



TRINIDAD AND TOBAGO

No. 24—1960

[L.S.]

I ASSENT,

SOLOMON HOCHOY

*Governor*

27th September, 1960.

AN ORDINANCE to provide for the payment of compensation to workmen for injuries suffered in the course of their employment.

[On Proclamation]

Commence-  
ment.

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

Enactment.

1. (1) This Ordinance may be cited as the Workmen's Compensation Ordinance, 1960.

Short title and  
commencement

(2) This Ordinance shall come into force on such date as the Governor may appoint by proclamation published in the *Royal Gazette*:

Provided that the Governor may appoint different dates on which different sections of this Ordinance shall come into force.

## PART I

### PRELIMINARY

Interpretation.

2. (1) In this Ordinance—

“adult” and “minor” mean respectively a person who is not, and a person who is, under the age of seventeen years;

“Commissioner” means a Commissioner for Workmen’s Compensation;

“dependants” means such of the members of a workman’s family as were wholly or in part dependent upon the earnings of the workman at the time of his death, or would but for the incapacity due to the accident have been so dependent, and where the workman, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon his earnings, or, being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child and parent or grandparent respectively:

Provided that a person shall not be deemed to be a partial dependant of a workman unless he was dependent partially on contributions from the workman for the provision of the ordinary necessities of life suitable for persons in his class and position;

“earnings” include any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

“employer” includes Her Majesty in Her Government of the Territory and any body of persons whether incorporate or unincorporate and any managing agent of an employer and the legal personal representative of a deceased employer, and where the services of a workman are temporarily lent or let on hire to

another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Ordinance, be deemed to continue to be the employer of the workman whilst he is working for that other person :

Provided that—

(a) in relation to a person engaged in plying for hire with any vehicle or vessel, the use of which is obtained by that person under a contract of bailment (other than a hire-purchase agreement) the person from whom the use of the vehicle or vessel is so obtained shall be deemed to be the employer; and

(b) in relation to a person employed for the purposes of any game or recreation and engaged or paid through a club, the manager or members of the managing committee of the club shall be deemed to be the employer;

“insurer” means an assurance company in whose case the requirements of the Assurance Companies Ordinance with respect to deposits and guarantees by assurance companies are complied with or an assurance company which is exempted from any such requirements by virtue of an order made under section 37 or section 38 of that Ordinance; Ch. 31. No. 10.

“managing agent” means any person appointed or acting as the representative of another person for the purpose of carrying on such other person’s trade or business, but does not include an individual manager subordinate to an employer;

“medical aid” means medical, surgical, and hospital treatment, skilled nursing services, the supply of medicines and the supply, maintenance, repair and renewal of artificial limbs;

“medical practitioner” means a person registered as a member of the Medical Board under the provisions of the Medical Board Ordinance; Ch. 12. No. 2

“medical referee” means a medical practitioner appointed under section 3 of this Ordinance as a medical referee for the purposes of this Ordinance;

“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;

“Minister” means the member of the Cabinet for the time being charged with the administration of the subject of labour;

“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;

“partial disablement” means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time;

“Registrar” means the Registrar of the Supreme Court, and includes the Deputy Registrar and Sub-Registrars of San Fernando and Tobago;

“scheduled disease” means any occupational disease specified in the First Schedule to this Ordinance;

“the Territory” means the Colony of Trinidad and Tobago;

“total disablement” means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement;

“workman” means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour or otherwise, whether the contract was made before or after the commencement of this Ordinance and whether such contract is expressed or implied, is oral or in writing, whether the remuneration is calculated by time or by work done, and whether by the day, week, month or with reference to any other period whatever; and also includes a person engaged in

fishing on board any fishing vessel or in plying for hire with any vehicle or vessel the use of which is obtained by that person under any contract of bailment (other than a hire-purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise:

Provided that the following persons shall not be regarded as workmen for the purposes of this Ordinance—

- (a) persons employed otherwise than by way of manual labour whose earnings exceed two thousand eight hundred and eighty dollars a year or such other sum as may be prescribed;
- (b) persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business, not being persons employed for the purposes of any game or recreation and engaged or paid through a club;
- (c) outworkers;
- (d) members of the employer's family dwelling in his house;
- (e) members of the Armed Forces of the Crown and persons in the civil employment of Her Majesty otherwise than in Her Government of the Territory; or
- (f) members of the Police Force and members—
  - (i) of any Police organisation having the general powers of members of the Police Force constituted by law and in respect of whom provision exists in any law for the payment of a gratuity or pension in case of injury or death; or
  - (ii) of any Fire Brigade.

(2) Any reference to a workman who has been injured or has been disabled shall, where the workman 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.

(3) The exercise and performance of the powers and duties of a local or other public authority or of any department

of the Government shall, for the purposes of this Ordinance, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

(4) If in any proceedings for the recovery of compensation under this Ordinance it appears to the Commissioner by whom the claim to compensation is to be settled 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, he may, if, having regard to all the circumstances of the case, he thinks 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.

Second  
Schedule.

(5) Every injury specified in the Second Schedule to this Ordinance shall be deemed to result in permanent injury whether total or partial.

Appointment  
and remunera-  
tion of medical  
referees.

3. (1) The Minister may appoint any medical practitioner to be a medical referee for the purposes of this Ordinance and may revoke any such appointment at any time.

(2) Any appointment made under subsection (1) of this section, or any revocation of any such appointment, shall take effect on the date of its publication in the *Royal Gazette*.

(3) The remuneration of, and other expenses incurred by medical referees under this Ordinance shall, subject to regulations made under this Ordinance and except so far as they are defrayed by fees received from the parties under this Ordinance, be paid out of moneys provided for the purpose in the Estimates of Revenue and Expenditure of the Territory.

(4) Where a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or workman or by any person interested in that case by reason of a contract of insurance, guarantee or indemnity, he shall not act as medical referee in that case.

(5) The number of medical referees appointed by the Minister shall be at least six at any time :

Provided that the reduction, below six, of the number of medical referees shall not invalidate any reference to, or any certificate given by, a medical referee.

## PART II

## COMPENSATION

4. (1) If in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, subject as hereinafter mentioned, be liable to pay compensation in accordance with the provisions hereinafter contained:

Employer's  
liability for  
compensation.

Provided that—

- (a) the employer shall not be liable under this Ordinance in respect of any injury which does not disable the workman for a period of at least three days from working for full earnings at the work at which he was employed;
- (b) if it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed.

(2) For the purposes of this Ordinance, an accident resulting in the death or serious and permanent disablement of a workman shall be deemed to arise out of and in the course of his employment, notwithstanding that the workman was at the time when the accident happened acting in contravention of any statutory or other regulation applicable to his employment, or of any orders given by or on behalf of his employer, or that he was acting without instructions from his employer, if such act was done by the workman for the purposes of and in connection with his employer's trade or business.

(3) Where compensation payable under this Ordinance for injury by accident arising out of and in the course of employment is received as such by a workman who is an adult, no action shall be brought against the employer for compensation independently of this Ordinance by such workman in respect of such accident after the expiration of one year from the date on which the cause of action accrued.

(4) In awarding compensation for injury under this Ordinance a Commissioner shall take into account any damages recovered by a workman in respect of the same injury.

Amount of  
compensation.

5. (1) Subject to the provisions of this Ordinance, the amount of compensation shall be as follows, namely,—

Death.

(a) where death results from the injury, a lump sum of an amount calculated as follows:—

(i) if the workman leaves any dependants wholly dependent on his earnings, the lump sum shall be a sum equal to thirty-six months earnings;

(ii) if the workman does not leave any dependants wholly dependent on his earnings, but leaves any dependants in part so dependent, the lump sum shall be such sum not exceeding in any case the amount payable under sub-paragraph (i) of this paragraph as may be agreed upon or, in default of agreement, may be determined by the Commissioner, to be reasonable and proportionate to the injury to the said dependants;

(iii) if the workman leaves no dependants, the lump sum shall be the aggregate of reasonable expenses of the burial of the deceased workman, not exceeding the sum of two hundred and fifty dollars;

Permanent  
total  
disablement.

(b) where permanent total disablement results from the injury—

(i) in the case of an adult, a sum equal to forty-eight months earnings;

(ii) in the case of a minor, a sum equal to ninety-six months earnings;

Permanent  
partial  
disablement.

(c) where permanent partial disablement results from the injury—

(i) in the case of an injury specified in the Second Schedule to this Ordinance, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the incapacity caused by that injury, and

Second  
Schedule.

(ii) in the case of an injury not specified in the Second Schedule to this Ordinance, such percentage of the compensation payable in

Second  
Schedule.

the case of permanent total disablement as is proportionate to the incapacity permanently caused by the injury:

Provided that where more injuries than one are caused by the same accident, the amount of compensation payable under this paragraph shall be aggregated, but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries;

- (d) where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter—
- (i) in the case of an adult, of a sum equal to one-third of his monthly earnings, and
- (ii) in the case of a minor, of a sum equal to one-half or, after he has attained the age of seventeen years, to one-third of his monthly earnings.

Temporary  
disablement.

(2) As regards paragraphs (a), (b) and (c) of subsection (1) of this section, there shall be deducted from any sum to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such sum, so however that the total amount to be deducted hereby does not exceed fifty per centum of the lump sum so payable.

(3) As regards paragraph (d) of subsection (1) of this section, there shall be deducted from any half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of the first half-monthly payment and no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly earnings of the workman before the accident exceeds half the amount of such earnings as he is receiving in some suitable employment or business after the accident or which, but for his refusal to work in some suitable employment or business, he would have received.

(4) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

Method of  
calculating  
earnings.

6. (1) In this Ordinance and for the purposes thereof the expression "monthly earnings" means the amount of earnings deemed to be payable for a month's service (whether the earnings are payable by the month or by whatever period or at piece rates), and calculated in accordance with the following rules:—

- (a) where the workman, during a continuous period of not less than twelve months immediately preceding the accident, was in the service of the employer who is liable to pay compensation, the monthly earnings of the workman shall be one-twelfth of the total earnings which have fallen due for payment to him by the employer in the last twelve months of that period;
- (b) in other cases, the monthly earnings shall be thirty times the total earnings payable in respect of the last continuous period of service immediately preceding the accident by the employer who is liable to pay compensation divided by the number of days comprising such period:

Provided that where by reason of the shortness of the time during which the workman has been in the employment of such 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 a rate of remuneration which would be representative of the workman's average monthly earnings, regard may be had to the average monthly amount which, during the twelve months previous to the accident, was being earned by a person of similar earning capacity in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person of similar earning capacity in the same grade employed in the same class of employment and in the same district;

- (c) employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

(2) A period of service shall, for the purposes of this section, be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

(3) Subject to the provisions of subsection (4) of this section, where the workman 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 monthly 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:

Provided that the earnings of the workman under the concurrent contract shall be disclosed to any other employer at the time of his engagement with the latter and shall be taken into account only so far as the workman is incapacitated from performing the concurrent contract.

(4) Where a workman is employed on stevedoring, lightering or wharf work under 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 monthly 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.

(5) Upon request of the workman to the employer liable to pay compensation, that employer shall furnish in writing a list of the earnings of that workman upon which the amount of the monthly earnings may be calculated for the purpose of determining the amount of any payment under this Ordinance.

7. (1) Any half-monthly payment payable under this Ordinance, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by a Commissioner on the application either of the employer or of the workman accompanied by the certificate of a medical practitioner that there has been a change in the condition of the workman or, subject to regulations made under this Ordinance, on application made without such certificate. Review.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Ordinance, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which may be deductible under the provisions of the proviso to subsection (1) of section 5 of this Ordinance.

Payment of  
lump sum  
in lieu of  
half-monthly  
payments.

8. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner as the case may be.

Distribution of  
compensation.

On death.

9. (1) Compensation payable where the death of a workman has resulted from an injury shall be deposited with the Registrar, and any sum so deposited shall be apportioned among the dependants of the deceased workman or any of them in such proportion as a Commissioner thinks fit, or may, in the discretion of a Commissioner, be allotted to any one such dependant, and the sum so allotted to any dependant shall be paid to him or be invested, applied or otherwise dealt with for his benefit in such manner as a Commissioner thinks fit.

Lump sums.

(2) Compensation payable where permanent disablement has resulted from an injury and lump sums payable under the provisions of section 8 of this Ordinance where temporary disablement has resulted from an injury shall be deposited with the Registrar, and any sum so deposited shall be paid to the person entitled thereto or be invested, applied or otherwise dealt with for his benefit in such manner as the Registrar or, upon reference to him by the Registrar, a Commissioner shall think fit.

Other cases.

(3) Any other compensation payable under this Ordinance may be deposited with the Registrar and, when so deposited, shall be paid by the Registrar to the person entitled thereto.

Receipt of  
Registrar.

(4) The receipt of the Registrar shall be a sufficient discharge in respect of any amount deposited with him under the provisions of this Ordinance.

(5) Nothing in this section shall prevent an employer from making any payment or allowance to a workman pending the settlement or determination of the claim and the Commissioner may, subject to the proviso to subsection (1) of section 5 of this Ordinance, order that such payment or allowance shall be deducted from the amount of compensation payable to the workman under the provisions of this section.

(6) On the deposit of any money under subsection (1) <sup>Notice to dependants</sup> of this section, the Registrar may deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding one hundred and fifty dollars, and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before a Commissioner on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which he may deem necessary, that no dependant exists, he shall direct the Registrar to repay the balance of the money to the employer by whom it was paid. The Registrar shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(7) Where a half-monthly payment is payable under this Ordinance to a workman under any legal disability, a Commissioner may, of his own motion or on application made to him in this behalf, order that the half-monthly payment be paid during the disability to any dependant of the workman or to any other person whom he thinks best fitted to provide for the welfare of the workman. <sup>Workman under disability.</sup>

(8) Where, on application made to him in this behalf or otherwise, a Commissioner is satisfied that, on account of neglect of children on the part of a parent, or on account of the variation of the circumstances of any dependant, or for any other sufficient cause, an order of a Commissioner as to the distribution 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, a Commissioner may make such order for the variation of the former order as he thinks just in the circumstances of the case: <sup>Variation of order.</sup>

Provided that no such order prejudicial to any person shall be made—

- (a) unless such person has been given an opportunity of showing cause why the order should not be made, or
- (b) in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(9) The solicitor or agent of a person claiming compensation under this Ordinance shall not be entitled to recover from such person any costs in respect of such claim or to claim a lien in respect of such costs on, or deduct such costs from, the sum <sup>Deductions for costs.</sup>

awarded or agreed as compensation, except such sum as may be awarded by a Commissioner, subject to regulations made under this Ordinance, on an application made either by the person claiming compensation, or by his solicitor or agent, to determine the amount of the costs to be paid to the solicitor or agent.

Compensation  
not to be  
assigned,  
attached or  
charged.

10. Save as provided by this Ordinance, no lump sum or half-monthly payment payable under this Ordinance shall be capable of being assigned, charged or attached or shall pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

Notice and  
claim.

11. (1) Proceedings for the recovery under this Ordinance of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless 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 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 the employer is proved to have had knowledge of the accident from any other source at or about the time of the accident, or 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 the Territory, 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 the Territory, or other reasonable cause.

(2) Notice in respect of an injury under this Ordinance may be given either in writing or orally to the employer (or if there is more than one employer to one of such employers) or to any foreman or other official under whose supervision the workman is employed or to any person designated for the purpose by the employer, and shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident happened.

(3) The notice, if in writing, may be given by delivering the same at, or sending it by post in a registered letter addressed to the residence or place of business of the person to whom it is to be given.

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

12. (1) Where a workman has given notice of an accident or where an accident has occurred in respect of which the necessity of giving notice under this Ordinance is dispensed with, a workman shall, if the employer offers to have him examined free of charge by a medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Ordinance shall, if so required, submit himself for such examination from time to time : Medical examination.

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with regulations made under this Ordinance, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required so to do by the employer under subsection (1) of this section or by a Commissioner at any time, refuses to submit himself for examination by a medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself. Refusal to be examined.

(3) If a workman, before the expiry of three days from the time at which service of notice of an accident has been effected or, when an accident occurs in respect of which the necessity of giving notice under this Ordinance is dispensed Leaving vicinity prior to examination.

with, before the expiry of three days from the date of such accident, voluntarily and without due cause leaves the vicinity of the place in which he was employed without having been examined by a medical practitioner, his right to compensation shall be suspended until he returns and offers himself for such examination.

Death prior to examination.

(4) Where a workman whose right to compensation has been suspended under subsection (2) or subsection (3) of this section dies without having submitted himself for medical examination as required by either of those subsections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

Compensation not payable during period of suspension.

(5) Where under subsection (2) or subsection (3) of this section a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension.

Measure of compensation on refusal to be examined or disregard of medical advice.

(6) Where an injured workman has refused to be attended by a medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is thereafter proved that the workman has not been regularly attended by a medical practitioner and that such refusal, failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a medical practitioner, and compensation, if any, shall be payable accordingly.

Application for referee to medical referee.

**13.** (1) Where a workman has submitted himself for examination by a medical practitioner, or has been examined by a medical practitioner selected by himself, and the employer or the workman, as the case may be, has within six days after such examination furnished the other with a copy of the report of that practitioner as to the workman's condition, then, in the event of no agreement being come to between the employer and the workman as to the workman's condition or fitness for employment, the Registrar, on application being made to him by both parties, or, subject to appeal to a Commissioner, by one of the parties, may refer the matter to a medical referee:

Provided that where the application is made by only one of the parties, the Registrar, or on appeal a Commissioner, if he is of the opinion that, owing to the exceptional difficulty of the

case or for any other sufficient reason, the matter ought to be settled in default of agreement by a Commissioner, shall refuse to allow the reference.

(2) In the case of an application made by both parties under the provisions of subsection (1) of this section, the Registrar shall refer the matter to a medical referee chosen by both parties but, if such parties cannot agree on the choice of a medical referee within such time as may be fixed by the Registrar, the Registrar shall refer the matter to a medical referee chosen by him.

(3) The medical referee to whom the matter is so referred shall, in accordance with regulations made under this Ordinance, give a certificate as to the condition of the workman and his fitness for employment, specifying, where necessary, the kind of employment for which he is fit, and that certificate shall be conclusive evidence as to the matters so certified.

(4) Where no agreement can be come to between the employer and the workman as to whether or to what extent the incapacity of the workman is due to the accident, the provisions of this section shall, subject to any regulations made under this Ordinance, apply as if the question were a question as to the condition of the workman.

(5) If a workman, on being required so to do, refuses to submit himself for examination by a medical referee 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 Ordinance in relation to compensation, or, in the case of a workman in receipt of a half-monthly payment under this Ordinance, his right to that half-monthly payment shall be suspended until such examination has taken place.

14. (1) 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 the work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this Ordinance which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then in the application of this Ordinance references to the principal shall be substituted for

Employment  
of contractors.

references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

Indemnity.

(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 workman independently of this section, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by a Commissioner.

Notice to contractor of proceedings against principal.

(3) Where a claim for compensation is made under the provisions of this section against a principal, the principal shall give notice thereof to the contractor who shall thereupon be entitled to intervene in any application made against the principal.

Contractor.

(4) Nothing in this section shall be construed as preventing a workman recovering compensation under this Ordinance from the contractor instead of the principal.

Control of principal.

(5) 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.

Remedies against both employer and stranger.

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

Recovery of damages a bar.

(a) the workman may, subject to the provision of subsection (4) of section 4 of this Ordinance, take proceedings both against that person to recover damages and against any person liable to pay compensation under this Ordinance for such compensation; and

Indemnity by third party.

(b) if the workman has recovered compensation under this Ordinance, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under section 14 of this Ordinance 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 any such indemnity shall, in default of agreement, be settled by action or, by consent of the parties, by a Commissioner.

### PART III MEDICAL AID

16. (1) Subject to the provisions of subsection (2) of this section the employer shall defray the reasonable expenses to an amount not exceeding two hundred and fifty dollars under each head reasonably incurred by a workman who has suffered personal injury as a result of an accident arising out of and in the course of his employment in respect of the following heads:—

(a) medical, surgical and hospital treatment, skilled nursing services, the supply of medicines and travelling for the purpose of obtaining any of the foregoing; and

(b) the supply, maintenance, repair and renewal of non-articulated artificial limbs and apparatus.

(2) An employer shall not be liable to defray expenses incurred by a workman in respect of any treatment, services or medicines specified in subsection (1) of this section if he maintains in respect thereof facilities approved for the purposes of this Ordinance by the Minister and has made such facilities available free of cost to such workman:

Provided that in any case where an injured workman satisfies the Commissioner that he has obtained special medical treatment by reason of the fact that the injury incurred by him required treatment not provided for or available to his employer, the Commissioner may allow such injured workman to recover from such employer the reasonable expenses incurred by him in obtaining such special treatment.

(3) All disputes as to reasonableness or as to necessity for any medical aid to be provided under this section shall be determined by a Commissioner whose decision in relation thereto shall be final.

(4) The medical expenses payable under this Part of this Ordinance shall be in addition to any amount payable as compensation under Part II or Part IV of this Ordinance.

(5) In this Part of this Ordinance "Minister" means the member of the Cabinet for the time being charged with the administration of the subject of Health.

### PART IV OCCUPATIONAL DISEASES

17. (1) The Minister shall appoint a special Medical Board for the purposes of this Part of this Ordinance and may revoke any such appointment at any time.

Constitution  
of special  
Medical  
Board and  
compensation  
in respect of  
diseases.

(2) The Minister shall appoint a Chairman of any such special Medical Board and, in the absence or inability to act of the Chairman, may appoint a person to act temporarily as Chairman.

(3) The Minister shall appoint a panel of duly qualified medical practitioners containing at least two persons who are recognised specialists in diseases of the lung from which the members of any such Board (other than the Chairman) may be selected.

(4) A special Medical Board at any sitting thereof shall consist of three members, namely the Chairman and two members, one of which shall be a recognised specialist in diseases of the lung, to be selected by the Chairman from the panel appointed under subsection (3) of this section.

(5) The Minister may appoint a Secretary and an Assistant Secretary to any special Medical Board and any such other officers as to him may seem necessary.

(6) The remuneration of, and other expenses incurred by members, the Secretary, Assistant Secretary and other officers of a Special Medical Board shall, subject to regulations made under this Ordinance, be paid out of moneys provided by the Legislative Council for the purpose.

(7) Any appointment made under subsection (1) or subsection (2) of this section, or any revocation of any such appointment, shall be published in the *Royal Gazette* and shall take effect on the date of its publication.

First Schedule.

(8) Where—

(a) a special Medical Board grants a certificate that a workman is suffering from any disease mentioned in paragraph (10) of Part I or in Part II of the First Schedule to this Ordinance causing disablement or that the death of a workman was caused by any such disease; or

(b) a medical practitioner grants a certificate that a workman is suffering from a scheduled disease mentioned in Part I (other than paragraph (10) thereof) of the First Schedule to this Ordinance causing disablement or that the death of a workman was caused by any such disease and a Commissioner is satisfied to that effect; and

(c) a Commissioner is satisfied—

(i) that a disease mentioned in Part I of the First Schedule was due to the nature of an employment in which the workman was employed at any time within twenty-four months previous

to the date of the granting of the certificate or the death of the workman; or

- (ii) that a disease mentioned in Part II of the First Schedule was due to the nature of an employment in which the workman was employed at any time within twelve months previous to the date of the granting of the certificate or the death of the workman,

the workman shall, subject to the provisions of subsection (9) of this section, be entitled to compensation under this Ordinance as if the disease were a personal injury by accident arising out of and in the course of that employment, and the disablement shall be treated as the happening of the accident.

(9) The workman shall not be entitled to compensation if it is proved that he had at the time of entering the employment wilfully and falsely represented in writing to the employer in reply to a specific question that he had not previously suffered from any such disease.

18. (1) Compensation shall be payable—

(a) in the case of a workman who is disabled by or has died as a result of a disease mentioned in Part I of the First Schedule to this Ordinance, by the last employer who employed such workman during the twenty-four months immediately preceding the disablement or death, as the case may be, of such workman; and

(b) in the case of a workman who is disabled by or has died as a result of a disease mentioned in Part II of the First Schedule to this Ordinance, by the last employer who employed such workman during the twelve months immediately preceding the disablement or death, as the case may be, of such workman.

(2) The workman who has been disabled, if so required, shall furnish to the employer from whom compensation is claimed such information as he may possess as to the names and addresses of all other employers who during the periods referred to in subsection (1) of this section employed the workman in any occupation to the nature of which the disease is due.

(3) If the employer alleges that the disease was in fact contracted while the workman was in the employment of some other employer and not while in his employment, he may join such other employer as a party to the proceedings in such manner as may be provided by Rules of Court made under this Ordinance and, if the allegation is proved, that other employer shall be the employer from whom the compensation is to be recoverable.

Liability  
to pay  
compensation.

(4) If the disease is of such a nature as to be contracted by a gradual process, any other employers who during the periods referred to in subsection (1) of this section employed the workman in the occupation to the nature of which the disease is due shall be liable to make to the employer from whom compensation is recoverable such contributions as in default of agreement may be settled by a Commissioner.

Fixing a date from which time is to run, indicating requirements as to giving of notice.

19. (1) In the application of the provisions of this Ordinance other than section 11 thereof to disablement or death caused by a scheduled disease, references to the date of the occurrence of the accident shall be construed as meaning—

(a) in the case of a scheduled disease causing disablement, the date of the disablement as determined by the Commissioner; and

(b) in the case of death from a scheduled disease, the date of the death of the workman.

(2) The provisions of section 11 of this Ordinance shall apply in respect of the recovery of compensation under this Part of this Ordinance as they apply in respect of the recovery of compensation for an injury:

Provided that for the purposes of the said section the time of the happening or occurrence of the accident shall be deemed to be the date of the granting of the certificate referred to in subsection (8) of section 17 of this Ordinance.

Calculation of earnings.

20. Compensation under this Part of this Ordinance shall be calculated with reference to the earnings of the workman under the employer from whom the compensation is recoverable.

Presumption as to cause of death or disablement. First Schedule.

21. If a workman who becomes disabled by or dies from—

(a) any scheduled disease mentioned in Part I of the First Schedule to this Ordinance was, within the period of twenty-four months immediately preceding the date of the disablement or death, employed in any occupation mentioned in the said Part I opposite such disease; or

(b) any scheduled disease mentioned in Part II of the First Schedule to this Ordinance was, within the period of twelve months immediately preceding the date of disablement or death, employed in any occupation mentioned in the said Part II opposite such disease,

it shall be presumed, unless the contrary is proved, that the disease was due to the nature of such employment.

Power of Minister to add to or delete from First Schedule.

22. (1) The Minister may, by notice published in the *Royal Gazette*, delete from the First Schedule to this Ordinance any disease, occupation or description of work mentioned therein

and may, in like manner, insert any disease or description of work mentioned in the said Schedule.

(2) Before issuing any notice under subsection (1) of this section, the Minister shall—

(a) cause a notice to be published, in at least three issues of a newspaper circulating in the Territory at intervals of not less than one week and twice in the *Royal Gazette*, setting out the notice which it is proposed to issue and inviting any person who objects to the issuing of such notice to state in writing his objection and grounds on which he relies in support thereof to the Permanent Secretary to the Minister on or before such day as may be specified in such notice; and

(b) consider any objections which may have been received pursuant to such notice.

23. Nothing in this Part of this Ordinance shall be construed as preventing compensation being recovered during the periods referred to in subsection (1) of section 18 of this Ordinance from any employer who last employed the workman during these periods proves that the disease was not contracted while the workman was in his employment, in which case the provisions of subsection (3) of section 18 of this Ordinance shall apply.

Savings right of workmen to proceed against previous employer.

## PART V

### COMPULSORY INSURANCE

24. (1) Subject to the provisions of this Ordinance, it shall not be lawful for any person to employ any workman unless there is in force in relation to the employment of that workman a policy of insurance :

Compulsory insurance against workmen's compensation claims.

Provided that this subsection shall not apply where the employer is Her Majesty in Her Government of the Territory.

(2) Every employer shall, if required so to do by any person generally or specially authorised in that behalf by the Minister, produce to such person for inspection any policy of insurance in relation to the employment of any of his workmen.

(3) The Minister may, if satisfied that a guarantee bond in such sum of money and containing such conditions as to him may seem fit, entered into by an employer with a banker or an insurer offers as good a security as a policy of insurance in respect of the full amount of the liability of the employer under this Ordinance, direct that such bond be given and that, so long as it shall continue in force, it shall stand in lieu of the policy of insurance required under subsection (1) of this section; and every such bond shall be made in favour of the Permanent Secretary to the Minister, and shall be deposited with the Registrar General.

(4) The Permanent Secretary to the Minister shall, upon any employer failing to pay any sum of money agreed upon or adjudged by the Commissioner to be paid as compensation under this Ordinance for the benefit of a workman who has been injured, enforce the guarantee bond given in relation to that workman; and the bond, if given to secure the payment of compensation in respect of other workmen, shall remain in force as regards the other workmen notwithstanding such enforcement.

(5) Any condition in a policy of insurance providing that no liability shall arise under the policy, or that any liability so arising shall cease in the event of some specified thing being done or omitted to be done after the happening of the accident giving rise to a claim under the policy, shall be of no effect upon any claim made by a workman who has been injured:

Provided that nothing in this subsection shall be taken to render void any provision in a policy requiring the insured employer to repay to the insurer any sums which the latter may have become liable to pay under the policy and which have been applied to the satisfaction of any such claim.

(6) Any employer who contravenes or fails to comply with the provisions of subsection (1) or subsection (2) of this section shall be guilty of an offence against this Ordinance, and such offence so long as the default continues shall be deemed to be a continuing offence.

Conditions  
under which  
liability for  
payment by  
insurer arises.

**25.** (1) If, after a policy of insurance has been issued in favour of an employer, he incurs any liability to a workman who has been injured, then notwithstanding anything to the contrary in such policy of insurance, the insurer shall discharge such liability including any sum payable in respect of costs in the manner prescribed in section 9 of this Ordinance.

(2) No sum shall be payable by an insurer under the provisions of this section unless—

(a) in the case of compensation agreed upon between the employer and a workman who has been injured, such insurer consented to pay the sum agreed upon as compensation to the said workman; or

(b) in the case of compensation adjudged by the Commissioner to be paid to a workman who has been injured, the insurer had notice of application to determine the compensation in time to enable him to apply to be added as a defendant, if he is so minded; or in respect of any judgment to pay compensation, so long as execution thereon is stayed by the Commissioner or pending appeal; or in respect

of a policy of insurance, if before the happening of the event which was the cause of the death or personal injury giving rise to the liability the policy was cancelled by mutual consent or by virtue of any provision contained therein.

(3) If notice of application to determine any compensation is given to an insurer in time to enable him to apply to the Commissioner to be added as a defendant, the Commissioner shall add the insurer as a defendant and he shall have the same right to defend the proceedings as if he were the employer.

26. Notwithstanding the provisions of any enactment prescribing the conditions for the grant or issue of any licence to commence or carry on any trade or business in which any workman shall be engaged by an employer, no such licence shall be granted or issued unless, by the production of a policy of insurance or an office copy of a guarantee bond, the applicant therefor shall first satisfy the authority authorised to grant or issue such licence that he has complied with the provisions of section 24 of this Ordinance.

Restriction on the grant or issue of licences to carry on trade or business.

27. If at the time of the happening of any event entitling a workman who has been injured to compensation under this Ordinance the employer liable to pay such compensation shall not be covered by insurance in respect of liability as required by this Ordinance, then in the event of the employer becoming bankrupt or making a composition or arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up or a receiver or manager of the company's business or undertaking having been duly appointed, or possession having been taken, by or on behalf of the holders of debentures secured by a floating charge, or any property comprised in or subject to the charge—

Bankruptcy of employer.

(a) the liability of the employer to pay the workman who has been injured compensation under this Ordinance shall devolve upon and be discharged by the person (if any) who shall have entered into a guarantee bond as surety to the employer under section 24 of this Ordinance, and such person shall in all respects be bound, as if he were the employer, by any order, decision or award made in favour of the workman who has been injured; but

In case of a guarantee bond.

(b) if no person shall have entered into a guarantee bond as aforesaid—

(i) the workman who has been injured may prove for the compensation or balance of compensation due and payable to him in

Where liability is wholly uninsured Proof in bankruptcy.

Priority  
Ch. 6. No. 6.

the bankruptcy or liquidation, or, as the case may be, he may recover the same from the receiver or manager; and

- (ii) there shall be included amongst the debts which under section 37 of the Bankruptcy Ordinance are, in the distribution of the property or assets of a bankrupt, to be paid in priority to all other debts, the amount due in respect of any compensation or liability for compensation accrued before the date of the receiving order; and where the compensation is a half-monthly 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 half-monthly payment could, if redeemable, be redeemed if the employer made an application for that purpose under this Ordinance, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

Forgery, &c.,  
of policies of  
insurance.  
Ch. 4. No. 12.

**28.** (1) If, with intent to deceive, any person—

- (a) forges within the meaning of the Forgery Ordinance, or alters or uses or lends to or allows to be used by any other person, a policy of insurance, or an office copy of a guarantee bond executed pursuant to the provisions of this Ordinance, or
- (b) makes or has in his possession any document so closely resembling such a policy of insurance or an office copy of such guarantee bond as to be calculated to deceive,

he shall be guilty of a misdemeanour and shall be liable, on conviction on indictment, to imprisonment for two years.

(2) If any person for the purpose of obtaining the issue of a policy of insurance makes any false statement or withholds any material information, he shall be guilty of an offence against this Ordinance.

(3) If any person issues a policy of insurance which is to his knowledge false in any material particular, he shall be guilty of an offence against this Ordinance.

(4) If any person to whom an employer is required by subsection (2) of section 24 of this Ordinance to produce for inspection his policy of insurance has reasonable cause to believe that any policy of insurance produced to him in pursuance of this requirement is a document in relation to which an offence under this section has been committed, he may seize the document, and when any document is seized under this section, the employer from whom it was taken shall, unless previously charged with an offence under this section, be summoned before a Magistrate to account for his possession of the said document, and the Magistrate shall make such order respecting the disposal of the said document and award such costs as the justice of the case may require.

29. In this Part of this Ordinance—

"Definition.

- (a) "policy of insurance" means a policy of insurance or indemnity issued by an insurer and insuring or indemnifying the holder thereof against the full amount of his liability under this Ordinance in respect of a workman employed by him;
- (b) a reference to a workman who has been injured shall be construed as including a reference to a workman who has been disabled by a disease mentioned in the First Schedule to this Ordinance.

## PART VI

### COMMISSIONERS

30. (1) If any question arises in any proceedings under this Ordinance as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by a Commissioner.

Reference to  
Commissioners.

(2) No court shall have jurisdiction to settle, decide or deal with any question which is by or under this Ordinance required to be settled, decided or dealt with by a Commissioner or, save as in this Ordinance or any rule or regulation made thereunder is provided, to enforce any liability incurred under this Ordinance.

31. (1) The Judges of the Supreme Court shall be Commissioners for the Territory, and the Magistrate from time to time assigned for duty as such in the Island of Tobago shall, in

Judges of  
Supreme Court  
to be  
Commissioners.

addition to the Judges of the Supreme Court, be a Commissioner for the Island of Tobago.

(2) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Ordinance, appoint one or more persons possessing special knowledge of any matter relevant to the matter under enquiry to assist him in holding the enquiry.

Application to  
Commissioner.

**32.** (1) No application for the settlement of any matter by the Commissioner shall be made unless some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) Where any such question has arisen, the application may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely,—

- (a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;
- (b) in the case of a claim for compensation against an employer, the date of service on the employer of notice of the accident required by section 11 of this Ordinance and, if such notice has not been served or has not been served in due time, the reason for such omission;
- (c) the names and addresses of the parties; and
- (d) a concise statement of the matters on which agreement has and of those on which agreement has not been reached.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Registrar.

Powers and  
procedure of  
Commissioners.

**33.** The Commissioner shall have all the powers of the Supreme Court for the purpose of enforcing the attendance of witnesses, compelling the production of documents and material objects, administering oaths and taking evidence, amending any defect or error in any proceeding, enlarging the time appointed for taking any proceeding or for doing any act, and punishing for contempt of court.

34. (1) The Commissioner may, subject to regulations made under this Ordinance, submit to a medical referee for report any matter of a medical character, which seems material to any question arising in the course of the proceedings before him.

Reference by Commissioner to medical referee.

(2) When the Commissioner has decided to refer a matter to a medical referee by virtue of the provisions of subsection (1) of this section, he shall fix the time within which the parties may come to an agreement as to the choice of a medical referee, and failing such agreement, the Commissioner shall refer the matter to a medical referee chosen by him.

(3) A medical referee to whom any such reference is made shall, in accordance with the regulations made under this Ordinance, give a certificate of his findings and such certificate shall be conclusive evidence as to the matters so certified.

(4) Regulations may be made by the Minister for prescribing the duties of the medical referee in cases of reference made under this section and the forms to be used.

35. Any appearance, application or act required to be made or done by any person before or to the Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or, with the leave of the Commissioner, by the son, daughter, father, mother, brother, sister, husband or wife or any person in the permanent employment of such person.

Persons entitled to appear, &c., before Commissioner.

36. No person other than a legal practitioner who appears or acts on behalf of any party in connection with proceedings before the Commissioner under this Ordinance shall be entitled to any fee or reward for so appearing or acting.

Fees.

37. The Commissioner shall make notes of the evidence of every witness as the examination of the witness proceeds, and such notes shall be written and signed by the Commissioner with his own hand and shall form part of the record :

Commissioner to take notes of evidence.

Provided that the evidence of any medical witness shall be taken down as nearly as may be word for word.

38. All costs incidental to any proceedings before the Commissioner shall, subject to regulations made under this Ordinance, be in the discretion of the Commissioner.

Costs.

39. (1) At the conclusion of the hearing of every application for the settlement of a matter by the Commissioner he shall make such decision and order as may be necessary for finally disposing of all or any questions arising upon the application and shall duly record the same.

Registration of orders.

(2) Where the order directs the payment of compensation or the payment for provision of medical aid under this Ordinance or the variation of the amount or rate of payment of compensation previously ordered by the Commissioner or settled by agreement, the Commissioner shall direct the Registrar to record a memorandum of his order in a register in the prescribed manner.

Registration  
of agreements.

40. (1) Subject to the provisions of this section, where the amount of compensation under this Ordinance has been settled or varied by agreement, a memorandum thereof shall be sent by the employer, and may be sent by any party interested, to the Registrar who shall, on being satisfied as to its genuineness, duly record the memorandum in a register in the prescribed manner.

(2) No such memorandum shall be recorded before seven days after communication by the Registrar of notice to the parties concerned.

(3) Where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation and the employer proves that the workman 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 Registrar thinks just in the circumstances.

(4) The Registrar may at any time rectify the register.

(5) Where it appears to the Registrar that an agreement as to the payment of a lump sum, whether by way of redemption of a half-monthly payment or otherwise, 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, in which event he shall refer the matter to the Commissioner for him to make such order, including an order as to any sum already paid under the agreement, as the Commissioner may think just in the circumstances.

(6) Where a memorandum of agreement for the payment of a lump sum is sent for registration in accordance with the provisions of this section, the Registrar shall have power in accordance with rules of court made under section 49 of this Ordinance—

(a) to require either party to the agreement to furnish him either orally or in writing with such information

as he may consider necessary, or to require the attendance before him of any of the parties to the agreement;

- (b) when the information as to the workman's condition appears to him to be insufficient or conflicting, to require a report as to the workman's condition to be obtained from a medical referee chosen by both parties, or if they fail to agree as to the choice of a medical referee within the time fixed by the Registrar, by a medical referee chosen by the Registrar;

and in the event of either of the parties failing to comply with any such requirement of the Registrar, the Registrar may refuse to record the memorandum.

(7) Where it appears from any report made by a medical referee that the prospects of the workman's recovery from incapacity cannot as yet be approximately determined, the Registrar may refuse to record the memorandum.

(8) the Commissioner may, within six months after a memorandum of an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, 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 he thinks just in the circumstances.

(9) Any memorandum of agreement to which this section applies shall disclose the amount (if any) paid or payable under or in respect of the agreement by the employer to the solicitor and counsel for the workman who has been injured as costs, and, if it appears to the Registrar that the amount is excessive, the Registrar shall, subject to Rules of Court made under this Ordinance, tax such costs but such costs shall not be taxed by a Sub-Registrar; and if the costs are reduced on taxation, the amount of such reduction shall either be applied or dealt with for the benefit of the workman who has been injured or paid to the employer.

Costs paid by employer to workman's solicitor or counsel to be disclosed.

41. Every memorandum and every amendment to a memorandum registered under section 39 or section 40 of this Ordinance, and every order made under section 40 of this Ordinance when recorded as required by the said sections, shall thereupon for all purposes be enforceable as a Supreme Court judgment.

Orders and agreements enforceable as Supreme Court judgments.

Effect of  
failure to  
register  
agreement.

42. Where a memorandum of any agreement, the registration of which is required by section 40 of this Ordinance, is not sent to the Registrar as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Ordinance, and notwithstanding anything contained in the proviso to subsection (1) of section 5 of this Ordinance shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

Appeals.

43. (1) Subject to the provisions of this section and of section 16 of this Ordinance, an appeal shall lie to the Full Court from any order of the Commissioner.

(2) Except upon the certificate of the Commissioner or with the leave of the Full Court (neither of which shall be granted unless in the opinion of the Commissioner or the Full Court, as the case may be, some substantial question of law is involved in the appeal) no appeal shall lie if the amount in dispute is less than two hundred and forty dollars.

(3) No appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.

(4) Save in so far as the same may be modified by any Rules of Court made under this Ordinance, the Rules of the Supreme Court for the time being in force as to appeals to the Full Court in civil matters shall, with the necessary modifications, apply to appeals under this section from orders of the Commissioner.

## PART VII

### GENERAL

Returns as to  
compensation.

44. (1) The Minister may, by notification in the *Royal Gazette*, direct that every employer shall send within such time and in such form and to such person as may be specified in the notification a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the Minister may direct.

(2) Any person required to make any return in pursuance of the provisions of subsection (1) of this section who—

(a) fails to make such return within the time specified for so doing;

- (b) makes or causes to be made any such return which he knows or has reasonable cause to believe to be false in any material particular; or
- (c) on being so required, fails to give any information or explanation respecting the return which it is in his power to give,

shall be guilty of an offence against this Ordinance, and such offence so long as the default continues shall be deemed to be a continuing offence.

45. Any contract or agreement, whether made before or after the commencement of this Ordinance, whereby a workman relinquishes any right of compensation or to medical aid from the employer as provided by this Ordinance, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation or provide medical aid under this Ordinance.

Contracting out.

46. In the assessment of compensation under this Ordinance in the case of—

Workmen in employment of Government and of local authorities.

- (a) any workman in, or selected for appointment to, the service of the Government of the Territory before the 1st of December, 1938, where, in consequence of injury received by any such workman in the discharge of his duties, a pension or gratuity which would not be payable if such injury were received otherwise is paid out of public funds to him or, in the case of his death, to any of his dependants, or
- (b) any workman in the employment of any public or local authority where, in the case of injury received by him in the discharge of his duties, provision exists by law for the grant of a pension or gratuity to such workman, or, in the case of his death, to any dependants,

the amount of such pension or gratuity shall be taken into consideration and corresponding reductions shall be made in the amount which such workman or his dependants, as the case may be, would otherwise have been awarded as compensation under this Ordinance.

47. (1) This Ordinance shall apply to masters, seamen and apprentices to the sea service, provided that such persons are workmen within the meaning of this Ordinance and are members of the crew of any ship registered in the Territory or of any other British ship or vessel of which the owner, or (if

Application to persons employed on ships or vessels.

there is more than one owner) the managing owner, or manager resides or has his principal place of business in the Territory, subject to the following modifications:—

- (a) the notice of accident and the claim for compensation may, except when the person injured is the master, be given to the master of the ship as if he were the employer, but where the accident happened and the disability commenced on board the ship it shall not be necessary to give any notice of the accident;
- (b) in the case of the death of the master, seaman or apprentice, the application for compensation shall be made within six months after the news of the death has been received by the claimant;
- (c) whenever in the course of any legal proceeding under this Ordinance the testimony of any witness is required in relation to the subject matter of the proceeding, then, upon due proof that the witness cannot be found in the Territory, any deposition which the witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in Her Majesty's dominions or in any place where Her Majesty exercises jurisdiction or before any British Consular Officer elsewhere and which, if the proceeding had been under the Merchant Shipping Act, 1894, would have been admissible in such proceeding by virtue of sections 691 and 695 of that Act, shall be admissible in evidence subject to similar conditions as are laid down in the said sections 691 and 695;
- (d) in case of the death of a master, seaman or apprentice leaving no dependants, no compensation shall be payable if the owner of the ship is under the Merchant Shipping Act, 1894, liable to pay the expenses of burial.

57 and 58  
Vict., c. 60.

57 and 58  
Vict., c. 60.

(2) This Ordinance shall also apply to any person not being a master, seaman or apprentice to the sea service, employed on board any such ship as is mentioned in this section, if he is so employed for the purposes of the ship or of any passengers or cargo or mails carried by the ship, and if he is otherwise a workman within the meaning of this Ordinance.

(3) In this section—

“ship”, “vessel”, “seaman”, and “port” have the same meaning as in the Merchant Shipping Act, 1894;

57 and 58  
Vict., c. 60.

“master” in relation to a ship means the ship’s husband or other person to whom the management of the ship is entrusted by or on behalf of the owner.

48. Any person who shall be guilty of an offence against this Ordinance for which no special punishment is provided shall be liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months, or to both such fine and imprisonment, or, if such person is a corporation, to a fine of one thousand five hundred dollars, and in the case of a continuing offence, such person shall be liable to a further fine of twenty-five dollars, or if a corporation fifty dollars, for every day or part of a day during which such offence is deemed to be a continuing offence. General penalty.

49. (1) The Chief Justice, with the concurrence of a Puisne Judge, may make Rules of Court for— Rules of Court.

- (a) prescribing the manner in which documents are to be furnished or served and applications made under section 13 of this Ordinance, the procedure for appeals to the Commissioner under the said section, and the forms to be used for those purposes;
- (b) regulating the procedure and practice in respect of reports required by the Registrar under subsection (6) of section 40 and of appeals under section 43 of this Ordinance.

(2) No such Rules of Court shall come into operation until the same shall have been laid before the Legislative Council and until the expiration of one month after the publication of such rules in the *Royal Gazette*; but when the same shall come into operation they shall have effect as if enacted by this Ordinance and shall be judicially noticed.

50. (1) The Minister may make regulations for all or any of the following purposes, that is to say, Power to make Regulations.

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 7 of this Ordinance when not accompanied by a medical certificate;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under subsection (1) of section 12 of this Ordinance;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of matters under this Ordinance and by the parties in such matters;

- (d) for regulating the transfer of matters from one Commissioner to another and the transfer of money in such matters;
- (e) for prescribing the manner in which money in the hands of a Registrar may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Registrar to another;
- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented to and registered by the Registrar;
- (h) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same;
- (i) for prescribing the costs which may be allowed in respect of any claim or proceedings under this Ordinance;
- (j) for prescribing the fees to be paid in respect of any claim or proceedings under this Ordinance;
- (k) for prescribing the fees to be paid to any person appointed to assist a Commissioner under the provisions of subsection (2) of section 31 of this Ordinance;
- (l) for the maintenance by the Registrar of registers and records of proceedings before the Commissioners;
- (m) for providing for any matters which are required or authorised by this Ordinance to be prescribed; and
- (n) generally for carrying out the provisions of this Ordinance.

(2) Regulations made under this section may prescribe in respect of any contravention thereof or failure to comply therewith or with any directions issued thereunder a penalty not exceeding two hundred and fifty dollars on summary conviction.

(3) Regulations made under this section shall have no force or effect until they have been approved by the Legislative Council.

Repeal of  
Ch. 22. No. 14.

51. The Workmen's Compensation Ordinance is hereby repealed without prejudice to anything done or suffered thereunder, or any valuation, right, privilege, obligation or liability made, acquired, accrued or incurred thereunder.

(Sections 2, 17, 21 and 22)

## FIRST SCHEDULE

## Occupational Diseases

## PART I

Description of Disease	Occupation or description of Work
(1) Anthrax	Work in connection with animals or the handling of animal carcasses or parts of such carcasses or of wool, hair, bristles, hides, skins, hoofs or horns.
(2) Arsenic Poisoning or its sequelae	Any process involving the production, liberation or utilisation of arsenic or its preparations or compounds.
(3) Lead Poisoning or its sequelae	Any process involving the production, liberation or handling of lead or its compounds, or any work involving the use of lead or its preparations or compounds.
(4) Mercury Poisoning or its sequelae	Any process involving the use or handling of, or exposure to the fumes, dust or vapour of mercury or a compound of mercury, or a substance containing mercury.
(5) Phosphorus Poisoning or its sequelae	Any process involving the use or handling of, or exposure to the fumes, dust or vapour of, phosphorus or a compound of phosphorus, or a substance containing phosphorus.
(6) Poisoning by benzene or its homologues, their nitro- and amido-derivatives, and its sequelae	Any process involving the production, liberation or utilisation of benzene or its homologues, or their nitro- and amido-derivatives.
(7) Poisoning by the halogen derivatives of hydrocarbons of the aliphatic series	Any process involving the production, liberation or utilisation of halogen derivatives of hydrocarbons of the aliphatic series (designated by national laws or regulations).
(8) Pathological Manifestations due to—	
(a) Radium or other radio-active substances	} Any process involving exposure to the action of radium, radio-active substances or X-rays.
(b) X-rays	
(c) Ulceration of the corneal surface of the eye	
(d) Localised new growth of the skin, papillomatous or keratotic	} Any process involving the use or handling of, or exposure to, tar, pitch, bitumen, mineral oil (including kerosene), soot or any compound, product or residue of any of these substances.
(9) Poisoning by Chromates or Chromic Acid	Chromium plating, tanning of leather involving the use of chromates or chromic acid.
(10) Pneumoconioses	Any occupation involving—
	(a) the mining, quarrying or working of silica rock or the working of dried quartzose sand or any dry deposit or dry residue of silica or any dry admixture containing such materials (including any occupation in which any of the aforesaid operations are carried out incidentally to the mining or quarrying of other minerals or to the manufacture of articles containing crushed or ground silica rock) ;
	(b) the handling of any of the materials specified in the foregoing sub-paragraph in or incidental to any of the operations mentioned therein, or substantial exposure to the dust arising from such operations.

## FIRST SCHEDULE—CONTINUED

## Occupational Diseases—Continued

Description of Disease	Occupation or description of Work
(i) Asbestosis	Any occupation involving the processing, use or handling of, or exposure to asbestos or to a compound of asbestos or any substance containing asbestos.
(ii) Bauxite Pulmonary Fibrosis (Shaver's Disease)	The making of synthetic abrasives and any occupation involving the liberation of fumes caused by the fusion of the ore known as bauxite with silica or any of its compounds.
(iii) Mica Pneumoconiosis	Any occupation involving the processing, use or handling of silica aluminium compounds.
(iv) Talc Pneumoconiosis	Any occupation or process involving the use of finely powdered hydrous silicate.

## PART II

Description of Disease	Occupation or description of Work
(1) Bagassosis	Any occupation involving the processing, use or handling of or exposure to bagasse or a compound of bagasse or a substance containing bagasse.
(2) Berylliosis	Any occupation involving the making of fluorescent lamps
(3) Byssinosis	Processes in which large quantities of cotton dust are present.
(4) Tuberculosis	Any occupation involving close and frequent contact with a source or sources of tuberculosis infection by reason of employment— <ul style="list-style-type: none"> <li>(a) in the medical treatment or nursing of a person or persons suffering from tuberculosis, or in a service ancillary to such treatment or nursing ;</li> <li>(b) in attendance upon a person or persons suffering from tuberculosis, where the need for such attendance arises by reason of physical or mental infirmity ;</li> <li>(c) as a research worker engaged in research in connection with tuberculosis ;</li> <li>(d) as a laboratory worker, pathologist or post mortem worker, where the occupation involves working with material which is a source of tuberculosis infection, or in an occupation ancillary to such employment.</li> </ul>

(Sections 2 and 5)

## SECOND SCHEDULE

## List of injuries deemed to result in permanent disablement

Description of Injury	Percentage of Incapacity
Loss of two limbs ... ..	100
Loss of both hands or of all fingers and both thumbs ... ..	100
Total loss of sight ... ..	100
Total Paralysis ... ..	100
Injuries resulting in being bedridden permanently ... ..	100
Any other injury causing permanent total disablement ... ..	100
Loss of remaining eye by one-eyed workman ... ..	100
Loss of remaining arm by one-armed workman ... ..	100
Loss of remaining leg by one-legged workman ... ..	100
Loss of arm at shoulder ... ..	70
Loss of arm between elbow and shoulder ... ..	70
Loss of arm at elbow ... ..	70
Loss of arm between wrist and elbow ... ..	65
Loss of hand at wrist ... ..	60
Loss of four fingers and thumb of one hand ... ..	60
Loss of four fingers ... ..	35
Loss of thumb—	
both phalanges ... ..	35
one phalanx ... ..	25
Loss of index finger—	
three phalanges ... ..	10
two phalanges ... ..	8
one phalanx ... ..	4
Loss of middle finger—	
three phalanges ... ..	6
two phalanges ... ..	4
one phalanx ... ..	2
Loss of ring finger—	
three phalanges ... ..	5
two phalanges ... ..	4
one phalanx ... ..	2
Loss of little finger—	
three phalanges ... ..	5
two phalanges ... ..	4
one phalanx ... ..	2
Loss of metacarpals—	
first or second (additional) ... ..	3
third, fourth or fifth (additional) ... ..	2
Loss of leg at or above knee ... ..	70
Loss of leg below knee ... ..	50
Loss of foot ... ..	50
Loss of toes of one foot—	
all ... ..	20
great, both phalanges ... ..	10
great, one phalanx ... ..	2
other than great, if more than one toe lost ... .. each	1

(Sections 2 and 5)

## SECOND SCHEDULE—CONTINUED

List of injuries deemed to result in permanent disablement—*Continued*

Description of Injury	Percentage of Incapacity
Loss of eye—	
eye out ... ..	30
sight of ... ..	30
lens of ... ..	30
sight of, except perception of light ... ..	30
Loss of hearing—	
both ears ... ..	50
one ear ... ..	7

Total permanent loss of use of member shall be treated as loss of member.

The percentage of incapacity for ankylosis of any joint shall be reckoned as from 25 to 100 per cent. of the incapacity for loss of the part at that joint, according to whether the joint is ankylosed in a favourable or unfavourable position.

In the case of a right-handed workman, an injury to the left arm or hand and, in the case of a left-handed workman, to the right arm or hand shall be rated at ninety per centum of the above percentages.

Where there is a loss of two or more parts of the hand, the percentage of incapacity shall not be more than for the whole hand.

Where there are two or more injuries, the sum of the percentages for such injuries may be increased, and where such injuries are to the hand, the following basis of computing the increase shall be adopted, namely:—

- (a) where two digits have been injured, the sum total of the percentages shall be increased by twenty per centum of such sum total;
- (b) where three digits have been injured, the sum total of the percentages shall be increased by thirty per centum of such sum total;
- (c) where four digits have been injured, the sum total of the percentages shall be increased by forty per centum of such sum total.

A one-eyed workman who on entering employment has failed to disclose the fact that he is one-eyed to his employer shall, if he loses his remaining eye, be entitled to compensation in respect of a degree of disablement of thirty per centum only.

For the purposes of this Schedule, one-eyed workman means a workman who has an eye out, lost the sight of one eye, lost the lens of one eye or lost the sight of one eye except perception of light.

Passed in Council this fifteenth day of July, in the year of Our Lord one thousand nine hundred and sixty.

G. R. LATOUR

*Clerk of the Council.*