, impose a penalty of not more than five thousand dollars (\$5,000) upon an employer who refuses or neglects to make such a report.

(c) The Workers' Compensation Administration is hereby authorized to promulgate the rules and regulations necessary to carry out the provisions of this section.

**Credits**

-Added Oct. 13, 1994, No. 6033, § 1(s), Sess. L. 1994, p. 249.

**HISTORY**

**Effective date**

**-1994.**

See note set out under 24 V.I.C. § 251a.

24 V.I.C. § 286, VI ST T. 24 § 286

**§ 286 Recording and reporting of injuries by employers, 24 V.I.C. § 286**

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 287

§ 287 Prohibition against job discrimination based on receipt of prior benefits

(a) It shall be prohibited for any employer to inquire into, or to consider for the purpose of assessing fitness or capability for employment, whether a job applicant with regard to employment has filed for or received benefits under this chapter or to discriminate against a job applicant with regard to employment on the basis of that claimant having filed for or received benefits under this chapter. An individual aggrieved under this subsection may initiate proceedings in a court of competent jurisdiction seeking damages, including reasonable attorney fees, for violation of this subsection.

(b) An employer who violates the provisions of subsection (a) of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not more than two thousand dollars (\$2,000) for a first offense and not more than five thousand dollars (\$5,000) for a subsequent offense.

(c) In addition to the criminal penalties as provided under subsection (b) of this section, the Board of Directors of the Workers' Compensation Administration may, after a hearing, impose a penalty against such employer in an amount not to exceed five thousand dollars (\$5,000).

**Credits**

-Added Oct. 13, 1994, No. 6033, § 1(s), Sess. L. 1994, p. 249.

**HISTORY**

**Revision notes.**

Substituted 'subsection (b) of this section' for 'subsection (b)' in subsection (c) to conform reference to V.I.C. style.

**Effective date**

**-1994.**

See note set out under [24 V.I.C. § 251a](#).

**CROSS REFERENCES**

**§ 287 Prohibition against job discrimination based on receipt of..., 24 V.I.C. § 287**

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Discrimination in employment, see section 451 et seq. of this title.

24 V.I.C. § 287, VI ST T. 24 § 287

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24 V.I.C. § 288

§ 288 Keeping of transcripts

- (a) The Board of Directors may employ additional staff, if necessary, in order to record the testimony and evidence at hearings conducted by the Administrative Law Judge.
- (b) The record, or minutes, of the hearing shall be transcribed in every case and shall be kept by the hearing reporter section of the board. Upon a request to review by a party to the proceeding, the transcripts shall be provided by the board not later than 7 working days after the date such request has been received by the Workers' Compensation Administration.
- (c) The Workers' Compensation Administration, Administrative Law Judge, board member, administrator or section head may request a transcript, for a review of the hearing at their own initiative.
- (d) A party in interest may also request a transcript, either for their own personal use or for appeal to the courts.
- (e) The Board of Directors shall establish a reasonable per page cost for the purchase of such transcripts, which is to be paid for by the requesting party, provided, however, that the transcripts provided to the Workers' Compensation Administration's Hearing Officer, Administrative Law Judge, board member, administrator, section head, or other branch or division of the government, upon their request, shall be free of charge.
- (f) When the claimant or his representative is the person ordering the transcripts, and the request is made at the time of the hearing, the cost shall be fifty percent (50%) of the price which is charged to any other party an interest.
- (g) Transcripts shall not be provided to anyone who is not a party in interest unless the board is furnished with a properly executed written authorization from the claimant, or his or her attorney, consenting to the release of the transcript.

**Credits**

-Added Oct. 13, 1994, No. 6033, § 1(s), Sess. L. 1994, p. 249.

**HISTORY**

**Effective date**

**-1994.**

See note set out under [24 V.I.C. § 251a](#).

24 V.I.C. § 288, VI ST T. 24 § 288

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 289

§ 289 Employee Assistance Unit

(EAU)

(a) The WCA shall establish an Employee Assistance Unit (EAU), one of whom shall speak fluent Spanish, to assist injured or disabled employees, persons claiming death benefits, employer, and other persons in protecting their rights and obtaining information available under the WCA law.

(b) Each employer shall notify his or her employees of the EAU in a manner prescribed by the administrator of the Workers' Compensation Administration. The notice shall in (one or more) conspicuous be posted places in the work first report of accident form required by this chapter. The EAU shall provide each employee with a lost-item accident claim written notice of workers' compensation assistance that is available. The notice shall include a telephone number for employees to reach WCA Offices.

**Credits**

-Added Oct. 13, 1994, No. 6033, § 1(s), Sess. L. 1994, p. 249.

**HISTORY**

**Revision notes.**

Substituted 'Spanish' for 'spanish' in subsection (a) to correct a typographical error pursuant to section 14 of Title 1.

**Effective date**

**-1994.**

See note set out under 24 V.I.C. § 251a.

24 V.I.C. § 289, VI ST T. 24 § 289

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

**§ 289 Employee Assistance Unit, 24 V.I.C. § 289**

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 290

§ 290 Dispute Resolution Unit (DRU), mediators, training and benefit review conference

- (a) The Workers' Compensation Administration hereby establishes a Dispute Resolution Unit (DRU) among its staff, one of whom shall speak fluent Spanish. These staff persons shall be trained in the principles and procedures of dispute mediation and shall assist injured or disabled employees, persons claiming death benefits, employers, and other persons in protecting their rights and resolving disputes with respect to workers' compensation matters.
- (b) Provided that the employer and the employee agrees to participate in a benefit review conference, the person shall meet with, or otherwise provide information to injured or disabled employees, investigate complaints, and communicate with employers and health care providers on behalf of injured or disabled employees.
- (c) Employees in the DRU shall be classified employees and demonstrate familiarity with the Workers' Compensation Administration law.
- (d) Each employer shall notify his or her employees of the DRU in a manner prescribed by the administrator of the Workers' Compensation Administration. The notice shall include the posting of a notice in one or more conspicuous places in the work place. The administrator shall also clearly describe the availability of the DRU on the first report of the accident form required by this chapter. The DRU shall provide each employee with a lost-time accident claim written notice of workers' compensation assistance that is available. The notice shall include a telephone number for employees to reach WCA Offices.
- (e) The Administrator shall institute and maintain an education and training program for employees in the DRU. Training shall include the principles and procedures of dispute mediation. The administrator may consult or contract with the Federal Mediation and Conciliation Service or other appropriate organizations to accomplish this purpose.
- (f) For the purposes of this chapter, a benefit review conference is a non-adversarial, informal dispute resolution proceeding designed to:
- (1) explain, orally and in writing, the rights of the respective parties to a workers' compensation claim and the procedures necessary to protect those rights;
  - (2) discuss the facts of the claim, review available information in order to evaluate the claim, and delineate the disputed issues;
  - (3) mediate and resolve disputed issues by mutual agreement of the parties in accordance with this chapter and the rules and regulations of the Workers' Compensation Administration (WCA).

(g) Employees in the DRU may conduct benefit review conferences. In conducting these sessions, the employees of the DRU:

(1) shall mediate disputes between parties and assist with the claims consistent with this chapter and the policies of the WCA.

(2) shall inform all parties of their rights and responsibilities under this chapter, especially in cases in which a party is not represented by an attorney or other representative. The employee shall be advised in writing, which shall be notarized, of his or her right to be represented by counsel, and of his or her right to have any settlement of his or her claim reviewed by a court of competent jurisdiction at any time within sixty (60) days after the date of the settlement and at the end of sixty (60) days, it shall be final and irrevocable;

(3) shall ensure that all documents and information relating to the employee's wages, medical condition, and any other information pertinent to the resolution of disputed issues are contained in the claim file at the conference, especially in cases in which the employee is not represented by an attorney or other representative;

(4) may reschedule a benefit review conference if he or she determines that available information pertinent to the resolution of disputed issues is not produced at the first benefit review conference;

(5) may not take testimony but may direct questions to an employee, an employer, or any other party to supplement or clarify information in a claim file.

### **Credits**

-Added Oct. 13, 1994, No. 6033, § 1(s), Sess. L. 1994, p. 249.

### **HISTORY**

#### **Revision notes.**

In subsection (a), substituted 'of' for 'or' to correct a typographical error pursuant to section 14 of Title 1.

#### **Effective date**

**-1994.**

See note set out under [24 V.I.C. § 251a](#).

24 V.I.C. § 290, VI ST T. 24 § 290

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

**§ 290 Dispute Resolution Unit (DRU), mediators, training and..., 24 V.I.C. § 290**

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 291

§ 291 Resolution of disputes, settlement agreements, written reports, interlocutory orders, final determinations of liability

(a) A dispute may be resolved either in whole or in part at the benefit review conference. If the conference results in the resolution of some of the disputed issues by mutual agreement or in a settlement, the DRU shall reduce the agreement or the settlement in writing. The DRU and each party, or the designated representative of the party shall sign the agreement or settlement. A settlement reached hereunder shall, unless otherwise provided herein, be effective on the date of the settlement is signed.

(b) An agreement signed pursuant to this section shall be binding on all parties through the final conclusion of all matters relating to the claim, unless within 60 days after the agreement is signed or approved, the court, on a finding of fraud, newly discovered evidence, or other good cause, shall relieve all parties of the effect of the agreement.

(c) If the dispute is entirely resolved at the benefit review conference, the DRU shall prepare a written report, which shall not be admissible into evidence in any court, that includes:

(1) a statement of each resolved issue;

(2) the DRU's recommendations regarding the payment or denial of benefits;

(3) no permission of the court is required by an attorney to represent any party before the DRU.

(d) The DRU shall file the signed agreement and the report with the Workers' Compensation Administration.

(e) If an agreement, either partially or wholly, is not reached under the provisions of this section, then the DRU shall file a notice to the administrator for process under section 256 of this chapter.

**Credits**

-Added Oct. 13, 1994, No. 6033, § 1(s), Sess. L. 1994, p. 249.

**HISTORY**

**Effective date**

**-1994.**

See note set out under [24 V.I.C. § 251a](#).

24 V.I.C. § 291, VI ST T. 24 § 291

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. § 292

§ 292 Rehabilitation Services Unit

(RSU)

(a) The Workers' Compensation Administration shall establish a Rehabilitation Services Unit (RSU) staffed by a team of employees trained in providing assistance to persons of the dependents of persons who have been partially or permanently disabled by a job-related injury.

(b) Employees of the RSU shall provide direct services such as counseling, indirect services such as regressing claimants to where they can receive suitable treatment for their injury, or any other type of assistance they might require to facilitate the rehabilitation process.

**Credits**

-Added Oct. 13, 1994, No. 6033, § 1(s), Sess. L. 1994, p. 249.

24 V.I.C. § 292, VI ST T. 24 § 292

Statutes current through Act 8699 of the 2022 session of the 34th Legislature, including all code changes through March 15, 2023

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Virgin Islands Code Annotated Currentness

Title 24. Labor

Chapter 11. Workers' Compensation Administration

24 V.I.C. Notes

Notes

### HISTORY

#### Effective date

**-1994.**

See note set out under [24 V.I.C. § 251a](#).

### HISTORY

#### Amendments -1994.

Act Oct. 13, 1994, No. 6033, § 2(b), Sess. L. 1994, p. 254, substituted 'Workers' Compensation Administration' for 'Workmen's Compensation' in the chapter heading.

#### Derivation of chapter; prior law.

Most of this chapter is based upon the provisions of the said 'Kean Workmen Compensation Act' of the Municipal Council of St. Thomas and St. John, approved March 9, 1954 (Bill no. 289). These provisions are extended throughout the Virgin Islands by this chapter because they are the most recent enactment on this subject.

The provisions in force in St. Croix on the effective date of this Code were contained in 'The Pentheny Employees Compensation Act', an Ordinance of the Municipal Council of St. Croix approved Aug. 23, 1946 (Bill no. 23), as amended by Ord. app. Feb. 13, 1947 (Bill no. 11); Res. March 11, 1947; Ord. app. April 29, 1947 (Bill no. 42); Ord. passes July 26, 1949, became law Aug. 27, 1949 (Bill no. 39); Ord. passes March 12, 1953, became law May 21, 1953 (Bill no. 9); and Ord. app. July 30, 1953 (Bill no. 51).

Prior Workmen's Compensation Ordinances of the Municipal Council of St. Thomas and St. John were the following:

Ordinance app. Dec. 5, 1940.

Ordinance app. May 5, 1941 as amended Feb. 24, 1942; and Nov. 13, 1945.

Ordinance passes Sept. 9, 1946, became law Jan. 3, 1947 (Bill no. 320); Ords. app. Jan. 17, 1951 (Bill no. 7); June 12, 1951 (Bill no. 33); and March 12, 1953 (Bill no. 206).

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#### Transfer of fund from Department of Finance to Workers' Compensation Administration.

Act Oct. 13, 1994, No. 6033, § 2(a), Sess. L. 1994, p. 254, as amended by Act May 3, 1995, No. 6071, § 2(c), Sess. L. 1995, p. 188, provided:

‘The Commissioner of Labor shall continue as the Administrator of the Workers’ Compensation Administration until the board appoints a new administrator. The Commissioner of Labor shall provide any necessary assistance for the orderly transition of the entity from being administered with the Department of Labor to its administration as a separate and independent agency. Such assistance shall include, but shall not be limited to, the loaning of personnel, office space, office equipment and technical advice to be used until the administrator appointed by the board can organize his staff and acquire appropriate office space as required provided however, all personnel currently employed by the Government shall maintain their status as government employees with all of their rights and retirement benefits and all fiscal balances, office space, office equipment shall be transferred to the Workers’ Compensation Administration.’

## ANNOTATIONS

### 1. Purpose.

This chapter is designed to provide prompt payment of benefits without regard to fault and to relieve employers and employees of the burden of civil litigation. [Chinnery v. Government of Virgin Islands](#), 865 F.2d 68, 1989 U.S. App. LEXIS 185 (3d Cir. V.I. 1989).

The intent of this chapter is to provide compulsory Government insurance for protection of all employees covered by this chapter. [Carmona v. De Jongh](#), 157 F. Supp. 540, 3 V.I. 281, 1958 U.S. Dist. LEXIS 2835 (D.V.I. 1958).

### 2. Construction.

Workmen’s compensation statutes must be given a liberal construction if favor of the employees they seek to protect. 10 V.I. Op. Att’y Gen. 131.

Being remedial in nature, this chapter must be given liberal construction in favor of the employees it seeks to protect. [Carmona v. De Jongh](#), 157 F. Supp. 540, 3 V.I. 281, 1958 U.S. Dist. LEXIS 2835 (D.V.I. 1958).

### 3. Construction with other laws.

Federal labor laws do not pre-exempt application of the borrowed servant defense to the exclusive remedy provisions of the Virgin Islands Workmen’s Compensation statute. [Prevost v. Hess Oil Virgin Islands Corp.](#), 23 V.I. 395, 1988 U.S. Dist. LEXIS 1927 (D.C.V.I. 1988). But see section 263a of this title.

### 4. Extra-territorial effect.

Local Workmen’s Compensation statutes do not have extra-territorial effect in areas where the Federal government exercises paramount jurisdiction. 2 V.I. Op. Att’y Gen. 313.

Silence of compensation statute on the subject of extraterritorial operation carries the implication that it has extraterritorial effect. 1 V.I. Op. Att’y Gen. 226.

Extraterritorial effect of state compensation laws ceases when operating in areas of law reserved to the Federal Government. 1 V.I. Op. Att’y Gen. 226.

### 5. Indemnification of third party by employer.

Where an employee was injured while performing work for a corporation pursuant to a contract between his employer and

the corporation, indemnification from the employer for money paid to the employee by the corporation in satisfaction of a judgment against it would not be allowed under common law tort principles, since to do so would run contrary to the provisions of this chapter. *Frederick v. Hess Oil Virgin Islands Corp.*, 492 F. Supp. 1338, 17 V.I. 523, 1980 U.S. Dist. LEXIS 14029 (D.V.I. 1980), *aff'd*, 642 F.2d 53, 1981 U.S. App. LEXIS 19810 (3d Cir. V.I. 1981).

**Cited.**

Cited in *Monk v. Virgin Islands Water & Power Auth.*, 32 V.I. 425, 53 F.3d 1381, 1995 U.S. App. LEXIS 9011 (3d Cir. 1995).

24 V.I.C. Notes, VI ST T. 24 Notes

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