**FIELD: ENVIRONMENTAL SCIENCE**

**What is worker compensation?**

Compensation is something, typically money or any other benefit awarded to someone in recognition of loss, suffering, or injury. While a worker is a person who does a specified type of work or who works in a specified way either skilled or semi-skilled, therefore **worker compensation** or workers’ comp is a type of business insurance that provides wage replacement and benefits to employees who suffer work-related injuries or illnesses. Specifically, this insurance helps pay for medical care, wages from lost work time, it also pays death benefits to families of employees who have lost their lives on the job.

In Kenya the workers compensation Act, Chapter 236 covers the following;

* Liability for compensation for death or incapacity resulting from accident, compensation in fatal cases, total, partial and temporary incapacity.
* Method of calculating earnings, persons entitled to compensation and the distribution thereof.
* Covers notice requirements, medical examinations and dispute resolution procedures, as well as insurance requirements,
* Provisions in case of a bankrupt employer and specific provisions for seafarers and workers employed by contractors.
* It also states rates for compensation of medical expenses and prescribes compensation for occupational diseases.

Texas is the only state that does not require employers to maintain workers’ compensation insurance; this is according to **Texas Workforce commission**, *“workers’ compensation”.*

In the United States, workers’ compensation is handled primarily by the individual states. The required benefits vary greatly state by state.

**Key points**

* By accepting workers’ compensation benefits, the employee has the right to sue the employer for damages and in Kenya this is done through COTU (Central Organization of Trade Union), an organization that handle workers’ grievances.
* Workers exposed to injuries and loss of lives includes those working in industry, manufacturing sectors and transport sectors such as machine operators, machine attendants, drivers e.t.c; therefore the employers should provide coverage to them.
* The compensation may include partial salary repayment and coverage of medical costs.
* The compensation benefits is done according to workers’ salary (in case of wage replacements) and even death benefits to defendants.
* Workers’ compensation is a form of employer insurance coverage that pays benefits to workers who are injured or become disabled as a result of their job
* Workers’ compensation benefits may include partial wage replacement for the period during which the employee cannot work. The benefits may also include reimbursement for healthcare services and occupational therapy.
* Most workers’ compensation programs are paid for by private insurers, from premiums paid by the individual employers. Each state has a Workers’ Compensation Board, a state agency that oversees the program and intervenes in disputes.
* Requirements for workers’ compensation vary from state to state, countries to countries and not all employees are covered in some countries. For instance in *Kenya jua kali* sector not covered some countries, for example, exclude [small businesses](https://www.investopedia.com/terms/s/smallandmidsizeenterprises.asp) from the mandate for coverage. Others have different requirements for various industries. The National Federation of Independent Business (NFIB) maintains [a summary](https://www.nfib.com/content/legal-compliance/legal/workers-compensation-laws-state-by-state-comparison-57181/) of each state’s worker compensation requirements, this is according to **NFIB***-Workers ‘compensation Laws-state by state comparison*
* The cost of workers’ compensation insurance varies by state, as do the mandated benefits. There are also different rates depending on whether the employees covered are performing low-risk or high-risk jobs, i.e. rates for white-collar workers different from factory works like machine operators.
* The fees for the insurance are based on the company’s payroll.
* The salary replacement paid to an employee under workers’ compensation is typically less than the person’s full salary. The most generous programs pay about two-thirds of the person’s gross salary.

Workers’ compensation benefits are not usually taxable at the state or federal level, compensating for much of the lost income. Taxes may be due to recipients who also have income from the [Social Security Disability](https://www.investopedia.com/social-security-disability-insurance-ssdi-definition-5223624) or [Supplemental Security Income](https://www.investopedia.com/terms/s/ssi.asp) programs, according to *find law, are workers compensation benefits taxable?*

**Right to compensation**

In Kenyan constitution, chapter 236, revised 2010 provide for the workers compensation and worker injury benefits;

* An employee who is involved in an accident resulting in the employee’s disablement or death is subject to the provisions of this Act, and entitled to the benefits provided for under this Act.
* An employer is liable to pay compensation in accordance with the provisions of this Act to an employee injured while at work.
* An employee is not entitled to compensation if an accident, not resulting in serious disablement or death, is caused by the deliberate and willful misconduct of the employee.
* For the purposes of this Act, an occupational accident or disease resulting in serious disablement or death of an employee is deemed to have arisen out of and in the course of employment if the accident was due to an act done by the employee for the purpose of, in the interests of or in connection with, the business of the employer despite the fact that the employee was, at the time of the accident acting.

**Types of workers’ compensation benefits**

1. **Medical benefits for worker treatment**; this includes coverage for prescription drugs, hospitalization, illness, vision, and dental care. Group health plans offer employees benefits by using funds in a plan trust, buying insurance from a group market issuer, or by “self-funding” from an employer's assets, i.e. if a welding machine operator injures his eye the medical benefit will cater for the treatment of the eye.
2. **Disability Benefits through Workers' Compensation.**

Workers' compensation pays for medical care for work-related injuries immediately; it pays temporary disability benefits after a waiting period of three to seven days; and it pays permanent partial and permanent total disability benefits to workers who have lasting consequences of disabilities caused on the job. In Kenya chapter 236,in the case of permanent incapacity/disability, a lump sum of 96 months of the insured's monthly earnings is paid and a lump-sum of 60 months of the insured worker's earnings is paid for a permanent partial disability, up to 240,000 shillings.

1. **Rehabilitation Benefits**; these includes payments for medical and therapeutic care (such as physical therapy) necessary to help the victim cope with and recover from the injury or illness. They may also cover the care and training necessary for the victim to regain the skills and abilities he/she needs to return to work, i.e a driver of a company lorry may receive physical therapy upon injury on his back.
2. **Death Benefits for Dependents.**

Typically, death benefits are similar to the wage replacement received by the injured worker. They are paid every two weeks and are usually equal to two-thirds of the deceased employee's weekly wage. This payment is divided among the dependents, who receive compensation until they are no longer eligible.

According to Kenyan Act Cap 236, (1) A claim for compensation in accordance with this Act shall be lodged by or on behalf of the claimant in the prescribed manner within twelve months after the date of the accident or, in the case of death, within twelve months after the date of death.

**Benefits of workers’ compensation coverage**

1. **Workers’ compensation insurance safeguards both your business and your employees;** workers’ comp protects your business when an employee becomes ill or injured on the job. It will pay for the employee’s medical expenses and partial lost wages – expenses you’d likely have to pay out-of-pocket if you didn’t have coverage. Most policies also include a [death benefit](https://www.insureon.com/small-business-insurance/workers-compensation/death-benefits) to help reduce the financial burden of funeral expenses if an employee suffers a fatal accident at work.
2. **Workers’ compensation insurance protects your employees**; A work-related injury or illness could be devastating for an employee – especially if it means an extended absence.Workers’ compensation makes sure your staff are taken care of if they’re unable to work due to a work-related injury or illness. It will pay a portion of their missed paychecks and cover any medical expenses they racked up because of the incident. Plus, your employees are always protected. Workers’ comp is no-fault coverage that pays out even if the employee is to blame for their injury.

## How can you reduce the costs of workers’ comp claims?

The best way to keep your workers’ compensation insurance premiums low is to minimize both the number and cost of your workers’ comp claims.

Once an employee files a claim, you won’t have many options to cut costs. That’s why you need to act now to put programs in place that could save you a lot of money in premium payments down the line.

Here are a few options you should consider implementing that could be beneficial to your injured employee as well as your business:

## Special Considerations

A claim for workers’ compensation may be disputed by an employer. In that case, the Workers’ Compensation Board may be asked to resolve the dispute.

Disputes can arise over whether the employer is actually liable for an injury or illness.

Workers’ compensation payments are also susceptible to [insurance fraud](https://www.investopedia.com/terms/i/insurance-fraud.asp). An employee may falsely report that an injury was sustained on the job, exaggerate the severity of an injury, or invent an injury.

In fact, the National Insurance Crime Board asserts that there are “organized criminal conspiracies of crooked physicians, attorneys, and patients” who submit false claims to medical insurance companies for workers’ compensation and other benefits, this is according *to National Insurance Crime Board “Workers’ compensation and medical fraud prevention tips”*

**Conclusion**

Workers’ compensation is available only to employees who are injured on the job. It is not the same as [disability insurance](https://www.investopedia.com/terms/d/disability-insurance.asp) or [unemployment benefits](https://www.investopedia.com/terms/u/unemployment-insurance.asp#:~:text=Unemployment%20insurance%20%28UI%29%2C%20also,are%20not%20eligible%20for%20UI.).