

TASMANIA.

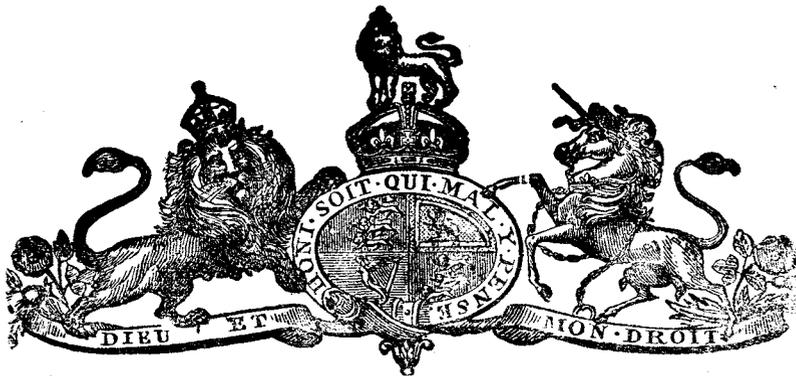
THE WORKERS' COMPENSATION ACT, 1918.

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TASMANIA.



1918.

ANNO NONO

GEORGII V. REGIS.

No. 40.

AN ACT to amend the Law with respect to Compensation to Workers for Injuries suffered in the course of their Employment.

A.D.
1918.

[14 January, 1919.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1 This Act may be cited as "The Workers' Compensation Act, Short title, 1918."
- 2 This Act shall come into operation on the First day of March, Commencement. One thousand nine hundred and nineteen.
- 3 "The Workers' Compensation Act, 1910," is hereby repealed. Repeal. Provided that—
 - 1 In every case where proceedings for the recovery of compensation under "The Workers' Compensation Act, 1910," were maintainable under that Act before the commencement of this Act, proceedings for the recovery of the compensation shall, in default of settlement by agreement, be taken under this Act, and the claim for compensation shall be deemed to be a claim for compensation under this Act, and this Act shall accordingly apply thereto ;

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- ii. Any agreement for the settlement of any such claim for compensation or of any question relating to compensation, whether made before or after the commencement of this Act, shall be subject to the provisions of this Act, as if the agreement were made in respect of a claim for compensation under this Act, or of any similar question arising under this Act.

Interpretation.

Interpretation.

"Commissioner."
1 Geo. V. No.
66, s. 2 (Tas.).

60 Vict. No. 48.

"Court of
requests."
Ibid. (Tas.).

"Dependants."
Ibid. (Tas.).

6 Ed. VII., c. 58.
s. 13.

"Employer."
Cf. *Ibid.*, s. 13
(Eng.).
Ibid. (Tas.).

"Member of
family."
Ibid., s. 13 (Eng.)
Ibid. (Tas.).

4 In this Act, unless the contrary intention appears—

"Commissioner" means a Commissioner, being a barrister, attorney, solicitor, or proctor of the Supreme Court, appointed to hold a Court of Requests under "The Local Courts Act, 1896," and includes a substitute for any such Commissioner :

"Court of Requests" means a Court of Requests held before a Commissioner as defined by this Act :

"Dependants" means such of the members of the worker's family as were wholly or in part dependent upon the earnings of the worker at the time of his death, or would but for the incapacity due to the accident have been so dependent, and where the worker—

i. Being the parent or grandparent of a child born out of wedlock, leaves such a child so dependent upon his earnings ; or

ii Being a child born out of wedlock, leaves a parent or grandparent so dependent upon his earnings—

shall include such a child born out of wedlock and parent or grandparent respectively :

"Employer" includes any body of persons, corporate or unincorporate, and the legal personal representative of a deceased employer, and, where the services of a worker are temporarily lent or let on hire to another person by the person with whom the worker has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Act, be deemed to continue to be the employer of the worker whilst he is working for that other person, but shall be entitled to be indemnified by that other person to the extent of any compensation paid under this Act by the employer in respect of any injury received by such worker whilst he is working for that other person :

"Member of a family" means wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister and the term includes any person who stands in *loco parentis* to another person, and also to that other person :

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- “The Minister” means the Minister of the Crown for the time being administering this Act : A.D. 1918.
- “Outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale in his own home, or on other premises not under the control or management of the person who gave out the materials or articles : “The Minister.”
“Outworker.”
Ibid., s. 13 (Eng.)
Ibid. (Tas.).
- “Seaman” means any worker employed as a master, officer, seaman, apprentice, or in any other capacity on board a ship by the owner or charterer thereof : “Seamen.”
No. 248 of 1908,
s. 2 (N.Z.). New.
- “Schedule” means schedule to this Act : “Schedule.”
- “Ship” means any ship, vessel, boat, or other craft : “Ship.”
New.
- “This Act” includes regulations made under this Act : “This Act.”
- “Worker” does not include—
- i. A person whose average weekly earnings, calculated in accordance with the provisions of this Act, exceed Four Pounds; or
 - ii. A member of the police force of the State; or
 - iii. An outworker; or
 - iv. A domestic servant in a private family—
 - (a) Under the age of Sixteen years; or
 - (b) Who is employed for less than Eight hours per diem; or
 - (c) Who has at the date of the injury been in the employ of the same employer for a period of less than Sixty days continuously; or
 - v. A member of an employer's family (dwelling in his house); or
 - vi. A person whose employment is of a casual nature, and who is employed otherwise than for the purposes of the employer's trade or business :
- But, save as aforesaid, “Worker” means any person who has entered into or works under a contract of service or apprenticeship with an employer by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing, and whether the employment is on land or water. *Ibid.*, s. 2 (Tas.).
- Any reference to a worker who has been injured shall, where the worker is dead, include a reference to his legal personal representative or to his dependants or other person to whom or for whose benefit compensation is payable. Reference to worker
Ibid., s. 2 (Tas.).

Employers and their Liability.

- 5 The exercise and performance of the powers, duties, or functions of a local or other public body or authority shall, for the purposes of this Act, be treated as the trade or business of the body or authority. Cf. *Ibid.*, s. 13 (Eng.).
Local and public authorities affected.

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With certain specified exceptions, Act to bind the Crown.
Cf. No. 248 of 1908, s. 12 (N.Z.).
Cf. Bill, 37 Vict. s. 4

Application to workers in employment of Crown or Government department.

Proceedings in claims against the Crown or Government department.

Fund for payment of claims.
Cf. 2 Geo. V. No. 1053, s. 5 (S.A.).

Minister may frame schemes.

Liability of employers to workers for injuries.
Cf., *Ibid.*, s. 1 (Eng.).
Cf. *Ibid.*, s. 3 (Tas.).

Minimum period of disablement.

Liability independently of Act.

Injuries due to misconduct of worker.
Cf. 5 Ed. VII. No. 26, s. 4 (2), Queensland.

6 (1)—Save as otherwise expressly provided, this Act shall bind the Crown in respect of the Government of this State in the same manner as if the exercise by or on behalf of the Crown of any powers or functions in respect of the Government of this State were the trade or business of the Crown within the meaning of this Act.

(2) This Act does not apply to accidents happening to persons in the service of the Crown otherwise than in respect of the Government of this State and arising out of their employment in that service.

(3) All proceedings for or in respect of claims under this Act against the Crown or any Government department shall be taken in accordance with the provisions of this Act as if the claim were against a private person: Provided that regulations may be made providing for any matter or thing necessary or convenient to be provided for with respect to claims against the Crown or any Government department or any matter arising out of any such claim.

(4) All moneys payable under this Act in respect of any claim against the Crown or any Government department shall be paid out of moneys to be provided by Parliament.

(5) The State Treasurer may, notwithstanding anything in this Act, frame schemes for all or any of the Government departments with a view to their being certified by a Commissioner under Section Seventeen.

7—(1) If in any employment to which this Act applies personal injury by accident arising out of and in the course of the employment is caused to a worker, his employer shall, subject as hereinafter mentioned, be liable to pay compensation in accordance with the Schedule.

(2) Provided that—

i. The employer shall not be liable under this Act in respect of any injury which does not disable the worker for a period of at least Three days from earning full wages at the work at which he was employed:

ii. When the injury was caused by the personal negligence or wilful act of the employer or of some person for whose act or default the employer is responsible, nothing in this Act shall affect any civil liability of the employer, but in that case the worker may, at his option, either claim compensation under this Act or take proceedings independently of this Act; but the employer shall not be liable to pay compensation for injury to a worker by accident arising out of and in the course of the employment both independently of and also under this Act, and shall not be liable to any proceedings independently of this Act, except in case of such personal negligence or wilful act as aforesaid:

iii. If the injury to a worker—

(a) Is attributable to the serious and wilful misconduct of that worker; or

(b) Is caused to the worker whilst proceeding to or from his place of work—

no compensation in respect of that injury shall be allowed:

Workers' Compensation.

- vi. If compensation has already been recovered by the claimant in respect of the injury under any law of the United Kingdom or of any other part of His Majesty's dominions, compensation under this Act shall not be allowed to the claimant, nor shall any person having such a claim under any such law claim under this Act unless he declares in writing that he has not claimed, and will not claim, compensation for the injury under any such law :
- v. Compensation may be refused by the court in the case of the death or incapacity of a worker if his death is caused, or if and so far as his incapacity is caused, continued, or aggravated by an unreasonable refusal to submit to medical treatment, or to any surgical treatment the risk of which is, in the opinion of the court, inconsiderable in view of the seriousness of the injury

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Where claim exists elsewhere as well as in this State.

Cf. No. 1053, (1911) s. 6 (2) (d), S.A. Com. Act, No. 13 of 1911, 55 (2) (e).

No. 248 of 1908, s. 16 (N.Z.).

Settlement by Agreement.

- 8—(1) Save as otherwise expressly provided in this Act, no agreement between an employer and a worker, whether made before or after the coming into operation of this Act, shall be effective so as to exempt the employer in whole or in part from any liability to pay compensation for any injury to be suffered by the worker.
- (2) Notwithstanding anything in this section contained, an agreement may be made between an employer and a worker, or between an employer and any representative or dependant of a deceased worker, or between any such dependants themselves, after the happening of an injury to the worker, for the settlement of any claim to compensation or of any question arising with respect to compensation.
- (3) Nothing in this section shall be so construed as to confer upon the representative of a deceased worker any power to determine the shares in which compensation is to be apportioned between the dependants of that worker.

With certain specified exceptions, liability not affected by agreement.

Settlement by agreement.

No. 248 of 1908, s. 18 (1), (2), and (5), (N.Z.).

- 9 Where the amount of compensation under this Act has been ascertained, or any weekly payment varied, or any other matter decided under this Act, by agreement, a memorandum thereof shall be sent, in manner prescribed by regulation, by any party interested, to the Registrar of the Court of Requests in which proceedings could be taken, who shall, subject to such regulations, on being satisfied as to its genuineness, record such memorandum in a special register without fee, and thereupon the memorandum shall for all purposes be enforceable as a Court of Requests judgment :

Registration of memorandum of agreement.

Par. (9).
Second Schedule.
6 Ed. VII., Ch. 58 (Eng.).Par. 6.
Third Schedule
1 Geo. V. No. 66 (Tas.).

Proviso.

Provided that—

- i. No such memorandum shall be recorded before Seven days after the dispatch by the Registrar of the court of notice to the parties interested : and

Before recording certain time to elapse.

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Objections to recording.

Register may be rectified.

Question of registration may in certain cases be referred to Commissioner, who may make orders.

Record may be removed from register on proof of fraud, &c.

Effect of non-registration of agreement.

Par. (10).
Second Schedule,
(Eng.).
Par. 7.
Third Schedule,
(Tas.).

ii. Where a worker seeks to record a memorandum of agreement between his employer and himself for the payment of compensation under this Act, and the employer, in accordance with regulations, proves that the worker has in fact returned to work and is earning the same wages as he did before the accident, and objects to the recording of such memorandum, the memorandum shall only be recorded, if at all, on such terms as the Commissioner of the Court of Requests, under the circumstances, may think just: and

iii. The Commissioner may at any time rectify the register:

iv. Where it appears to the Registrar of the Court of Requests on any information which he considers sufficient, that an agreement as to the redemption of a weekly payment by a lump sum, or an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence, or other improper means, he may refuse to record the memorandum of the agreement sent to him for registration, and in that case shall refer the matter to the Commissioner, who shall, in accordance with regulations make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think just: and

v. The Commissioner may, within Six months after a memorandum of an agreement as to the redemption of a weekly payment by a lump sum, or of an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, has been recorded in the register, order that the record be removed from the register on proof to his satisfaction that the agreement was obtained by fraud or undue influence or other improper means, and may make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think just.

10 An agreement as to the redemption of a weekly payment by a lump sum if not registered in accordance with this Act shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the weekly payment is payable from liability to continue to make that weekly payment; and an agreement as to the amount of compensation to be paid to a person under a legal disability or to dependants, if not so registered, shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the compensation is payable from liability to pay compensation, unless in either case, he proves that the failure to register was not due to any neglect or default on his part.

*Workers' Compensation.**Proceedings.*

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11—(1) All proceedings for the recovery of compensation or for the determination of any question arising under this Act, or for obtaining any order which by this Act a court is authorised to make with respect to compensation, shall be taken in the court of requests nearest to the place where the injury happened, or in such other court of requests as the Governor may appoint.

Proceedings to be in Court of Requests.

Cf. No. 248 of 1908, s. 19, (N.Z.), and must be as to a question arisen between parties and not settled by agreement.

(2) No proceedings for the settlement of any matter in a court of requests shall be taken—

- i. Unless and until some question has arisen between the parties and such question has not been settled by agreement : nor
- ii. In the case of proceedings for the recovery of compensation, until after the expiration of Twenty-eight days from the making of the claim for compensation.

(3) If any question arises—

- i. As to liability to pay compensation under this Act (including any question as to whether the person injured is a worker to whom this Act applies) : or
- ii. As to the amount or duration of compensation under this Act : or
- iii. Otherwise howsoever under this Act—

the question, if not settled by agreement, shall, subject to the provisions of the schedule, be heard and determined by the court of requests nearest to the place where the injury happens, or by such other court of requests as the Governor may appoint ; and for all such purposes jurisdiction is hereby conferred upon such court, and the amount to which the jurisdiction of any such court is now limited is, for the purposes of this Act, hereby increased to the maximum required for such purposes.

Procedure.

(4) The Commissioner shall alone determine all questions as well of fact as of law, and his decision shall be the judgment of the court and shall subject to the next succeeding subsection be final, and the Commissioner may grant such costs as in his opinion are just and reasonable, which costs shall in no case exceed the prescribed limit.

(5) If either party to the proceedings is dissatisfied with the decision or order of the Court of Requests, or Commissioner thereof, on any point of law he may—

Appeal.

- i. Where the claim does not exceed Fifty Pounds, with the leave of the Commissioner ; or
- ii. Where the claim exceeds Fifty Pounds, without such leave—

Such appeal shall be made within the time and in accordance with the conditions for appeals prescribed by Section 123 of "The Local Courts Act, 1896," and if so made, the judge of the Supreme Court, shall decide the matter of such appeal and make such order therein as is just and may either dismiss the appeal or reverse or vary the decision or order appealed from, and may make such order with respect to the costs of the appeal and of the proceedings in the court of requests as he thinks proper and his order shall be final.

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(6) In respect of all proceedings, the commissioner may exercise all powers, authority, and jurisdiction conferred upon a court or judge by "The Local Courts Act, 1896," or any amendment thereof, in the same manner as if the proceeding under this Act arose within the ordinary jurisdiction of the court.

Court or Commissioner if it or he think it proper so to do, may waive illegality of contract of service.

12 If in any proceedings for the recovery under this Act of compensation for an injury it appears to the Court of Requests or Commissioner thereof that the contract of service or apprenticeship under which the injured person was working at the time when the accident causing the injury happened was illegal, the said Court or Commissioner may, if having regard to all the circumstances of the case, it or he thinks it proper so to do, deal with the matter as if the injured person had at the time aforesaid been a person working under a valid contract of service or apprenticeship.

Procedure to be determined by regulations.

Cf. No. 248 of 1908, s. 20, (N.Z.).

13—(1) Subject to the provisions of this Act, the procedure in any proceedings taken in a court of requests by virtue of this Act, and the mode of enforcement of any order made by the said court by virtue of this Act, and the fees, costs, and expenses payable in respect of any such proceedings shall be determined by regulations made under the authority of this Act; and in default of any such regulations, or so far as they do not extend, the procedure and practice shall be the same as that of the said court in the exercise of the powers vested in it by "The Local Courts Act, 1896," subject only to such modifications and additions as in the opinion of the court shall be necessary.

(2) No order made by a court of requests under this Act shall be removed by *certiorari* or otherwise into any other court to be there quashed or varied on any ground other than want of or excess of jurisdiction.

(3) Every action in the court of requests under this Act shall be commenced by plaint and summons in the prescribed manner.

Procedure where action brought independently of this Act.

Cf. No. 248 of 1908, s. 46, (N.Z.).

14—(1) If within the time hereinafter in this Act limited for taking proceedings an action is brought in any court to recover damages independently of this Act for injury caused by any accident, and it is determined in the action that the injury is one for which the defendant is not liable independently of this Act, the action shall be dismissed; but the court in which the action is tried shall, on the application of the plaintiff made at the time of the dismissal or as soon thereafter as practicable, proceed to determine whether the defendant is liable to pay compensation under this Act, and if he is found to be so liable, the court shall thereupon assess the compensation as if in an action for the recovery thereof, and the court may deduct from such compensation all or part of the costs which in its opinion have been caused by the plaintiff suing for damages instead of for compensation.

(2) For the purposes of any such determination of the defendant's liability under this Act, and the assessment of compensation, the court may hear such further evidence (if any) as it thinks fit, as if the hearing of the application were the trial of an action in the said court, or may act upon the evidence already given in the trial of the action.

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(3) The judge or commissioner as the case may be of the court shall thereupon give a certificate of the amount of compensation so assessed by the court, subject to such deduction as aforesaid, and shall cause the certificate to be delivered to the court of requests nearest to the place where the injury happened to be filed in that court. A.D. 1918.

(4) In any such certificate such judge or commissioner may make any order as to the payment, distribution, receipt, application, investment, or other disposition of the compensation so assessed which might be made by the court of requests in an action for the recovery of that compensation.

(5) The certificate when so filed in the court of requests shall be deemed to be and shall have the effect of a judgment of that court in an action for compensation, and the court of requests shall in respect of that certificate and judgment have the same powers as are in this Act conferred upon that court in respect of judgments given thereby.

(6) No appeal or application for a new trial shall lie or be made in respect of any such assessment of compensation by such judge or commissioner, or in respect of any order so made by him as to the compensation so assessed.

(7) If any appeal or application for a new trial is brought or made by the plaintiff in respect of the dismissal of the action in which any such assessment of compensation is made, and the appeal is allowed or the application granted, the assessment of compensation shall thereupon cease to have any force or effect, as if it had not been made.

(8) During the pendency of any such appeal or application for a new trial, such judge or commissioner may, if he thinks fit, make an order staying all proceedings on the said assessment and certificate.

(9) If in any such action as is mentioned in Subsection (1) of this section judgment for damages is given for the plaintiff, and the judgment is reversed on appeal, the court of appeal may, if it thinks fit, remit the case to the judge or commissioner before whom the action was tried, or to any other judge or commissioner, to determine the liability of the defendant to pay compensation under this Act, and the said judge or commissioner shall thereupon have the same powers in that behalf as are hereinbefore in this section set forth.

(10) Save as in this section provided, when an action has been brought in any court against an employer to recover damages for injury caused by any accident, independently of this Act, and it has been decided in that action that the employer is not so liable, he shall not be liable to pay in respect of the same accident compensation under this Act either to the plaintiff in that action or to any other person on whose behalf the said action was brought.

15 Nothing in this Act shall affect any proceeding for a fine or penalty under the enactments relating to mines, factories, or shops, or the application of any such fine or penalty.

Penalties not
affected.
6 Ed. VII.
ch. 58, s. 1 (5)
(Eng.).
1 Geo V. No. 66,
s. 5, (3) (Tas.).

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Time for taking
proceedings.
Cf. *ibid.*, s. 2.
Ibid., s. 7.

Notice of
accident.

Time for making
claim.

Defect or
inaccuracy in
notice.

Claim not within
prescribed time.

Contents of
claim.

Service of claim.

Where employer
is a body of
persons.

Where employer
is the Crown.
Cf. 1 Geo. V.
No. 66, s. 7 (5)
(Tas.).

Contracting out.
Cf. 6 Ed. VII.
ch. 58, s. 3
(Eng.).
1 Geo. V. No. 66,
s. 8 (Tas.).

16—(1) Proceedings for the recovery under this Act of compensation for any injury shall not be maintainable unless—

i. Notice of the accident has been given as soon as practicable after the happening thereof and before the worker has voluntarily left the employment in which he was injured, but he shall not be deemed to have voluntarily left the employment in any case where by reason of the accident he was unable to continue in the employment; and

ii. The claim for compensation with respect to such accident has been made within Six months from the occurrence of the accident causing the injury, or, in case of death, within Six months from the time of death:

Provided always that—

(a) The want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect, or inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake, absence from this State, or other reasonable cause; and

(b) The failure to make a claim within the period above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from this State, or other reasonable cause.

(2) Notice in respect of an injury under this Act shall—

i. Give the name and address of the person injured;

ii. State in ordinary language the cause of the injury and the date and place at which the accident happened; and

iii. Be served on the employer, or, if there is more than one employer, upon one of the employers.

(3) The notice may be served by delivering it to the person on whom it is to be served or by delivering it at, or sending it by post in a registered letter addressed to him at his residence or place of business.

(4) Where the employer is a body of persons, corporate or unincorporate, the notice may also be served by delivering it at the office or one of the offices of the employer, or by sending it by post in a registered letter addressed to the employer at the office, or, if there is more than one office, any one of the offices of the employer.

(5) When the employer is the Crown or any Government department notice shall be served on the Crown Solicitor, at Hobart, or the manager of the work upon which the worker was employed at the time of the accident.

Schemes of Compensation.

17—(1) If a commissioner appointed by the Governor to act under this section, after taking steps to ascertain the views of the employer and workers, certifies—

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- i. That any scheme of compensation, benefit, or insurance for the workers of an employer in any employment (whether or not such scheme includes other employers and their workers) provides scales of compensation not less favourable to the workers and their dependants than the corresponding scales contained in this Act : and
- ii. That, where the scheme provides for contributions by the workers, the scheme confers benefits at least equivalent to those contributions, in addition to the benefits to which the workers would have been entitled under this Act, and that a majority (to be ascertained by ballot) of the workers to whom the scheme is applicable are in favour of such scheme—

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—
Certificate by
Commissioner as
to scheme.

the employer may, whilst the certificate is in force, contract with any workers employed by him that the provisions of the scheme shall be substituted for the provisions of this Act, and thereupon the employer shall be liable only in accordance with the scheme ; but, save as aforesaid, this Act shall apply notwithstanding any contract to the contrary made after the commencement of this Act.

Scheme may be
substituted for
Act.

(2) A commissioner may give a certificate to expire at the end of a limited period of not less than Five years, and may from time to time renew with or without modifications such a certificate to expire at the end of the period for which it is renewed.

Period of
certificate.

(3) No scheme shall be so certified which—

- i. Contains an obligation upon the workers to join the scheme as a condition of their hiring : or
- ii. Does not contain provisions enabling a worker to withdraw from the scheme.

In what circum-
stances scheme
may not be
certified.

(4) If complaint is made to a commissioner by or on behalf of the workers of any employer—

Revocation of
certificate.

- i. That the benefits conferred by any scheme no longer conform to the conditions stated in Subsection (1) of this section : or
- ii. That the provisions of such scheme are being violated : or
- iii. That the scheme is not being fairly administered : or
- iv. That satisfactory reasons exist for revoking the certificate—

the commissioner shall examine into the complaint, and, if satisfied that good cause exists for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

(5) When a certificate is revoked or expires any moneys or securities held for the purpose of the scheme shall, after due provision has been made to discharge the liabilities already accrued, be distributed as may be arranged between the employer and workers, or as may be determined by a commissioner in the event of a difference of opinion.

Distribution of
moneys, &c., on
termination of
scheme.

(6) Whenever a scheme has been certified as aforesaid it shall be the duty of the employer and workers to answer all such inquiries and to furnish all such accounts in regard to the scheme as may be made or required from time to time by a commissioner.

Inquiries and
accounts

(7) The Governor may make regulations for the purpose of carrying this section into effect.

Regulations.

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Contractors and Sub-contractors.

Sub-contracting.
Ibid., s. 4 (Eng.)
Cf. ibid., s. 9
 (Tas.).
 Liability of
 principal.

- 18** (1) i. Where any person (in this section referred to as the principal), in the course of or for the purposes of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal on the order of some one else as a customer, the principal shall be liable to pay any worker employed in the execution of the work any compensation under this Act which he would have been liable to pay if that worker had been immediately employed by him :
- ii. Where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Act, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the worker under the employer by whom he is immediately employed :
- iii. In the case of sub-contracts the word "principal" shall extend to and include not only the original principal but also each contractor who constitutes himself a principal with respect to a sub-contractor by contracting with him for the execution by him of the whole or any part of the work, and the word "contractor" shall extend to and include not only the original contractor but also each sub-contractor, and each principal's right to indemnity shall include a right against every contractor standing between him and the contractor by whom the worker was employed at the time when the accident occurred :

Exception in
 case of agricul-
 tural or pastoral
 work.

Provided that, where the contract relates to threshing, ploughing, or other agricultural work, or shearing or other pastoral work, and the contractor provides and uses machinery driven by mechanical power for the purpose of such work, he and he alone shall be liable under this Act to pay compensation to any worker employed on such work.

Indemnity of
 principal.

(2) Where the principal is liable to pay compensation under this section he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the worker independently of this section, and all questions as to the right and amount of any such indemnity shall, in default of agreement, be settled by action in any court of competent jurisdiction.

Saving of right
 to recover from
 contractor.

(3) Nothing in this section shall be construed as preventing a worker from recovering compensation under this Act from the contractor instead of the principal.

Section not to
 apply in certain
 cases.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, or in, or about premises on which the principal has undertaken to execute the work, or which are otherwise under his control or management.

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(5) The principal shall not be liable under this section, unless the work in which the worker is employed at the time of the accident is directly a part of or a process in the trade or business of the principal.

For the purposes of this subsection the expression "trade or business of the principal" shall, when the principal is the Crown or a local or other public body or authority, be read in its ordinary and natural sense, and not in the extended sense indicated in Sections Five and Six of this Act.

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—
Cf. No. 248 of
1908, s. 13 (4)
(a) and (9)
(N.Z.).

Bankruptcy of Employer

19—(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any worker, then—

- i. In the event of the employer being adjudicated a bankrupt or a resolution being passed under the provisions of "The Bankruptcy Act, 1870," for the liquidation of his affairs by arrangement or composition with creditors: or
- ii. If the employer is a company, in the event of the company having commenced to be wound up—

the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in the enactments relating to bankruptcy or to the winding up of companies, be transferred to and vest in the worker, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however that the insurers shall not be under any greater liability to the worker than they would have been under to the employer.

Provision as to
cases of bank-
ruptcy of
employer.
6 Ed. VII.
ch. 58, s. 5
(Eng.).

1 Geo V. No. 66,
s. 10 (Tas.).

Rights of
employers against
insurer vest in
workers.

(2) If the liability of the insurers to the worker is less than the liability of the employer to the worker, the worker may prove for the balance in the bankruptcy or liquidation.

Workers may
prove for balance.

(3) There shall be included among the debts which, under—

- i. "The Bankruptcy Act, 1870," or its amendments, are in the distribution of the property of a bankrupt: and
- ii. Any enactment relating to the winding-up of companies are in the distribution of the assets of a company being wound up—

Amount due for
compensation to
be a preferential
debt.

to be paid in priority to all other debts, the amount, not exceeding in any individual case One hundred Pounds, due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication or the resolution for liquidation or composition under the said Act or the date of the commencement of the winding-up (as the case may be), and those Acts and enactments shall have effect accordingly.

Where the compensation is a weekly payment the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the schedule.

(4) The provisions of this section with respect to preferences and priorities shall not apply where the bankrupt or the company being wound up has entered into such a contract with insurers as mentioned in Subsection (1) of this section.

Not a preferential
debt if employer
insured.

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Section not to apply to voluntary winding up for certain purposes.

(5) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

Liability of Person other than Employer.

Remedies both against employer and stranger.
6 Ed. VII., c. 58, s. 6.
1 Geo. V. No. 66, s. 11 (Tas.).

20 Where the injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

Indemnities.

i. The worker may take proceedings both against that person to recover damages and against any person liable to pay compensation under this Act for such compensation, but shall not be entitled to recover both damages and compensation : and

ii. If the worker has recovered compensation under this Act, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the section of this Act relating to sub-contracting, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of an such indemnity shall, in default of agreement, be settled by action in any court of competent jurisdiction.

Seamen.

Application of Act to seamen.
Cf. 2 Geo. V. No. 1053, s. 13 (1) (S.A.).

Modifications of Act in case of accidents to seamen.
Ibid., 3 (S.A.), adapted.
Cf. Bill 37 (Vict. 1912), cl 13.
Cf. 6 Ed. VII. ch. 58, s. 7 (Eng.)

21—(1) This Act applies in relation to the employment of seamen on any ship registered in the State, and engaged in the State coasting trade or in trade within the State

(2) The application of this Act in respect of accidents happening to seamen, shall be subject to the following modifications : —

i. The notice of accident and the claim for compensation may, except where the person injured is the master, be served on the master of the ship as if he were the employer, but where the accident happened and the incapacity commenced on board the ship it shall not be necessary to give any notice of the accident :

ii. In the case of the death of the seaman, the claim for compensation shall be made within Six months after news of the death has been received by the claimant :

iii. In the case of a ship lost with all hands the claim for compensation shall be made within Eighteen months after the date when the ship is deemed under this section to have been lost with all hands :

iv. No weekly payments shall be payable in respect of any period during which the owner or charterer of the ship is under any other statutory enactment in force in this State liable to defray the expenses of maintenance of an injured seaman :

Weekly payments.

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- v. Compensation shall be paid in full in all cases notwithstanding any limitation of liability in any other law, but any limitation of liability imposed by any other law, on the owner or charterer of the ship shall apply to the amount recoverable by way of indemnity under the section of this Act relating to remedies both against employer and stranger—as if the indemnity were damages for loss of life or personal injury.
- (3) Without prejudice to any other means of proof available—
- i. A ship shall be deemed to have been lost with all hands on board if it is shown by some official return produced out of official custody or by other evidence that the ship on which the seaman in respect of whom the compensation is claimed was employed has Twelve months or upwards before the institution of the proceedings left a port of departure and has not been heard of within Twelve months of that departure :
 - ii. In the case of a ship lost with all hands a duplicate agreement or list of the crew made out and produced by the proper officer shall if produced out of official custody be in the absence of proof to the contrary sufficient evidence that the seamen therein named as belonging to the ship were on board at the time of the loss.
- (4) This Act does not apply in respect of accidents to such members of the crew of a fishing vessel as are wholly remunerated by shares in the profits or the gross earnings of the working of such vessel.

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Compensation to be paid in full.

When ship deemed to be lost with all hands.
Cf. Merchant Shipping Act, 1894, s. 174 (2) (3).

Evidence of seamen being on board ship lost with all hands.

Crew of fishing vessel.

Miscellaneous.

22 Subject to a scheme certified under section Seventeen it shall not be lawful for any employer or any person on his behalf, or for any insurers or any person on their behalf, to directly or indirectly take or receive any money from any worker, whether by way of deduction from wages or otherwise howsoever, in respect of any liability of an employer to pay compensation under this Act.

Deductions towards compensation not lawful.
2 Geo. V. No. 1053, s. 16 (S.A.).
Cf 5 Ed. VII. No. 26, s. 14 (2).

All money so taken or received as aforesaid from any worker, whether with the consent of such worker or not, may be recovered in any court of competent jurisdiction as a debt due to him by the employer, insurers, or person who took or received it.

23—(.) If it is alleged that the owners of any ship are liable as such owners to pay compensation under this Act, and at any time that ship is found in any port or river in this State or in any water within the territorial jurisdiction of this State, a judge of the Supreme Court may, upon its being shown to him by any person applying summarily that the owners are probably liable as such to pay such compensation, and that none of the owners reside in this State, issue an order directed to any officer of the said court, or of any marine board or harbour trust of this State, or of any authority exercising the powers now vested in any such board or trust named in the order requiring such officer to detain the ship until such time as the owners, agent, master, or consignee thereof have paid such compensation, or

Order for detention of ship.
2 Geo. V. No. 1053, s. 17 (S.A.).
6 Ed. VII., c. 58, s. 11 (Eng.).
And Com. Seamen's Comp. Act, 1911, s. 13, adapted.
Cf 5 Ed. VII., ch. 10 (Eng.) (Shipowners' Negligence (Remedies) Act, 1905).

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have given security, to be approved by a judge of the said court, to abide the advent of any proceedings that may be instituted to recover such compensation and to pay such compensation and costs as may be awarded thereon.

Detention.

(2) The officer to whom the order is directed may detain the ship in accordance with the order.

Parties.

(3) In any legal proceeding to recover such compensation, the person giving security may be made the defendant, and the production of the order of the Judge made in relation to the security shall be conclusive evidence of the liability of the defendant to the proceeding.

Residence of corporation.

(4) If the owner of a ship is a corporation, such corporation shall, for the purpose of this section, be deemed to reside in this State if it has an office in this State at which service of process can be effected.

Penalty for proceeding to sea.
Cf., 53 Vict. No. 34 s. 142.

(5) If a ship after detention in pursuance of this section, or after service on the master of any notice of an order for detention under this section, proceeds to sea before the ship is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if that owner or person is party or privy to the offence, shall be liable on conviction in a summary way, to a penalty not exceeding One Hundred Pounds.

Officer taken to sea.
Cf., *ibid.* s. 176.
Cf., 53 Vict. No. 34, s. 143.
1 Geo. V. No. 66, s. 13 (Tas.).

(6) If the master proceeds to sea with the ship in contravention of this section, and takes to sea any person required to detain the ship, the owner and the master thereof shall each be liable to pay a further penalty at the rate of Ten Pounds for every day until such person returns to the place from which he was taken, or until the expiration of such time as would enable him after leaving the ship to return to such place.

Returns as to compensation.
Cf., (E.), s. 12
1 Geo. V. No. 66, s. 13 (Tas.).

24 Every employer in any industry to which the Minister may direct that this section shall apply shall, on or before such day in every year as the Minister may direct, send to the Minister a correct return specifying—

- i. The number of injuries in respect of which compensation has been paid by the employer under this Act during the previous year :
- ii. The amount of such compensation : and
- iii. Such other particulars as the Minister may direct.

Penalty : Five Pounds.

Regulations.

Regulations.

25—(1) The Governor may make regulations for any purpose which he deems necessary or convenient in order to give full effect to the provisions and intentions of this Act.

(2) Without prejudice to the generality of the power conferred by Subsection (1), the Governor may make regulations—

- i. As to any matter in connection with which the expression "prescribed" is used in this Act, or in respect to any purpose for which regulations are contemplated by this Act :

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11. Prescribing the mode in which claims and questions under A.D. 1918. this Act may be determined.

(3) Such regulations may prescribe penalties not exceeding Five Penalties. Pounds for any contravention thereof, or of other regulations.

Summary Procedure.

26—(1) All informations or complaints for offences against the provisions of this Act, and all penalties and fines imposed by this Act, may be heard, determined, recovered, and enforced in a summary way by and before a police magistrate or any Two or more justices. Summary procedure.

(2) All proceedings in respect of such offences shall be regulated by "The Magistrates Summary Procedure Act" and any amendments thereof, or any other Act for the time being in force regulating summary proceedings before justices of the peace. 19 Vict. No. 8.

27 Any person who deems himself aggrieved by any summary conviction under this Act may appeal against the same in the mode prescribed by "The Appeals Regulation Act." Appeal.
19 Vict. No. 10.

SCHEDULE.**SCALE AND CONDITIONS OF COMPENSATION.**

1. The amount of compensation under this Act shall be—

(A) Where death results from the injury—

(i) If the worker leaves any dependants wholly dependent upon his earnings, a sum equal to his earnings in the employment of the same employer during the Three years next preceding the injury, or the sum of Two hundred Pounds, whichever of those sums is the larger, but not exceeding in any case Four hundred Pounds, provided that the amount of any weekly payments made under this Act, and any lump sum paid in redemption thereof, shall be deducted from such sum, and, if the period of the worker's employment by the said employer has been less than the said Three years, then the amount of his earnings during the said Three years shall be deemed to be One hundred and fifty-six times his average weekly earnings during the period of his actual employment under the said employer:

(ii) If the worker does not leave any such dependants, but leaves any dependants in part dependent upon his earnings, such sum, not exceeding in any case the amount payable under the foregoing provisions, as may be agreed upon, or, in default of agreement, may be determined under this Act, to be reasonable and proportionate to the injury to the said dependants; and

(iii) If he leaves no dependants a sum not exceeding Thirty Pounds for the reasonable expenses of his medical attendance and burial, in the event of his estate being insufficient to meet the same; the same to be paid to whom it is due.

Section 8.

Amount of compensation.

In case of death.

Cf. (i) Eng.).

Cf. (ii) (Eng.)

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In case of incapacity
for work.
Cf. (b) (Eng.).

Workers over Sixty
years of age.
Cf. (a) (Queensland).

Infirm workers.
(c) is (b) (Queens-
land).

Workers under
Twenty-one years
of age.
(b) (Eng.).

Computation of
"earnings" and
"average weekly
earnings."
2 (Eng.).

(B) Where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding Fifty per centum of his average weekly earnings during the previous Twelve months, if he has been so long employed; but if not, then for any less period during which he has been in the employment of the same employer; such weekly payment not to be less than One Pound nor to exceed Two Pounds, and the total liability of the employer in respect thereof not to exceed Five hundred Pounds:

Provided that

(a) In the case of a worker whom his employer has reasonable cause to believe to be over Sixty years of age, and who has entered into an agreement in writing with his employer as to the maximum amount of compensation to be payable to him under this Act in respect of accidents happening after the date of the agreement, the compensation shall not exceed that maximum, but the maximum shall not be less—

(i) Where death results from the injury, and the worker leaves any dependants, than One hundred Pounds:

(ii) Where total or partial incapacity for work results from the injury, than a weekly payment during the incapacity of Twenty Shillings, but the total liability of the employer in respect thereof shall not exceed One hundred Pounds:

(b) In the case of a worker who has, in accordance with the regulations, obtained from a medical referee a certificate to the effect that his age or any physical or mental infirmity or incapacity from which he is suffering is such as to render him specially liable to accident, or to render the result of an accident to him specially serious, and who has entered into an agreement in writing with his employer as to the maximum amount of compensation to be payable to him under this Act in respect of accidents happening after the date of the agreement, the compensation shall not exceed that maximum, but the maximum shall not be less—

(i) Where death results from the injury, and the worker leaves any dependants, than Fifty Pounds or a sum equivalent to Thirty-nine times his average weekly earnings, whichever is the larger:

(ii) Where total or partial incapacity for work results from the injury, than a weekly payment during the incapacity of Ten Shillings or One-quarter of his average weekly earnings, whichever is the larger; but the total liability of the employer in respect thereof shall not exceed One hundred Pounds:

(d) As respects the weekly payment during total incapacity to a worker who is under Twenty-one years of age at the date of the injury, and whose weekly earnings are less than Twenty Shillings, One hundred per centum shall be substituted for Fifty per centum of his average weekly earnings, but the weekly payment shall in no case exceed One Pound.

2. For the purposes of the provisions of this schedule relating to "earnings" and "average weekly earnings" of a worker, the following rules shall be observed:—

(a) Average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the worker was being remunerated: Provided that where, by reason of the shortness of the time during which the worker has been in the employment of his employer, or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of

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remuneration, regard may be had to the average weekly amount which, during the Twelve months previous to the accident, was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district: A.D. 1918.

- (b) Where the worker had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident:
- (c) Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the worker was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause;
- (d) Where the employer has been accustomed to pay to the worker a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings.

3. In fixing the amount of the weekly payment, regard shall be had to any payment, allowance, or benefit which the worker may receive from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the worker before the accident and the average weekly amount which he is earning, or is able to earn in some suitable employment or business after the accident, but shall bear such relation to the amount of that difference as under the circumstances of the case may appear proper.

Regard to be had to payments, allowances, &c., to workmen.
3 (Eng.)

4. Where a worker has given notice of an accident, he shall, if so required by the employer, or by any person by whom the employer is entitled under this Act to be indemnified, submit himself for examination by a duly qualified medical practitioner provided and paid by the employer or such person, and, if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceeding under this Act in relation to compensation, shall be suspended until such examination has taken place.

Medical examination.
4 (Eng.)

5. The payment in the case of death shall, unless otherwise ordered as hereinafter provided, be paid into the Court of Requests nearest to the place of residence of the deceased at the time of his death, and any sum so paid into Court shall, subject to regulations and the provisions of this schedule, be invested, applied, or otherwise dealt with by the Commissioner whose duty, for the time being, it is to preside over the Court in which the sum is, in such manner as he in his discretion thinks fit, for the benefit of the persons entitled thereto under this Act, and the receipt of the Registrar of the Court shall be a sufficient discharge in respect of the amount paid into the Court; or the said Commissioner may pay the said sum, or direct the same to be paid, to the Public Trustee, whose receipt shall be a sufficient discharge in respect of the amount paid to him, and the Public Trustee may invest the same as he thinks proper:

Investment of payment in case of death.
Cf. 5 (Eng.)

Provided that, if so agreed, the payment in case of death shall, if the worker leaves no dependants, be made to his legal personal representative, or, if he has no such representative, to the person to whom the expenses of medical attendance and burial are due.

6 (Eng.)

6. Regulations may provide for the transfer of money paid into Court under this Act from one Court to another.

Transfer of money.

7. Where a weekly payment is payable under this Act to a person under any legal disability, a Commissioner may, on application being made in accordance with regulations, order that the weekly payment be paid during the disability into Court, and the provisions of this schedule with respect to sums required by this schedule to be paid into Court shall apply to sums paid into Court in pursuance of any such order.

Payment of weekly sum due to person under disability.
7 (Eng.)

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Questions as
dependants.
Cf. 8 (Eng.).

Power to vary order
Cf. 9 (Eng.).

Investment in
insurance society.
S.A. (10).

Deposit in Common-
wealth Bank.
S.A. (11).

Limits as to deposit
and interest not to
apply.
Cf. 1 (Eng.).
12 (S.A.).

Payment out
bank.
12 (Eng.).
13 (S.A.).

Periodical medical
examinations.
14 (Eng.).

Regulations as to
such examinations
15 (Eng.).

Reference to medical
practitioner.
15 (Eng.).

8. Any question as to who is a dependant, or as to the amount payable to each dependant, shall, in default of agreement, be settled by a Court of Requests. Where there are both total and partial dependants nothing in this schedule shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

9. Where, on application being made in accordance with regulations, it appears to a Court of Requests that, on account of neglect of children on the part of a widow, or on account of the variation of the circumstances of the various dependants, or for any other sufficient cause, an order of the Court as to the apportionment amongst the several dependants of any sum paid as compensation, or as to the manner in which any sum payable to any such dependant is to be invested, applied, or otherwise dealt with, ought to be varied, the Court may make such order for the variation of the former order as in the circumstances of the case the Court may think just.

10. Any sum which under this schedule is ordered to be invested may be invested in the purchase of an annuity from any life insurance society approved by the Commissioner or the Public Trustee investing such sum.

11. Any sum to be so invested may be accepted by the Commonwealth Bank as a deposit in the name of the Registrar of a Court of Requests.

12. The provisions of any Act or regulations as to the limits of deposits in the Savings Bank shall not apply in respect of sums which under this schedule are ordered to be invested. And the whole amount of any sum deposited in the said Bank under this Act shall, notwithstanding the provision of any Act or regulations limiting the interest-bearing amount of deposits or otherwise, bear interest at the rate allowed to ordinary depositors in the said Bank.

13. No part of any money deposited in the name of the Registrar of a Court of Requests in the Savings Bank under this Act shall be paid out, except upon an order drawn on the Savings Bank and signed by a Commissioner or Registrar of a Court of Requests. Such order shall be a sufficient discharge to the Bank in respect of the money paid out pursuant thereto.

14. Any worker receiving weekly payments under this Act shall, if so required by the employer, or by any person by whom the employer is entitled under this Act to be indemnified, from time to time to submit himself for examination by a duly-qualified medical practitioner provided and paid by the employer or such person.

If the worker refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examination has taken place.

15. A worker shall not be required to submit himself for examination by a medical practitioner under paragraph 4 or paragraph 14 of this schedule otherwise than in accordance with regulations made by the Governor, nor at more frequent intervals than are prescribed by those regulations.

16—(a) If a worker who has submitted himself for examination by a medical practitioner, pursuant to paragraph 4 or paragraph 14, is dissatisfied with the certificate of such practitioner as to his condition he shall submit himself for examination to a medical practitioner appointed and paid by himself or on his behalf.

(b) Should the certificates of the two medical practitioners not agree the one with the other, and should the employer and the worker not agree to accept either of the certificates, the two medical practitioners shall appoint a third medical practitioner provided and paid jointly by the employer and the worker.

(c) Should the two medical practitioners fail to appoint a third medical practitioner within fourteen days after being requested so to do by either employer or worker, the Commissioner of the Court of Requests nearest to the place where the injury happened shall appoint such third medical practitioner, who shall be paid jointly by the employer and the worker.

(d) The third medical practitioner to whom the matter is so referred shall give a certificate as to the condition of the worker and his fitness for employment, specifying, where necessary, the kind

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of employment for which he is fit; and he shall also state—if such question has been referred to him by both parties—to what extent he considers the incapacity of the worker is due to the accident, and that certificate shall be conclusive evidence as to the matters so certified. A. D. 1918.

- (e) Where no agreement can be come to between the employer and the worker as to whether or to what extent the incapacity of the worker is due to the accident, such question may, if both parties so desire, be referred to the third medical practitioner, as if the question were a question as to the condition of the worker.
- (f) If a worker, on being required so to do, refuses to submit himself for examination by a third medical practitioner, to whom the matter has been so referred as aforesaid, or in any way obstructs the same, his right to compensation and to take or prosecute any proceeding under this Act in relation to compensation, or, in the case of a worker in receipt of a weekly payment, his right to that weekly payment shall be suspended until such examination has taken place.

17. Any weekly payment may be reviewed at the request either of the employer or of the worker, and on such review may be ended, diminished, or increased subject to the maximum above provided; and the amount of payment shall, in default of agreement, be settled by a Court of Requests. Review of weekly payment. 16 (Eng.).

Provided that where the worker was at the date of the accident under Twenty-one years of age and the review takes place more than Twelve months after the accident, the amount of the weekly payment may be increased to any amount not exceeding Fifty per centum of the weekly sum which the worker would probably have been earning at the date of the review if he had remained uninjured, but not in any case exceeding Two Pounds.

18. Where any weekly payment has been continued for not less than Two months the liability therefor may, on application by or on behalf of the employer or the worker, be redeemed by the payment of a lump sum, of such an amount as may be settled by a Court of Requests; and such lump sum may be ordered by a Commissioner of a Court of Requests to be invested or otherwise applied for the benefit of the person entitled thereto. Lump sum in redemption of weekly payments. Cf. 17 (Eng.)⁶

Provided that nothing in this paragraph shall be construed as preventing agreements being made for the redemption of a weekly payment by a lump sum.

19. If a worker receiving a weekly payment ceases to reside in this State, he shall thereupon cease to be entitled to receive any weekly payment, unless a medical referee, on a reference made in accordance with regulations, certifies that the incapacity resulting from the injury is likely to be of a permanent nature or orders such absence for health reasons. If the medical referee so certifies, the worker shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter so long as he proves, in such manner and at such intervals as may be prescribed by regulations, his identity and the continuance of the incapacity in respect of which the weekly payment is payable. Worker ceasing to reside in the State. Cf. 18 (Eng.).

20. A weekly payment, or a sum paid by way of redemption thereof, shall not be capable of being assigned, charged, taken in execution, or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against the same. Payments not assignable. 19 (Eng.).

21. Where under this schedule a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension. Suspension of payment. 20 (Eng.).

22. When payment of any moneys under this Act is made to any person under Twenty-one years of age, whether such person claims as a worker, dependant, or legal personal representative, the receipt of such person therefor shall be a good and valid discharge in law; and such person (notwithstanding minority) may, with the approval of a Commissioner of a Court of Requests, elect to claim compensation under this Act, and may agree upon the amount of compensation payable. Payments to minors. Cf. 15 (Queensland)

