

Index of Revised Sections January 2024

Effective Date of 1984 Amendments

Digests

Eff Dates - 1

Eff Dates - 4

Section 2(2) -Injury

Introduction

2(2) – 1

Causation: Arising Out of Employment

2(2) – 4

Burdens of Proof

2(2) – 4

Establishing Injury

2(2) – 9

Establishing Accident or Working Conditions

2(2) – 16

The Aggravation Rule

2(2) – 22

Natural Progression/Intervening Cause

2(2) – 31

Course of Employment

2(2) – 40

Sections 2(3) and 2(4) – Coverage

Status: Introduction

2(3) – 1

Section 20(a) Presumption

2(3) – 4

Subject Matter Jurisdiction

2(3) – 8

Pre-1972 Amendment Jurisdiction

2(3) – 11

Injury on Actual Navigable Water

2(3) – 16

Amount of Time in Maritime Employment

2(3) – 29

Covered Occupations in General

2(3) – 42

Longshoremen and Longshoring Operations

2(3) – 51

Point of Rest

2(3) – 51

Cargo

2(3) – 54

Loading and Steps in the Process

2(3) – 56

Digests-Intermediate Steps

2(3) – 60

Digests-Loading and Manufacturing

2(3) – 67

Digests-Loading in Construction Work

2(3) – 70

Mechanics and Repairmen

2(3) – 71

Clerical Employees/Miscellaneous

2(3) – 77

Shipbuilding. Ship Repair. Ship-Breaking

2(3) – 82

Shipbuilding and Ship Repair

2(3) – 82

Digests-In General

2(3) – 85

Digests-Clerical Workers

2(3) – 91

Digests- Ship Repair

2(3) – 93

Small/Recreational Boat Builders

2(3) – 94

Ship-Breaking

2(3) – 97

Harbor Workers

2(3) – 98

Maritime Employment

2(3) – 103

In General

2(3) – 103

Bridge Builders	2(3) – 110
Support Services	2(3) – 114
In General	2(3) – 114
Security Guards	2(3) – 118
Offshore Drilling	2(3) – 121
Exclusions From Coverage	2(3) – 125
2(3)(A) – Clerical, Security, etc.	2(3) – 128
2(3)(B), (C) – Club, Museum, Restaurant	2(3) – 136
2(3)(D) – Vendors	2(3) – 140
2(3)(E) – Aquaculture Workers	2(3) – 142
2(3)(F) – Recreational Vessels	2(3) – 145
2(3)(G) – Member of a Crew	2(3) – 148
Digests-Gizoni	2(3) – 154
Digests-Connection to a Vessel	2(3) – 155
Digests-Vessel in Navigation	2(3) – 166
Eighteen Ton Exclusion	2(3) – 170
Section 2(4)—Employer	2(3) – 172

Miscellaneous Definitions

Section 2(1)—Person	Def – 1
Section 2(9)—United States	Def – 2
Section 2(10)—Disability	Def – 4
Section 2(11)—Death	Def – 9
Section 2(12)—Compensation	Def – 10
Section 2(13)—Wages	Def – 16
Section 2(14)—Child, Grandchild, Brother, Sister	Def – 23
Section 2(16)—Widow, Widower	Def – 28
Section 2(18)—Student	Def – 35
Section 2(21)—Vessel	Def – 37

Responsible Employer/Employment Relationship

Responsible Employer	
In General	Emp – 1
Traumatic Injury or Occupational Disease	Emp – 1
Burden of Proof	Emp – 2
Multiple Traumatic Injuries	Emp – 5
Occupational Disease	Emp – 11
Digests--Exposure and Employer's Burden	Emp – 14
Digests-- Disability and Awareness	Emp – 22
Digests—Hearing Loss	Emp – 24
Responsible Carrier	Emp – 29
Digests—In General	Emp – 31
Digests—Traumatic Injuries	Emp – 34

Digests—Occupational Disease	Emp – 35
Digests—Administrative Law Judge’s Authority	Emp – 39
Employer-Employee Relationship	Emp – 43
Digests---In General	Emp - 46
Digests—Employee/Independent Contractor	Emp – 47
Digests—Borrowed Employee	Emp – 49

Section 3

Section 3(a)	3 – 1
In General	3 – 1
Navigable Waters	3 – 3
Enumerated Sites	3 – 16
Other Adjoining Area	3 – 23
Digests—Entire Shipyard Covered	3 – 30
Digests—Construction/Future Use	3 – 33
Digests—Herron/Winchester	3 – 34
In General	3 – 34
Mixed Use Facilities	3 – 41
Oil Platforms	3 – 47
Seawalls, Bulkheads & Bridges	3 – 49
Streets and Other Public Areas	3 – 51
Digests—Fourth/Fifth Circuits-Sidwell/Zepeda	3 – 52
Section 3(b)	3 – 56
Section 3(c)	3 – 58
Solely Due to Intoxication	3 – 58
Willful Intention	3 – 61
Misrepresentation Regarding Prior Injuries	3 – 66
Section 3(d)	3 – 66
Section 3(e)	3 – 67

Section 4

Section 4(a)	4 – 1
Digests-Insurance Issues	4 – 2
Digests-Contractor-Subcontractor	4 – 4
Section 4(b)	4 – 8

Section 5

Section 5(a)	5 – 1
Section 5(b), (c)	5 – 11

Section 6

Section 6(a)	6 – 1
Section 6(b)	6 – 4

Maximum Rate	6 – 5
Minimum Rate	6 - 12
Section 6(c)	6 – 14

Section 7 – Medical Benefits

Introduction	7 – 1
Section 7(a)—Necessary Treatment	7 – 7
Digests—Related Expenses in General	7 – 13
Digests—Necessary Treatment and Reasonable Expenses/Distance	7 – 18
Digests—Apparatus, Attendant Care, etc.	7 – 20
Digests—Employer’s Liability for Reimbursement of Intervenors	7 – 22
Section 7(b), (c)—Choice of Physician and Physician Defined	7 – 25
Digests—Definition of Physician	7 – 27
Digests—Choice/Change of Physician	7 – 29
Section 7(d)	7 – 33
Authorization and Refusal to Provide Treatment	7 – 34
Physician’s Report of Treatment	7 – 42
Section 7(d)(3)	7 – 46
Section 7(d)(4)-Unreasonable Refusal	7 – 50
Section 7(e), (f)	7 – 57
Section 7(g)—Fees	7 – 60
Section 7(h)	7 – 63
Section 7(i)	7 – 64
Section 7(k)	7 – 66

Section 8—Disability

Introduction	8 – 1
Section 8(a) and (b) in General	8 – 11
Nature: Permanent v. Temporary Disability	8 – 14
Extent: Establishing Total Disability	8 – 27
Shifting Burdens	8 – 27
Usual Employment	8 – 32
Suitable Alternate Employment	8 – 44
In General	8 – 44
Onset Date of Partial Disability	8 – 63
Single Job Opportunity Identified	8 – 66
Effect of Claimant’s Relocation	8 – 69
Relevant Factors: Criminal Record, Incarceration	
Illegal Alien	8 – 72
Vocational Evidence and Rehabilitation	8 – 75
Digests—Vocational Evidence	8 – 77

Digests—Enrollment in Vocational Rehabilitation Program	8 – 86
Jobs in Employer’s Facility	8 – 90
Short Term Employment; Effect of Discharge and Layoff	8 – 94
Diligence in Seeking Work	8 – 99
Total Disability While Working	8 – 105
Section 8(c)—Permanent Partial Disability	8 - 110
Introduction	8 - 110
The Schedule—Section 8(c)(1)-(19)	
In General—Substantial Evidence/Calculation	8 – 110
The Credit Doctrine	8 – 122
Hearing Loss—Section 8(c)(13)	8 – 126
In General	8 – 126
Timeliness of Notice and Filing	8 – 133
Determining the Extent of Loss	8 – 136
Digests—In General	8 – 138
Digests—Monaural vs. Binaural	8 – 142
Digests—Calculation after Claimant Leaves Covered Employment	8 – 145
Disfigurement—Section 8(c)(20)	8 – 147
Unscheduled Injuries—Section 8(c)(21)	8 – 148
Section 8(c)(22)	8 – 153
Section 8(c)(23)	8 – 154
Conflicts Between Applicable Sections	8 – 161
Raising Partial and Total	8 – 161
Schedule Injuries and Total Disability	8 – 161
The Schedule v. Section 8(c)(21)	8 – 163
Concurrent Awards	8 – 169
Section 8(d)	8 – 181
Section 8(e) - Temporary Partial Disability	8 – 186
Section 8(g)	8 – 188
Section 8(h)	8 – 189
In General	8 – 189
Factors Considered	8 – 197
General Principles	8 – 197
Consideration of Actual Earnings—in General	8 – 200
Loss of Overtime	8 – 206
Working with Pain and Limitations	8 – 208
Actual Earnings and Beneficent Employer	8 – 210
Actual Earnings vs. Open Market	8 – 214
Inflation	8 – 217
Digests—Statutory Scheme	8 – 218

Digests—Inflation Calculations	8 – 220
Finding No Loss	8 – 222
Nominal/ <i>De Minimis</i> Awards	8 – 226
Section 8(j)	8 – 234
 Section 8(f)	
Introduction	8(f) – 1
General Rules	8(f) – 4
Digests—General Rules	8(f) – 6
Digests—Hearing Loss	8(f) – 9
Elements of Section 8 (f) Relief	8(f) – 13
Pre-Existing Permanent Partial Disability	8(f) – 13
Manifest	8(f) – 23
Digests—Post-Retirement Occupational Disease	8(f) – 27
Digests—In General	8(f) – 29
Contribution and Aggravation	8(f) – 36
Digests—In General; Second Injury	8(f) – 40
Digests—Section 8(c)(23)	8(f) – 44
Digests—Solely Due to—Permanent Total Disability	8(f) – 45
Digests—Permanent Partial Disability	
Materially and Substantially Greater	8(f) – 50
Digests—Death	8(f) – 58
Procedural Issues Concerning Section 8(f)	8(f) – 60
Standing	8(f) – 60
Timeliness of Employer’s Claim for Relief	8(f) – 62
Digests—Pre-1984 Amendment; Modification	8(f) – 64
Digests—Section 8(f)(3)	8(f) – 69
Effect of Settlements and Stipulations	8(f) – 78
Employer’s Liability—One Period or Two?	8(f) – 83
Liens and Credits	8(f) – 87
Miscellaneous	8(f) – 90
 Section 8(i)—Settlements and Withdrawals of Claims	
Settlements	8(i) – 1
In General	8(i) – 1
Proper Parties	8(i) – 6
Complete Application	8(i) – 8
Authority to Approve Settlements	8(i) – 13
When Claims May be Settled; Claims in Existence	8(i) – 15
Ability to Rescind or Condition a Settlement	8(i) – 18
Whether an Agreement is a Section 8(i) Settlement;	
Finality	8(i) – 23
Crediting Settlement Amounts	8(i) – 30

Section 8(f)	8(i) – 32
Section 14(f)	8(i) – 36
Effect of Disapproval	8(i) – 37
Withdrawal of Claim	8(i) – 39

Section 9 – Death Benefit

In General	9-1
Permanent Total Disability and Unrelated Death	9-5
Offsets	9-8
Funeral Expenses	9-10
Survivors	9-11
Maximum/Minimum Benefit	9-19
Section 9(g)	9-22

Section 10—Determination of Pay

Average Weekly Wage in General	10 – 1
Introduction	10 – 1
Definition of Wages	10 – 8
Section 10(a)	10 – 18
Section 10(b)	10 – 27
Section 10(c)	10 – 29
Section 10(d)	10 – 49
Section 10(d)(1)	10 – 49
Section 10(d)(2)	10 – 51
Section 10(e)	10 – 55
Section 10(f), (g)	10 – 56
Section 10(h)	10 – 62
In General	10 – 62
Section 10(h)(1), (3)	10 – 63
Section 10(h)(2)	10 – 65
Section 10(i)	10 – 66
Section 10(i) and hearing loss	10 - 71

Section 11

11-1

Section 12—Notice

In General	12 – 1
Section 12(a)—Aware or Should Have Been Aware	12 – 5
Digests—Occupational Disease Under 1984 Amendments	12 – 9
Digests—Traumatic Injury; <i>Stancil</i>	12 – 12
Digests—Hearing Loss	12 – 14
Sections 12(b) and (c)	12 – 16
Section 12(d)	12 – 17

Introduction	12 – 17
Section 12(d)(1)—Knowledge	12 – 19
Section 12(d)(2)—Prejudice	12 – 24
Section 12(d)(3)—Excuse	12 – 28
Designation of Official—Section 12(d)(3)(i)	12 – 28
Satisfactory Reason—Section 12(d)(3)(ii)	12 – 29
Raising Section 12 Defense	12 – 31

Section 13—Timely Claim

Introduction	13 – 1
Digests—Laches & <i>Intercountry</i>	13 – 3
Digests—Section 30 Reports	13 – 7
Digests—Miscellaneous	13 – 10
What Constitutes a Claim?	13 – 13
Section 13(a)—“Awareness” in Traumatic Injury Cases	13 – 20
In General	13 – 20
Effect of Diagnosis	13 – 22
Awareness of a Work-Related Injury	
Which Likely Impairs Earning Capacity	13 – 25
Occupational Diseases and Hearing Loss	13 – 35
Digests—Occupational Disease Cases	13 – 36
Digests—Hearing Loss	13 – 43
Voluntary Payments	13 – 45
Raising the Section 13 Bar	13 – 49
Section 13(c)	13 – 49
Section 13(d)	13 – 50

Section 14—Payment of Compensation

Section 14(a)-(c)	14 – 2
Section 14(d)—Notice of Controversion	14 – 3
Section 14(e)—Failure to Pay or Controvert	14 – 8
In General	14 – 8
Principles in Establishing Liability	14 – 17
(1) Voluntary Payments—Controversy	14 – 17
(2) Timely Controversion—Employer Knowledge	14 – 23
(3) Excuse	14 – 27
Period of Assessment	14 – 28
Section 14(f)	14 – 33
In General	14 – 33
Procedure and Board Jurisdiction	14 – 40
Digests—Procedure in General	14 – 44
Digests—Computation of Benefits; Finality and Enforceability	14 – 48

Digests—Suspension after an Award	14 – 50
The 10-Day Period and FRCP	14 – 51
Section 14(g)-(i)	14 – 55
Commutation of Benefits (Repealed 1984)	14 – 56
Credit—Section 14(j)	14 – 57
Digests—Credit for “Compensation” and Payments in General	14 – 60
Digests—Holiday and Vacation Payments	14 – 63
Digests—Survivor’s Claims	14 – 65
Digests—Credit for Payments by Another Employer	14 – 67
Digests—Payments under Other Laws	14 – 69
Digests—Wages, Short-Term Disability Plans and Such	14 – 71
Digests—Credits Between Employer and the Special Fund	14 – 73
Digests—Reimbursement from Claimant	14 – 75
Section 14(k)	14 – 77
Section 14(m) (Repealed 1972)	14 – 78
 Section 15	 15 – 1
 Section 16	 16 – 1
 Section 17	 17 – 1
 Section 18	 18 – 1
Section 18(a)	18 – 1
Section 18(b)	18 – 13
 Sections 19, 23, 24 and 27	
Procedure Before the District Director and Administrative Law Judge	
Introduction	19 – 1
The Claim	19 – 4
Digests—In General	19 – 6
Digests—Dismissal	19 – 9
Digests—Withdrawal	19 – 11
Digests—Amendment of Claims	19 – 12
Proceedings before the Deputy Commissioner/District Director	19 – 15
Digests—In General	19 – 19
Digests—Duty to Transfer Case for Hearing	19 – 23
Administrative Law Judge Adjudication	19 – 26
Section 19(c)—Notice of Hearing and Timely Decision	19 – 26
Authority of the Administrative Law Judge in General	19 – 28
Digests—Miscellaneous	19 – 32
Digests—Duty to Award or Deny Benefits	19 – 38

Digests—Ripeness	19 – 40
Digests—Intervenors	19 – 42
Digests—Issue in Respect of a Claim	19 – 43
Digests—Authority to Dismiss/Party’s Failure to Appear/Default	19 – 48
Digests—Authority to Approve Withdrawal of Claim	19 – 50
Raising Issues Before the ALJ; Stipulations	19 – 51
Digests—Raising Issues	19 – 54
Digests—Stipulations	19 – 64
Procedure: Administrative Procedure Act, Section 23 and Section 27(a)	19 – 69
Allegations of Bias—Disqualification of Judge or Counsel	19 – 77
Decisions under the APA	19 – 79
Digests—Sufficient Rationale	19 – 80
Digests—Summary Decision	19 – 82
Admission of Evidence	19 – 90
Digests—In General	19 – 93
Digests—Pre-Hearing Order	19 – 97
Digests—Post-Hearing Evidence; Reopening the Record on Reconsideration and Remand	19 – 100
Digests—Adverse Inference	19 – 103
Digests—Hearsay and Circumstantial Evidence	19 – 103
Digests—Parol Evidence	19 – 105
Discovery; Section 27 Sanctions	19 – 106
 Section 20—Presumptions	
Introduction	20 – 1
Section 20(a)—Where Applicable	20 – 2
Application of Section 20(a)	20 – 12
<i>Prima Facie</i> Case	20 – 12
In General	20 – 12
Establishing Injury	20 – 20
Accident or Working Conditions	20 – 23
Proper Invocation	20 – 30
Failure to Properly Apply Section 20(a)	20 – 39
Rebutting the Presumption	20 – 45
In General	20 – 45
Section 20(a) not rebutted	20 – 53
Presumption Rebutted	20 – 68
Evaluating the Evidence	20 – 75
Section 20(b)	20 – 87
Section 20(c), (d)	20 – 91 See Section 3, 3-57

Section 21—Appellate Procedure	
Introduction	21 – 1
Section 21(a)—Timely Appeal and Briefing	21 – 2
Digests—Filing, Service Mailing	21 – 5
Digests—Appealable Decisions	21 – 7
Digests—Timely Motion for Reconsideration to Administrative Law Judge	21 – 9
Digests—Effect of a Timely Motion for Reconsideration On Appeals to the Board	21 – 10
Digests—Notice of Appeal in General	21 – 13
Digests—Timely Petition for Review	21 – 14
Section 21(b)—Establishment of the Benefits Review Board	21 – 15
Authority of the Benefits Review Board	21 – 17
Introduction	21 – 17
Digests—In General	21 – 19
Digests—One-Year Period for Decision	21 – 23
Substantial Question of Law or Fact	21 – 25
Retroactivity	21 – 29
Of Decisions	21 – 29
Of Statutes	21 – 31
Scope of Review	21 – 33
Direct Appeals from District Director to Board	21 – 44
Stay of Payments	21 – 50
Remand by Board	21 – 53
Board Appellate Procedure	21 – 57
Standing Before the Board	21 – 57
New Issue Raised on Appeal	21 – 62
Inadequate Briefing	21 – 69
Issues Raised in Response Brief	21 – 71
Issues Raised in Reply Brief and Motions	21 – 74
Appeals of Interlocutory Orders	21 – 75
Deference	21 – 80
Law of the Case	21 – 82
Reconsideration of Board Decisions	21 – 88
Review by U.S. Courts of Appeals	21 – 90
Jurisdiction; Proper Circuit for Appeal	21 – 90
Digests—In General	21 – 92
Digests—Defense Base Act	21 – 94
Digests—1928 D.C. Act	21 – 95
Process of Appeal	21 – 96
Standard of Review; Applicable Law; Deference	21 – 100
Digests—In General	21 – 101
Digests—Deference	21 – 104

Finality of Board Decisions and Interlocutory Appeal	21 – 109
Standing	21 – 113
New Issue Raised Before the Court	21 – 117
Effective Date of Court Decision	21 – 120
Section 21(d) Enforcement	21 – 121
 Section 22 – Modification	
Introduction	22 – 1
Request for Modification	22 – 13
Timely Request for Modification	22 – 21
Change in Condition	22 – 27
Mistake in Fact	22 – 36
Legal Error/Change in Law	22 – 50
Section 8(f)	22 – 53
Modification of Orders Which Are on Appeal	22 – 58
Miscellaneous	22 – 61
 Section 25	25 – 1
 Section 26	26 – 1
 Section 28--Attorney's Fees	
Introduction	28 – 1
Appeals of Administrative Law Judge and	
District Director Fee Awards	28 – 6
Standard of Review	28 – 6
Timely Appeal/Finality	28 – 9
Direct Appeal of District Director Fee Awards	28 – 14
Requirements Regarding Objections Below	28 – 16
Proper Application	28 – 19
In General	28 – 19
Due Process: Notice and Opportunity to Respond	28 – 25
Authority to Award Fee	28 – 28
Level of Proceedings	28 – 28
Claims Examiner's Authority	28 – 32
Award Must be in an Order	28 – 33
Amount of Award	28 – 34
Sufficient Explanation	28 – 34
Factors Considered in Award	28 – 39
Hensley--Partial Success and Amount	
of Fee in Relation to Benefits Awarded	28 – 49
Hourly Rate	28 – 56
Digests-In General	28 - 60

Enhancement for Delay	28 - 71
Compensable Services	28 – 74
In General	28 – 74
Fee Petition	28 – 79
Collateral Actions	28 - 82
Clerical Work	28 – 83
Travel Time	28 – 84
Attorney’s Fees for Work before the Board	28 – 87
Fee Liability in General	28 – 99
Employer’s Liability—Section 28(a)	28 – 104
Introduction	28 – 104
Successful Prosecution	28 – 106
When Employer’s Liability Commences	28 – 114
Decline to Pay	28 – 118
Employer’s Liability—Section 28(b)	28 – 124
Introduction	28 – 124
Tender of Compensation	28 – 126
Controversy	28 – 129
Informal Conference, Recommendation and Acceptance	28 – 131
Additional Compensation	28 – 142
Amount of the Award	28 – 150
Avoidance of Liability under Section 28(b)	28 – 152
Claimant’s Liability—Section 28(c)	28 – 153
Liability of Special Fund	28 – 157
Costs—Section 28(d)	28 – 159
Introduction	28 – 159
Witness Fees	28 – 161
Medical Reports and Testimony	28 – 163
Hearing Transcript	28 – 165
Travel Expenses	28 – 166
Section 28(e)	28 – 169
Attorney’s Fees and Settlements	28 – 170
Pre-1984 Amendments Decisions	28 – 172
Interest	28 – 174
 Section 30	
Section 30(a)-(d), (f)	30 – 1
Section 30(e)	30 – 7
 Section 31	31 – 1
 Section 33	
Introduction	33 – 1

Section 33(a)	33 – 1
Same Disability or Death	33 – 2
Third Party	33 – 7
Section 33(b)	33 – 10
Section 33(c), (d)	33 – 12
Section 33(e)	33 – 13
Section 33(f)	33 – 14
In General	33 – 14
“Person Entitled to Compensation”	33 – 20
Apportionment of Employer’s Offset-Same Injury or Disability	33 – 23
Apportionment of Employer’s Offset Among Claims and “Persons Entitled to Compensation”	33 – 26
Waiver	33 – 33
Miscellaneous	33 – 36
Section 33(g)	33 – 37
In General	33 – 37
Subsection (g)(1) – Prior Written Approval	33 – 44
Subsection (g)(2) – Notice Provision	33 – 58
Waiver and Employer Participation	33 – 62
Existence of a Settlement	33 – 67
Same Injury or Disability	33 – 72
Section 33(g)(3)	33 – 76
Section 33(g)(4)	33 – 76
Section 33(h)	33 – 77
Section 33(i)	33 – 78
 Section 39	 39 – 1
Vocational Rehabilitation	39 – 3
 Section 44	 44 – 1
 Section 48a	 48a – 1
 Doctrines of Preclusion	 Prec – 1
Introduction	Prec – 1
Election of Remedies and Full Faith and Credit	Prec – 1
Res Judicata and Collateral Estoppel	Prec – 6
Equitable and Judicial Estoppel	Prec – 14
Preemption, State Guaranty Funds	Prec – 20
Law of the Case	Prec – 23
Collateral Attacks	Prec – 23

Interest

Int – 1

Extensions

Ext – 1

Defense Base Act

Ext – 1

Coverage

Ext – 1

Procedure

Ext – 9

Zone of Special Danger

Ext – 12

Miscellaneous

Ext – 18

War Hazards Compensation Act

Ext – 25

NFIA

Ext – 27

OCLSA

Ext – 30

1928 D.C. Act

Ext – 40