

LAWS OF BRUNEI

CHAPTER 74
WORKMEN'S COMPENSATION

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CHAPTER 74
WORKMEN'S COMPENSATION

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Workmen's Compensation

CAP. 74]

WORKMEN'S COMPENSATION ACT

An Act to consolidate and amend the law relating to payment of compensation to workmen for injuries suffered in the course of their employment

Commencement: 1st April 1957

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Workmen's Compensation Act.

Meaning of "workman".

2. (1) In this Act —

"workman" subject to the proviso to this subsection, means any person who has, either before or after the commencement of this Act, entered into or works under a contract of employment whether by way of manual labour or otherwise, whether the contract is expressed or implied, or is oral or in writing, whether the remuneration is calculated by time or by work done, and whether by the day, week, month or longer period or otherwise:

Provided that the following persons are excepted from the definition of "workman" —

(a) any person employed otherwise than by way of manual labour whose earnings calculated in accordance with the provisions of section 9, exceed \$750 a month;

(b) any person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business, not being a person employed for the purposes of any gain or recreation and engaged or paid through a club;

(c) any person who is a member of any local armed forces established under any written law;

(d) any person employed, or selected for employment, in a civil capacity by the Government or by any statutory body or authority before the date upon which this Act comes into force where, in consequence of injury received by any such person in the discharge of his duties, a pension or gratuity which would not be payable if such injury were received otherwise is paid to him or, in the case of his death, to any of his dependants as defined in this Act, under any written law for the time being in force in Brunei Darussalam or any part thereof providing for the grant of such pension or gratuity;

(e) an outworker;

(f) any member of the family of the employer who dwells with him in his house;

(g) any class of person whom His Majesty the Sultan and Yang Di-Pertuan in Council may by order signified in the *Gazette* declare not to be workmen for the purposes of this Enactment.

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

(3) Any reference to a workman who has been injured shall, unless the context otherwise requires, where the workman is dead, include a reference to his legal personal representative or to his dependants or any of them or to any public officer whom the Minister may appoint to act on behalf of the dependants of the workman.

Interpretation.**3. (1)** In this Act —

“approved hospital” means a hospital declared to be such under subsection (1) of section 15;

“arbitrator” means a person appointed by His Majesty by notification in the *Gazette* to be an arbitrator for workmen's compensation;

the “Commissioner” means the Commissioner of Labour appointed under section 3 of the Labour Act, Cap 93 and includes any officer to whom the Commissioner has delegated all or any of the powers conferred or duties imposed on the Commissioner by this Act;

“compensation” means compensation as provided for by this Act;

“contract of employment” means a contract of service or of apprenticeship or a contract for the execution or performance of any work undertaken at the premises of an employer, which forms part of any trade or business carried on by such employer or of the domestic service of his household;

“dependant” means any member of the family of a workman who was wholly or in part dependent upon his earnings at the time of his death, or would but for the incapacity due to the accident have been so dependent, and where the workman —

(a) being the parent or grandparent of a child born out of wedlock, leaves such child so dependent upon his earnings; or

(b) being a child born out of wedlock leaves a parent or grandparent so dependent upon his earnings; or

(c) being divorced leaves a divorced wife so dependent upon his earnings,

shall include such child, parent, grandparent or divorced wife respectively:

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

And provided further that where on application being made by a woman the Commissioner is satisfied after due enquiry under section 10(5) of this Act that —

(a) such woman and the deceased were living together as man and wife at the time of the accident; and

(b) such woman was wholly or in part dependent on the earnings of the deceased at the time of his death or would but for the incapacity due to the accident have been so dependent,

the Commissioner may deem such woman to be a dependant for the purposes of this Act;

“domestic servant” means a person employed exclusively in the work or in connection with the work of a private dwelling house and not of any trade, business or profession carried on by the employer in such dwelling house and includes any person employed in the capacity of a cook, house servant (including bed room and kitchen servants), waiter, butler, child’s or baby’s nurse, valet, footman, gardener, washerman or washerwoman, watchman, groom and driver or cleaner of any vehicle licensed for private use;

“earnings” means any remuneration paid in cash to a workman by his employer in consideration of work done in respect of his contract of employment and any privilege or benefit which is capable of being estimated in money and includes the value of any food, fuel or quarters supplied to the workman by the employer if as a result of the accident the workman or any of his dependants is deprived of such food, fuel or quarters; and includes any overtime payments or other special remuneration for work done, whether by way of bonus, allowance or otherwise, if of constant character or for work habitually performed and including tips if the employment be of such nature that the habitual giving and receiving thereof is open and

notorious and is recognised by the employer; but shall not include —

- (a) casual payments of a non-recurrent nature;
- (b) a travelling allowance or the value of any travelling concession;
- (c) a contribution paid by the employer towards any pension or provident fund;
- (d) a sum or concession received by the workman in consideration of any special expenses incurred by him by reason of the nature of his employment;”

“employer” includes —

- (a) the Government;
- (b) any statutory body or authority;
- (c) any person or body of person whether incorporate or not;
- (d) the legal personal representative of a deceased employer; and
- (e) in relation to a person employed for the purpose of any game or recreation and engaged or paid through a club, the manager or members of the managing committee of such club,

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 employment, the latter shall, for the purposes of this Act, be deemed to continue to be the employer of the workman whilst he is working for that other person;

“insurer” means any society, association, company or underwriter carrying on in Brunei Darussalam the business of effecting contracts of insurance against the liability of an employer for personal injury by accident to any workman in his employment arising out of and in the course of such employment;

“member of the family” means a wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister, daughter-in-law or sister-in-law and any such person is included whether the relationship is created by blood or by any adoption recognised as valid by the law of Brunei Darussalam;

“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 home or on other premises not under the control or management of the person who gave out the materials or articles;

“partial incapacity” means, where the incapacity is of a temporary nature, such incapacity as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in his incapacity and where the incapacity is of a permanent nature, such incapacity as reduces his earning capacity in every employment which he was able to undertake at the time of the accident:

Provided that every injury specified in the First Schedule to this Act, except such injury or combination of injuries in respect of which the percentage or aggregate percentage of the loss of earning capacity as specified in that Schedule against such injury or injuries amounts to or exceeds 100 per centum, shall be deemed to result in permanent partial incapacity;

“premises” means in relation to an employer any place where work is executed or performed under the control or management of such employer whether exclusively or otherwise and the approaches thereto and any other land occupied in connection therewith, whether such approaches or other land form part of a public road or are otherwise open to the public or not, and any place where a workman is required to work by such employer or such employer's foreman or other agent, and any vehicle or vessel belonging to such employer or operated by a person employed by him;

“registered medical practitioner” means a medical practitioner registered or exempted from registration under the provisions of any written law relating to the registration of medical practitioners from time to time in force in Brunei Darussalam;

“special hospital” means a hospital declared to be such under subsection (2) of section 16;

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

Provided that permanent total incapacity shall be deemed to result from an injury or from any combination of injuries specified in the First Schedule to this Act where the percentage or aggregate percentage of the loss of earning capacity as specified in that Schedule against such injury or injuries amounts to or exceeds 100 per centum; and

(2) The exercise and performance of the powers and duties of a Department of the Government or a statutory body or authority shall, for the purposes of this Act, be deemed to be the trade or business of the Government or statutory body or authority, as the case may be.

PART II

WORKMAN'S COMPENSATION FOR INJURY

Employer's liability for 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, save as hereinafter provided, be liable to pay compensation in accordance with the provisions of this Act.

(2) An accident happening to a workman while he is, with the express or implied permission of his employer, travelling as a passenger by any vehicle, ship, vessel or aircraft to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by such means, be deemed to arise out of and in the course of his employment, if the accident would have been deemed so to have arisen had he been under

such an obligation, and if at the time of the accident the vehicle, ship, vessel or aircraft is being operated by or on behalf of his employer or by some other person by whom it is operated in pursuance of arrangements made with his employer and is not being operated in the ordinary course of a public transport service.

(3) An accident happening to a workman in or about any premises at which he is for the time being employed shall be deemed to arise out of and in the course of his employment if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise damage to property.

(4) An accident happening to a workman shall be deemed to arise out of and in the course of his employment notwithstanding that he was at the time of the accident acting in contravention of any statutory or other regulations 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 —

- (i) the accident would have been deemed so to have arisen had such an act not been done in contravention as aforesaid or without instruction from his employer as the case may be; and
- (ii) such act was done for the purposes of and in connection with the employer's trade or business.

(5) If a workman whose normal place of employment is in Brunei Darussalam or whose contract of employment was made in Brunei Darussalam is injured or dies as a result of an accident occurring outside Brunei Darussalam in circumstances in which if such accident had happened in Brunei Darussalam such workman would have been entitled to compensation under this Act the employer of such workman shall be liable to pay compensation in accordance with the provisions of this Act:

Provided that if compensation is payable to such workman under any workmen's compensation law in force at the place where such accident has occurred the amount of such compensation shall be deducted from any compensation payable in accordance with the provisions of this Act.

(6) An employer shall not be liable to pay compensation in respect of any injury which does not incapacitate the workman for a period of at least 3 days from earning full wages at the work on which he was employed.

(7) An employer shall not be liable to pay compensation in respect of any injury to a workman resulting from an accident if it is proved that the injury to the workman is directly attributable to the workman having been at the time thereof under the influence of alcohol or a drug, unless such injury results in the death or permanent incapacity causing a loss of earning capacity of not less than 50 per centum of the workman.

(8) No compensation shall be payable in respect of any incapacity or death resulting from a deliberate self-injury or the deliberate aggravation of an accidental injury.

(9) No compensation shall be payable in respect of any incapacity or death resulting from personal injury, if the workman has at any time represented to the employer that he was not suffering or had not previously suffered from that or a similar injury, knowing that such representation was false.

(10) For the purposes of this Act an accident arising in the course of a workman's employment shall be deemed, in the absence of evidence to the contrary, also to have arisen out of that employment.

Compensation for occupational diseases.

5. (1) If a workman who is employed in any occupation described in the Second Schedule contracts a disease or injury shown in such Schedule to be related to that occupation, or if a workman who has been employed in such occupation contracts such a disease or injury within 12 months after ceasing to be so employed, and if incapacity or the death of such workman results from that disease, compensation shall be payable as if the disease were a personal injury by accident arising out of and in the course of that employment, and all the other provisions of this Act shall apply accordingly, subject to the provisions of this section:

Provided that where the workman has developed any of the diseases mentioned in the Second Schedule that disease shall, unless the contrary is proved, be presumed to be due to the nature of the occupation if the workman has been employed in any of the specified occupations within 30 days of the date on which a registered medical practitioner certifies that in his opinion the workman is suffering from that disease.

(2) When a workman enters into a contract of employment with any employer to work in any occupation specified in the Second Schedule or is, with his consent, transferred by his employer to such an occupation, he shall, if requested to do so by the employer, submit himself for examination by a registered medical practitioner, the fee for which shall be paid by the employer:

Provided that such workman shall not be required to submit himself for examination by a registered medical practitioner otherwise than in accordance with regulations made under this Act nor at shorter intervals than may be prescribed therein.

(3) No compensation shall be payable under this section in respect of the incapacity or death of a workman if the disablement begins or the death happens, as the case may be, more than 12 months after the workman has ceased to be employed in any employment to the nature of which the disease is due by the employer from whom the compensation is claimed:

Provided that compensation shall be payable in respect of the death of a workman if his death has been preceded whether immediately or not, by any period of incapacity in respect of which compensation is payable under this section.

(4) For the purposes of calculating the monthly earnings of the workman in a claim for compensation under this section, the date of commencement of the incapacity of the workman, or the date of his death, if there has been no previous period of incapacity, shall be treated as the date of the happening of the accident, if he is then employed in any employment to the nature of which the disease is due by the employer from whom the compensation is claimed, and if he is not then so employed, the last day on which he was so employed shall for this purpose be deemed to be the date of the happening of the accident.

(5) For all other purposes of this Act the date of commencement of the incapacity of the workman, or the date on which a registered medical practitioner certifies that in his opinion the workman is suffering from such disease, whichever date is the earlier, or the date of his death if there has been no previous period of incapacity, shall be deemed to be the date of the happening of the accident.

(6) If the disease has been contracted by a gradual process, so that 2 or more employers are severally liable to pay compensation in respect thereof under this section, the aggregate amount of such compensation shall not exceed the amount that would have been payable if those employers had

been a single employer, and in such case each of those employers shall, in default of agreement, be liable for such proportion of the compensation payable as the arbitrator thinks just.

(7) His Majesty in Council may by order signified in the *Gazette* from time to time amend the Second Schedule.

Compensation limited to injuries received at work.

6. Save as provided in sections 4 and 5, no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of the relevant employment.

Persons entitled to compensation.

7. (1) The compensation shall be payable to or for the benefit of the workman, or, where death results from the injury, to or for the benefit of his dependants as provided by this Act.

(2) Where there are both total and partial dependants nothing in this Act shall be construed as preventing the compensation from being apportioned partly to the total and partly to the partial dependants.

(3) Where a dependant dies before a claim under this Act is made, or, if a claim has been made, before an agreement or award has been arrived at or made, the legal personal representative of the dependant shall have no right to payment of compensation, and the amount of compensation shall be calculated and apportioned as if that dependant had died before the workman.

Amount of compensation.

8. The amount of compensation payable in accordance with the provisions of this Act shall be as specified in the Third Schedule to this Act.

Method of calculating earnings.

9. (1) For the purposes of this Act the earnings of a workman shall be computed in such manner as is best calculated to give his true monthly earnings at the date of the accident, subject to the following provisions —

(a) where the workman has been exclusively employed by the employer who is liable to pay compensation during a continuous period of not less than 6 months immediately preceding the accident in the grade in which he was employed at the time of the accident, his monthly earnings shall be deemed to be the average amount of his earnings during the last 6 completed months of that period;

(b) Where the workman has been exclusively employed by the employer who is liable to pay compensation in the grade in which he was employed at the time of the accident during a continuous period of less than 6 months immediately preceding the accident and there is another workman who has been exclusively employed on similar work by the same employer for a continuous period of not less than 6 months immediately preceding the accident, the monthly earnings of the former workman shall be deemed to be the average amount of the earnings of the latter workman during the last 6 completed months of that period;

(c) where reliable evidence of the earnings of the relevant workman under paragraph (a) or (b) does not exist or cannot be adduced without undue delay or expense, regard may be had to evidence of the earnings of workmen employed on similar work in the same locality at or about the date of the accident;

(d) where the earnings of a workman cannot be determined according to the provisions of paragraph (a), (b) or (c) of this subsection or where the earnings of workman so determined are less than \$150 a month then in any such case the monthly earnings of such workman shall be deemed to be \$150.

(2) Where a workman is employed under concurrent contracts of employment with 2 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.

(3) For the purposes of this section a period of employment shall be deemed to be continuous which has not been interrupted by a period of absence from work exceeding 14 days.

(4) The provisions of subsections (1) and (2) shall apply to the calculation of monthly earnings for the purposes of the definition of "workman" in section 2.

Distribution of compensation.

10. (1) Nothing in this section shall prevent an employer from making any payment not exceeding \$500 direct to a workman or dependant on account of a claim which is pending settlement or determination, and the Commissioner may order that the whole or any part of such payment shall be deducted from the amount of compensation payable to the workman or dependant under the provisions of this Act.

(2) Unless expressly authorised by the Commissioner in writing, no payment of compensation in respect of a workman whose injury has resulted in death, permanent total incapacity or permanent partial incapacity shall be made otherwise than by deposit with the Commissioner, and any such payment made directly to the workman or his dependants shall be deemed not to be payment of compensation for the purposes of this Act:

Provided that this subsection shall not apply to compensation payable to a workman who is 18 years of age and above in respect of injury resulting in permanent partial incapacity.

(3) Any other money which is payable as compensation may, and where the person to whom it is payable so requests shall, be deposited with the Commissioner.

(4) The receipt of the Commissioner shall be a sufficient discharge for any compensation deposited with him.

(5) Subject to the provisions of section 38 of this Act, the Commissioner shall make such enquiry as he may deem necessary to determine the number of dependants of a deceased workman and the extent to which they were dependent upon him.

(6) Compensation deposited in respect of an accident resulting in the death of a workman shall, subject to any deduction made under subsection (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(7) (a) Where any lump sum deposited with the Commissioner is payable to a woman or to any workman or dependant who is below 18 years of age or is under any legal disability, the Commissioner may at his discretion cause such sum to be invested, applied or otherwise dealt with for the benefit of the workman or his dependants until he

attains 18 years of age or during his disability, as the case may be, in such manner as the Commissioner may determine.

(b) Where a periodical payment is payable to any workman under a legal disability the Commissioner may, of his own motion or on application made to him in that behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman.

(c) In all other cases compensation whether or not deposited with the Commissioner shall be paid to the person entitled thereto.

(8) If the Commissioner is satisfied after such inquiry as he may deem necessary that no dependant of a deceased workman exists or can be traced and the circumstances are such that there is no reasonable likelihood that any dependant can be traced he shall repay the balance of the money deposited with him under subsection (1) to the person by whom it was deposited.

(9) The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(10) Where after inquiry made of his own motion or on application made to him the Commissioner is satisfied that, by reason of neglect of children on the part of a parent, or of the death or a change in circumstances of any dependant, or for any other sufficient cause, an order of the 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, the Commissioner may make such orders for the variation of that order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall in any case involve the repayment by a dependant of any sum already paid to him.

Compensation not to be assigned, attached or charged.

11. Save as provided by this Act, no lump sum or periodical payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law nor shall any claim be set off against the same.

Notice of claim.

12. (1) Except as provided in this section proceedings for the recovery of compensation for an injury shall not be maintainable unless notice of the accident in respect of which such compensation is claimed has been given to the employer within 7 days after the happening thereof and unless a claim for compensation with respect to such accident has been made within 6 months from the happening of the accident causing the injury, or, in the case of death, within 6 months from the date of death.

(2) No notice to the employer shall be necessary where a fatal accident has occurred.

(3) 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 be, if a notice or amended notice were then given and the hearing postponed, prejudiced in his defence by such want, defect or inaccuracy, or that such want, defect or inaccuracy was occasioned by mistake, absence from Brunei Darussalam or other reasonable cause.

(4) 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 Brunei Darussalam or other reasonable cause.

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

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

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

(8) The notice hereby required may be given by the Commissioner on behalf of any workman, and a notice so given shall have the same effect as if given by the workman himself.

Notice to Commissioner by employer.

13. (1) Every employer shall give notice in writing to the Commissioner of the occurrence of any accident on his premises or cases of occupational disease as specified in section 5 in connection with anything done for the purpose of the employer's trade or business which —

(a) results in the death of any person injured; or

(b) totally or partially disables any person injured for more than 3 consecutive days from earning full wages at the work at which he was employed.

(2) Such notice shall be given within 10 days of the occurrence of the accident in such form as may be prescribed.

(3) A notice under this section may contain a denial of liability to pay compensation and shall not be construed as an admission unless liability be admitted by clear and express words.

(4) Any employer failing or omitting to give notice as required by this section shall be guilty of an offence: Penalty, a fine of \$4,000:

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the Commissioner.

(5) For the purposes of this section "employer" shall include the person, if any, referred to in section 19 as "the principal".

Powers of Commissioner on receipt of notice.

14. On receipt of a notice under subsection (1) of section 13 the Commissioner may, without prejudice to any subsequent proceedings under Part III of this Act, if it appears to him that a claim for compensation may arise in respect of the injury or death of any workman —

(a) inform such workman or his dependants of the reported cause and circumstances of such injury or death and advise them of their right to compensation; and

(b) if so requested by such workman or dependants make a claim for compensation on their behalf; or

(c) advise the employer from whom such notice was received to offer such workman or dependants such amount of compensation as may appear to the Commissioner, having regard to the reported cause and circumstances of such injury or death, to be payable in accordance with the provisions of this Act.

Medical examination and treatment.

15. (1) When notice of an accident has been given to an employer by a workman or by the Commissioner on a workman's behalf the employer may, and, if so directed by the Commissioner, shall, before the expiry of 5 days from the time at which service of the notice has been effected, offer to have the workman examined free of charge to the workman by a registered medical practitioner and may, and, if so directed by the Commissioner, shall further offer to pay the cost of such medical treatment of and such medicines for such workman as the registered medical practitioner may deem necessary, and the workman shall submit himself for such examination; and any workman who is in receipt of a periodical payment under this Act shall, if so required, submit himself for such examination from time to time:

Provided that a workman shall not be required to submit himself for examination by a registered medical practitioner otherwise than in accordance with the regulations made under this Act or at shorter intervals than may be prescribed therein.

(2) If a workman, on being required to do so by the employer under subsection (1), or by the Commissioner, or by an arbitrator, at any time refuses to submit himself for examination by a registered medical practitioner, or in any way obstructs such medical practitioner, his right to compensation shall be suspended during the continuance of such refusal or obstruction.

(3) If a workman having been so required, and before the expiry of the period within which he is liable under subsection (1), to submit himself for medical examination, voluntarily leaves, without having been so examined, the place at which he was residing at the time of the accident his right to compensation shall be suspended until he notifies his employer of his new address and offers himself for such examination.

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

(5) Where under subsection (2) or (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in paragraph (a) of subsection (2) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured workman has refused to be treated by a registered medical practitioner whose services have been offered to him by the employer free of charge or, having accepted such offer, has failed to carry out or deliberately disregarded the instructions for his treatment of such medical practitioner, then —

(a) where the workman is in receipt of periodical payments under the provisions of this Act, the Commissioner may order the suspension of such periodical payments until such workman accepts such treatment or has carried out such instructions, and may further, where he is satisfied that the duration of the workman's incapacity has been prolonged by such refusal, failure or disregard, order the restriction of the period of such periodical payments to such period, calculated from the date of injury, as the incapacity of the workman might reasonably have been expected to have lasted for, had he accepted such treatment and carried out such instructions; or

(b) where the workman has suffered permanent incapacity and the Commissioner is satisfied that such incapacity has been aggravated by such refusal, failure or disregard the Commissioner may order that compensation be paid to the workman appropriate to such disablement as he might reasonably have been expected to have suffered if he had been regularly treated by a registered medical practitioner.

Approved hospitals and special hospitals.

16. (1) The Minister shall from time to time by notification in the *Gazette* declare which hospitals are approved hospitals for the purpose of this Act; and, where a workman is so injured that a registered medical practitioner certifies that his treatment in an approved hospital is necessary, such workman may be admitted to an approved hospital.

(2) Where the Minister is satisfied that suitable equipment and supervision are available in any hospital for the treatment and convalescence of injured workmen and especially for giving them treatment for the re-education of injured parts and the restoration, so far as practicable, of bodily powers and general health, he may by notification in the *Gazette* declare such hospital to be a special hospital for the purpose of the Act; and any injured workman may be admitted for treatment to such special hospital on the recommendation of the registered medical practitioner in charge of an approved hospital:

Provided that the registered medical practitioner in charge of such special hospital certifies that in his opinion such treatment will benefit the workman.

(3) Where an injured workman is admitted either to an approved or a special hospital, the employer shall, in addition to the payment of compensation to the workman or, where the workman's death supervenes, to that workman's dependants, be liable to pay directly to such hospital all ward fees and treatment fees in respect of such workman and the cost of such medicines and of such artificial limbs, surgical appliances and other prostheses required as a result of the injury sustained as are certified by the registered medical practitioner in charge of the approved or special hospital to be reasonably necessary and which are in fact supplied to such workman:

Provided that His Majesty in Council shall from time to time by notification in the *Gazette* fix the maximum amounts for which an employer shall be liable in respect of the several fees and costs specified in this subsection.

(4) If the injured workman refuses treatment at an approved or special hospital any award of compensation made to him may, at the instance of the employer, be suspended or reviewed by the Commissioner.

Review.

17. (1) Any periodical payment payable under this Act, either under an agreement between the workman and the employer and consented to and recorded by the Commissioner or under the award of an arbitrator, may be reviewed by the Commissioner on the application either of the employer or of the workman accompanied by a certificate of a registered medical practitioner that there has been a change in the condition of the workman.

(2) Any periodical payment may, on review under this section, and subject to the provisions of this Act, be continued, increased, decreased or ended.

Commutation of periodical payments.

18. Any periodical payments may by agreement between the workman and the employer consented to and recorded by the Commissioner or, if the workman and the employer cannot agree or the Commissioner does not consent and the payments have been continued for not less than 6 months, on application to an arbitrator, be commuted into a lump sum to be paid instead of such half-monthly payments of such amount as may be agreed to by the parties and consented to by the Commissioner or determined by the arbitrator, as the case may be.

Workman leaving Brunei Darussalam to reside elsewhere.

19. (1) If a workman receiving a periodical payment intends to leave Brunei Darussalam in order to reside in another country, he shall give to the Commissioner 14 days previous notice of his intended departure; and the Commissioner shall forthwith inform the employer who may agree with the workman to continue the payments in the country in which the workman intends to reside, and in default of agreement either party may apply to the Commissioner for the commutation of such periodical payments into a lump sum to be paid instead of such half-monthly payments and the Commissioner shall thereupon determine the amount of such lump sum.

(2) If a workman receiving a periodical payment leaves Brunei Darussalam for the purpose of residing in another country without giving notice as provided in subsection (1), he shall thereupon cease to be entitled to any benefits upon this Act during his absence from Brunei Darussalam and he shall, for the purposes of paragraph 3 of the Third Schedule be deemed to have received periodical payments during such absence.

Liability in case of workman employed by contractors.

20. (1) Where any person (in this section referred to as "the principal") in the course of or for the purpose 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, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if the workman had been immediately employed by him and where a claim has been made to the principal for compensation, this Act shall apply as if references to the principal were substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the person who would have been liable to pay compensation to the workman if this section had not been enacted.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal, and a claim made against a principal or a contractor, as the case may be, shall not bar subsequent proceedings under this Act against the other to recover so much of the compensation agreed or awarded as may remain unpaid.

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

Remedies both against employer and stranger.

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

(a) the workman may take proceedings against that person to recover damages and may claim against any person liable to pay compensation but he shall not be entitled to recover both damages and compensation; and

(b) if the workman has recovered compensation, the person by whom the compensation was paid, and any person who has been called upon to pay an indemnity under subsection (2) of section 20, 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 may, in default of agreement, be settled by an arbitrator.

Bankruptcy of employer.

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

(a) in the event of the employer becoming bankrupt or making a composition or scheme of arrangement with his creditors;

(b) where the employer has died and an administration order is made under the provisions of any written law relating to bankruptcy from time to time in force in Brunei Darussalam and any debt provable in bankruptcy is owing to a workman by him in respect of a liability to pay compensation against which he is insured; or

(c) 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 of any property comprised in or subject to the charge,

the rights of the employer against the insurers as respecting that liability shall, notwithstanding anything in any written law relating to bankruptcy or the winding-up of companies for the time being in force in Brunei Darussalam or any part thereof, be transferred to and vest in the

workman, 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:

Provided that the insurers shall not be under any greater liability to the workman than they would have been under to the employer had the transfer not happened.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the bankruptcy or liquidation or, as the case may be, he may recover the balance from the receiver or manager.

(3) Where in any case such as is referred to in subsection (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that subsection shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the bankruptcy or liquidation for the amount paid to the workman:

Provided that the provisions of this subsection shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting incapacity as soon as practicable after he becomes aware of the institution of the bankruptcy or liquidation proceedings and that the employer was insured and with whom.

(4) There shall be included —

(a) amongst the debts which under the provisions of any written law relating to bankruptcy from time to time in force in Brunei Darussalam are in the distribution of the property or assets of a bankruptcy to be paid in priority of all other debts the amount due in respect of any compensation or liability for compensation accrued before the date of the receiving order, adjudication order or administration order, as the case may be, and such amount shall take priority after the amount due for salaries and wages; and

(b) amongst the debts which under any written law governing the winding-up of companies are in the winding-up of a company 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 commencement of the winding-up of the company.

(5) Where the compensation is a periodical payment the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum into which the periodical payment could, if commutable, be commuted if application were made for the purpose under section 18 and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of subsection (4) shall apply in the case of any amount for which an insurer is entitled to prove under subsection (3), but otherwise those provisions shall not apply where the bankrupt or the company being wound up has entered into such a contract with insurers as is referred to in subsection (1).

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

Special provisions relating to seamen.

23. (1) Subject to the provisions of subsection (3), this Act shall apply to masters and seamen where such persons are workmen within the meaning of this Act, and are members of the crew of any registered Brunei Darussalam ship, or of any other Brunei Darussalam ship of which the owner, or (if there is more than one owner) the managing owner, or manager resides or has his principal place of business in Brunei Darussalam, subject to the following modifications —

(a) the notice of the accident and the claim for compensation may, except where 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 incapacity 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 or seaman the application for compensation shall be made within 3 months after news of the death has been received by the claimant;

(c) where the injured master or seaman is discharged or left behind in a port or place outside Brunei Darussalam, depositions respecting the circumstances and nature of injury may be taken by any judge or magistrate in any part of the Commonwealth, or by any Brunei Darussalam consular officer elsewhere, and if so taken shall be transmitted by the person by whom they were taken to the

Minister, and such depositions or certified copies thereof shall in any proceedings for enforcing the claim be admissible in evidence as provided in section 209 of the Merchant Shipping Act (Chapter 145), and that section shall apply accordingly;

(d) in the case of the death of a master or seaman leaving no dependants, no compensation shall be payable, if the employer is under the Merchant Shipping Act (Chapter 145) liable to pay the expenses of burial;

(e) the periodical payment shall not be payable in respect of any period during which the employer is under the Merchant Shipping Act (Chapter 145) liable to defray the expenses of maintenance of the injured master or seaman;

(f) proceedings for the recovery of compensation by dependants of masters or seamen lost with their ship with all hands shall be maintainable if the application is made within 6 months of the date at which the ship is deemed to have been lost with all hands;

(g) for the purposes of paragraph (f) a ship shall be deemed to have been lost with all hands if the Director of Marine shall so declare by notification in the *Government Gazette* after such enquiry as he shall think fit, and the date of such loss shall be deemed to be the date of publication of such notification.

(2) Subject to the provisions of subsection (3), this Act shall also apply to any person, not being a master or seaman, 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 Act.

(3) This Act shall not apply —

(a) to members of the crew of a Brunei Darussalam ship registered or licensed outside Brunei Darussalam if in the place of registration or licensing of the ship a law relating to workmen's compensation is in force and applies to the members of such crew;

(b) to such members of the crew of a fishing vessel as are remunerated wholly or mainly by shares in the profits or the gross earnings of the working of such vessel, except in such cases and subject to such modifications as His Majesty in Council may by order provide.

(4) In this section, "Brunei Darussalam ship", "master", "seaman" and "ship" have the respective meanings assigned to those expressions by the Merchant Shipping Act.

Returns as to compensation.

24. (1) The Minister may by notification in the *Gazette* direct that every person employing workmen, or that any special class of such persons, shall send at such time and in such form and to such authority as may be specified a correct return specifying the number of injuries in respect of which compensation under this Act 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 making default in complying with any direction notified under this section shall be guilty of an offence: Penalty, a fine of \$2,000.

Contracting out.

25. Any contract or agreement whether made before, on or after the date of coming into force of this Act whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

Commissioner may pay wages earned by dead workman to dependants.

26. Notwithstanding anything contained in any written law relating to the administration or distribution of estates of deceased person for the time being in force in Brunei Darussalam, where a workman has died and it appears to the Commissioner that his dependants are entitled to compensation under this Act and that any money, not exceeding the amount of his earnings for 2 months as calculated under section 9, was payable to such workman by his employer it shall be lawful for the Commissioner in his discretion to receive that money and to pay the same to the dependants without the production of a grant of representation.

Employer to insure.

†27. (1) Every employer shall insure and keep himself insured with an insurer approved by the Minister (hereinafter referred to as an approved insurer) in respect of any liability which he may incur under the provisions of this Act to any workman employed by him:

Provided that His Majesty in Council may, by notification in the *Gazette*, declare that the provisions of this section shall not apply to any employer or class of employers.

(2) Any employer required to insure under this section may instead, in such manner as may be prescribed, deposit with the Commissioner such sum of money or furnish such other security as the Commissioner may approve and such money or other security shall be used to pay compensation to that employer's workmen as occasion may arise.

(3) Any employer who, for the purpose of defraying or partly defraying the cost of insurance in respect of his liability to pay compensation under the provisions of this Act, makes any deduction from the earnings of a workman in his employment shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for 6 months.

(4) Any employer who fails to insure himself in accordance with subsection (1) of this section shall be guilty of an offence: Penalty, a fine of \$4,000 and imprisonment for 3 months.

(5) The Commissioner may require any employer to inform him of the name and address of the insurer with whom such employer has insured himself as required by this section.

(6) Every policy of insurance issued for the purpose of this section shall be deemed to provide that any workman having a claim against the person insured in respect of the liability in regard to which such policy was issued, or the Commissioner acting on behalf of such workman, shall be entitled to recover in his own name, as though he were a party to the policy, directly from the insurer any amount which he would have been entitled to recover from the person insured.

†This section is reproduced as to be amended by Act 12 of 1982 when that Act comes into operation.

(7) Any condition in a policy of insurance issued for the purposes of this section 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 the claim made by a workman under subsection (6):

Provided that nothing in this section 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 paid under the policy in satisfaction of any such claim.

Approved insurers to furnish information.

†28. (1) An approved insurer shall collect, compile and maintain in respect of all employers insured by him for the purposes of section 27 statistics and information relating to —

(a) the occurrence and cause of accidents and occupational diseases;

(b) any settlement of claim for compensation arrived at by agreement;

(c) any claim for compensation determined by the arbitrator;

(d) the amount of any premium or charge demanded from or paid by employers in respect of the insurance of workmen;

(e) the ratio of expenses to benefits;

(f) the amounts paid in commissions to agents; and

(g) the income and expenditure in relation to insurance of employers under this section, and shall transmit any such statistics and information to the Commissioner upon demand or at such times as he may direct.

(2) The statistics and information required to be kept under subsection (1) shall be kept separate from statistics and information relating to any other business carried on.

†This section is not yet in operation.

(3) Any approved insurer who contravenes any of the provisions of this section or fails to transmit to the Commissioner any statistics and information under this section shall be guilty of an offence: Penalty, a fine of \$4,000.

PART III

THE COMMISSIONER AND ARBITRATORS

Commissioner may hold inquiries.

29. (1) For the purposes of deciding —

(a) any matter requiring to be decided by him under the provisions of sections 10, 15, 16, 19 or the Third Schedule; or

(b) any question arising from proceedings under the Act in which it appears to him that the entitlement to compensation of the workman or his dependants is not in dispute,

the Commissioner may hold an enquiry in such manner as he thinks fit and may make such order as he considers necessary.

(2) Any party aggrieved by any order of the Commissioner under subsection (1) may at any time within 14 days of the communication to him of such order apply to the arbitrator to vary or cancel such order.

(3) If any other question arises under this Act that question shall be settled by agreement between the Commissioner, the workman and the employer and for the purpose of reaching agreement the Commissioner may hold an enquiry in such manner as he thinks fit.

(4) An application to the Commissioner to settle any question may be made by or on behalf of a workman or the employer and shall be made in such form and shall be accompanied, by such fee as may be prescribed and shall contain a concise statement of the circumstances of the accident and of the resulting injury:

Provided always that where the Commissioner has reasonable cause to believe that an accident has occurred resulting in injury to or the death of any workman he may of his own motion and at any time hold an inquiry to ascertain whether such accident has occurred and whether any compensation payable under this Act is being paid.

(5) (a) The Commissioner may, before holding any inquiry under this section, require a preliminary investigation to be made by such public officer as he shall appoint in writing in that behalf into the circumstances of any accident resulting in injury to or the death of any workman and for this purpose the provisions of section 35 shall apply to such offer;

(b) Any public officer appointed under paragraph (a) to make a preliminary investigation shall, upon completing the same, forward to the Commissioner the record of such investigation and such record shall form part of the record of the Commissioner.

(6) (a) The Commissioner may at any time, of his own motion, or on application made by or on behalf of the workman or the employer, reopen any inquiry held by him and may, by agreement with the workman and the employer, confirm, amend, vary or cancel any agreement previously reached;

(b) The provisions of section 30 shall apply if agreement is not reached under paragraph (a).

Recording of agreements.

30. (1) Where the amount of the compensation whether by way of lump sum compensation or by way of periodical payments has been ascertained by agreement between the workman and his employer a memorandum shall within 14 days be sent by the employer (and may be sent by the workman or any dependant) to the Commissioner, who, on being satisfied as to its genuineness and that the amount of compensation agreed upon is adequate shall, except as hereinafter provided in this section, record the memorandum in a register in the prescribed manner.

(2) No such memorandum shall be recorded until 7 days have expired after communication by the Commissioner of notice to the parties concerned that he intends to record the same.

(3) Where it appears to the Commissioner that an agreement for the payment of a sum, whether by way of commutation of a periodical payment or otherwise, or an agreement for the amount of compensation ought not to be recorded 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

and if he and the employer and the workman are unable to settle the question by agreement, the Commissioner shall refer the matter to an arbitrator.

(4) An agreement for the payment of compensation which has been recorded under this section shall be enforceable under this Act notwithstanding anything contained in any other written law for the time being in force.

Effect of failure to record an agreement.

31. Where a memorandum of any agreement required to be recorded under section 30 is not sent to the Commissioner in accordance with the provisions of that section the employer shall be liable to pay the full amount of compensation which he would otherwise be liable to pay.

Arbitrator to decide when parties fail to agree.

32. (1) An arbitrator shall decide —

(a) any application made to him to vary or cancel an order made by the Commissioner under subsection (1) of section 29; and

(b) any other question arising under the Act which a workman, his employer and the Commissioner cannot settle by agreement under subsection (3) of section 27.

(2) For the purposes of subsection (1) a question shall be deemed not settled by agreement unless the workman, the employer and the Commissioner all signify their consent by signing an acknowledgement of agreement or unless an agreement between the workman and the employer is recorded by the Commissioner under the provisions of section 30.

(3) An application requesting the decision of an arbitrator on any question may be drawn up and submitted to an arbitrator by a workman, by the employer, by the Commissioner on behalf of a workman or by the Commissioner of his own motion, or by any person aggrieved by any order of the Commissioner under section 29(1).

(4) An application to an arbitrator for the settlement of any question shall 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, a concise statement of the circumstances in which the application is made and of the relief or order which the applicant seeks and of the questions on which agreement both has and has not been reached:

Provided that the payment of fees shall be waived when the Commissioner makes an application either of his own motion or on behalf of a workman.

(5) The Commissioner shall, at the request of any person applying for the same and upon payment of the prescribed fees, supply to him a copy of his records together with a copy of any relevant correspondence and shall authenticate the same.

Agreement to be free of stamp duty.

33. No stamp duty shall be leviable or payable on any agreement under this Act.

Appearance of parties.

34. (1) Any appearance, application or act required to be made or done by any person before or to an arbitrator (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 an advocate or, with leave of the Commissioner, by any other person authorised in writing by such person or, when such person is a workman, by the Commissioner on his behalf or, when such person is an employer, by a person in his permanent and exclusive employment or by his insurer or, where the insurer is a company, by an agent authorised, generally or specifically under the seal of the company, to represent the company in such proceedings.

(2) Where the Government is a party to any proceedings under this Act such appearance, application or act may be made by the head of the department by, in or under which the workman was employed or by any officer of such department authorised in writing by the head thereof or any person authorised by the Attorney General.

Experts to assist arbitrator.

35. An arbitrator may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

Inquiry by arbitrator.

36. (1) Where any matter is under this Act required to be done by or before an arbitrator, the same shall, without prejudice to the provisions of this Act and to any regulations made hereunder, be done by or before the arbitrator for the area in which the accident which resulted in the injury occurred:

Provided that, where the workman is a seaman, any such matter may be done by or before the arbitrator for the area in which the owner or agent of the ship resides or carries on business.

(2) The Minister may, in any particular case, direct that any question which has been referred to an arbitrator for decision under section 32, be transferred to some other arbitrator for decision and the provisions of this Act shall apply accordingly.

Powers of the Commissioner and of an arbitrator.

37. (1) For the purposes of this Act the Commissioner and an arbitrator shall have all the powers of a magistrate for the summoning and examination of witnesses and the administration of oaths or affirmations and for compelling the production of documents and material objects and the Commissioner and an arbitrator shall be a civil court for all the purposes of section 132 and of Chapter XXXII of the Criminal Procedure Code (Chapter 7).

(2) The Commissioner or an arbitrator shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be signed by the Commissioner or the arbitrator with his own hand and shall form part of the record:

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

(3) Any person who in any way wilfully obstructs the service of or obedience to any summons and any person summoned who neglects to attend and to produce documents as required in such summons and any person who commits in respect of such inquiry any offence described in Chapter X of the Penal Code (Chapter 22) shall be punishable on conviction as provided in that Chapter.

(4) Every person who gives evidence before the Commissioner or an arbitrator shall be bound to answer truthfully all questions put to him by the Commissioner or the arbitrator and any person who wilfully makes any false statement or who gives any evidence in any inquiry under this Act which he knows to be untrue, or who does any other act, which if done in a judicial proceeding would be punishable under Chapter XI of the Penal Code, shall be punishable on conviction as provided in that Chapter. No evidence taken under this Act shall be admissible in any criminal proceeding against the person who gave such evidence except when such person is charged with an offence under Chapter X or XI of the Penal Code.

(5) Every arbitrator shall be deemed to be a public servant within the meaning of the Penal Code.

Documents admissible as evidence in proceedings.

38. (1) In any proceedings under the provisions of this act any document purporting to be —

(a) a report under the hand of a registered medical practitioner upon any workman examined or treated by him; or

(b) a statement under the hand of a competent authority as to the dependency and the degree of dependency on a deceased workman of any person claiming to be a dependant of such workman,

shall be *prima facie* proof of the facts stated therein and the signature of such registered medical practitioner or competent authority shall be admitted without proof unless the Commissioner or an arbitrator shall have reason to doubt the genuineness thereof:

Provided that nothing herein contained shall prevent the Commissioner or an arbitrator from taking into consideration any other evidence as to the existence of dependants or the extent of dependency.

(2) For the purposes of this section —

“registered medical practitioner” includes any medical practitioner registered under any written law relating to the registration of medical practitioners in force in the country in which such medical practitioner resides;

“competent authority” means —

(a) within Brunei Darussalam, any District Officer;
and

(b) outside Brunei Darussalam any Commissioner, state Commissioner, Deputy Commissioner or Assistant Commissioner, or officer holding an equivalent position appointed under any law relating to workman's compensation in force in the country in which the claimant resides.

Arbitrator's order to be sent to Commissioner.

39. When an arbitrator has decided the question or questions submitted to him under section 30 he shall send a certified copy of his order thereon to the Commissioner before whom the original inquiry under section 27 was held.

Costs.

40. All costs of and incidental to any proceedings before an arbitrator shall, subject to regulations made under this Act, be in the discretion of the arbitrator:

Provided that no costs shall be awarded against the Commissioner whether he appears of his own motion or on behalf of a workman.

Power to submit cases.

41. (1) An arbitrator may, if he thinks fit, submit any question of law for the decision of a Judge, and if he does so he shall decide such question in conformity with such decision.

(2) An appeal shall lie to the Court of Appeal from any decision of a Judge under this section.

Appeal from arbitrator.

42. (1) Save as hereinafter provided, no appeal shall lie to the High Court from any order of an arbitrator.

(2) If a Judge shall sign a certificate that the decision of an arbitrator involves a question of law which it is desirable in the public interest to have determined by the High Court, upon an application made in that behalf by or on behalf of a workman or his employer an appeal shall lie to the High Court.

(3) An appeal shall lie to the Court of Appeal from any decision of the High Court under this section.

(4) An appeal shall not lie in any case in which the parties have agreed to abide by the decision of the arbitrator or in which the order of the arbitrator gives effect of an agreement come to by the parties.

(5) Subject to rules of Court, the procedure in an appeal to the High Court shall be the procedure in a civil appeal from a Magistrate Court with such modifications as the circumstances may require.

Enforcement of orders and agreements.

43. (1) Where any order has been made by an arbitrator or the Commissioner or any agreement recorded by the Commissioner, the Commissioner shall, at the request of any person claiming under such order or agreement, send a certified copy thereof to a Registrar of the Supreme Court who shall cause the said copy to be recorded and thereupon the said order or agreement shall for all purposes be enforceable as a judgement of the Supreme Court.

(2) Where the Commissioner has sent a certified copy of an order or of an agreement to the Registrar to be recorded under the provisions of subsection (1) and subsequently on review under section 10, 15, 16 or 17 an order is made varying the amount of compensation to be paid under such order or agreement, the Commissioner shall send a certified copy of the said order or agreement as varied by him to the Registrar who shall cause the same to be recorded and thereupon the original order or agreement as varied by the subsequent order shall for all purposes thenceforth be enforceable in lieu of the original order or agreement as a judgment of the Supreme Court.

Injury due to negligence etc. of employer.

44. Where any injury is caused to a workman by the negligence, breach of statutory duty or other wrongful act or omission of the employer, or of any person for whose act or default the employer is responsible, nothing in this Act shall limit or in any wise affect any liability of the employer independently of this Act:

Provided that any damages awarded to a workman in an action at common law or under any Act in respect of any such negligence, breach of statutory duty or wrongful act or omission, shall be reduced by the value of any compensation which has been paid or is payable under the provisions of this Act in respect of the injury sustained by the workman.

Reciprocal arrangements for payments of workmen's compensation.

45. Where an arrangement has been made between the Government and the Government of any other territory, whereby sums awarded under the law relating to workmen's compensation in Brunei Darussalam to beneficiaries resident or becoming resident in the territory administered by any such Government, and sums awarded under the law relating to workmen's compensation in any such territory to beneficiaries resident or becoming resident in Brunei Darussalam, may at the request of the authority by which the award is made be transferred to and administered by a competent authority in any such territory or by the Commissioner in Brunei Darussalam, as the case may be, money in the hands of the Commissioner shall be transferred, and money received by him shall be administered in the manner prescribed.

Amendment of Schedules.

46. His Majesty in Council may from time to time by order, which shall be published in the *Gazette*, amend the Schedules to this Act.

Regulations.

47. (1) His Majesty in Council may make regulations for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such regulations may provide for —

(a) the limitations subject to which officers appointed to exercise powers and perform duties conferred and imposed on the Commissioner may exercise and perform such powers and duties;

(b) the intervals at which and conditions subject to which a workman may be required to submit himself for examination by a registered medical practitioner under sections 5 and 15;

(c) the manner in which money in the hands of the Commissioner may be invested for the benefit of the dependants of a deceased workman under section 10;

(d) the form of notice which an employer is required to give to the Commissioner under subsection (2) of section 13;

(e) the procedure for the review of compensation by the Commissioner or an arbitrator when the injured workman declines treatment under subsection (6) of section 15 or declines treatment in either an approved or a special hospital;

(f) the intervals at which and the conditions subject to which an application for review may be made under subsection (4) of section 16 and under section 17;

(g) the procedure to be followed when a registered medical practitioner who has examined a workman certifies that treatment in either an approved or a special hospital is necessary under subsection (1) or subsection (2) respectively of section 16 and the procedure for the payment of hospital fees and the cost of artificial limbs and surgical appliances under subsection (3) of that section;

(h) the procedure for receiving and disposing of money owing to deceased workmen by their employers under section 26;

(i) the manner in which security is to be furnished under subsection (2) of section 27;

(j) the procedure to be followed in investigations or inquiries under section 29;

(k) the form and manner in which memoranda or agreements shall be presented and recorded under section 30;

(l) fees under subsection (5) of section 32;

(m) the procedure for the choosing of an arbitrator of persons possessed of special knowledge to assist him under section 35;

(n) scales of the costs which may be allowed for proceedings under this Act before an arbitrator under section 40;

(o) the procedure for the transfer of money out of Brunei Darussalam and for the receipt of money into Brunei Darussalam under section 45;

(p) the transfer of any money in the hands of the Commissioner or for the receipt and administration by the Commissioner of any money applicable for the benefit of a person resident or about to reside in any territory to which section 45 applies or Brunei Darussalam respectively;

(q) the representation in proceedings before an arbitrator of parties who are subject to legal disability or are unable for other reasons to appear personally;

(r) legal aid to workmen in difficult cases;

(s) the maintenance by the Commissioners and by arbitrators of registers and records of proceedings before them;

(t) the manner in which Deputy Commissioners and Assistant Commissioners shall perform their duties and exercise their powers and in particular the transfer for disposal or report by any Deputy Commissioner or Assistant Commissioner or to the Commissioner of any pending matter or case and of any money deposited in connection therewith;

(u) the withholding by the Commissioner, in whole or in part, of periodical payments pending decision of an application to review the same;

(v) prescribing any matter which is required by this Act to be prescribed.

FIRST SCHEDULE

(Section 3 and the Third Schedule)

**INJURIES DEEMED TO RESULT IN PERMANENT
INCAPACITY**

Item	Injury	Percentage of loss of earning capacity
1.	Loss of 2 limbs	100
2.	Loss of both hands or of all fingers and both thumbs	100
3.	Loss of both feet	100
4.	Total loss of sight, including the loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	100
5.	Total paralysis	100
6.	Injuries resulting in being permanently bedridden	100
7.	Any other injury causing permanent total incapacity	100
8.	Loss of arm at shoulder	75
9.	Loss of arm between elbow and shoulder	70
10.	Loss of arm at elbow	70
11.	Loss of arm between wrist and elbow	60
12.	Loss of hand at wrist	60
13.	Loss of 4 fingers and thumb of one hand	50
14.	Loss of 4 fingers	40
15.	Loss of thumb —	
	both phalanges	35
	one phalanx	10

16.	Loss of index finger —	
	3 phalanges	10
	2 phalanges	8
	one phalanx	4
17.	Loss of middle finger —	
	3 phalanges	6
	2 phalanges	4
	one phalanx	2
18.	Loss of ring finger —	
	3 phalanges	5
	2 phalanges	4
	one phalanx	2
19.	Loss of little finger —	
	3 phalanges	5
	2 phalanges	3
	one phalanx	2
20.	Loss of metacarpals —	
	first or second (additional)	3
	third, fourth or fifth (additional)	2
21.	Loss of leg —	
	at or above knee	70
	below knee	50
22.	Loss of foot —	40
23.	Loss of toes —	
	all of one foot	20
	great, both phalanges	10
	great, one phalanx	2
	other than great, if more than one toe lost, each	1
24.	Loss of sight of one eye —	30
25.	Loss of hearing, one ear —	20
26.	Total loss of hearing —	50

Note —

(1) Total permanent loss of the use of a member shall be treated as loss of such member.

(2) Where there is loss of 2 or more parts of the hand, the percentage shall not be more than the loss of the whole hand.

(3) Loss of remaining arm, leg or eye if one has already been lost, shall be the difference between the compensation for the total incapacity and compensation already paid, or that which would have been paid, for the previous loss of limb or eye.

(4) In the event of a dispute or disagreement between the registered medical practitioners representing any interested parties as to the percentage loss of earning capacity in relation to workmen's compensation, the Commissioner may refer such dispute or disagreement to the Government Director of Medical Services or to any Government medical practitioner designated in that behalf by the Director of Medical Services, whose assessment thereon shall be final.

SECOND SCHEDULE

(Section 5)

OCCUPATIONAL DISEASES

Description of occupational disease or injury	Nature of occupation.
1. Poisoning by:	any occupation involving:
(1) lead, its alloys or compounds and their sequelae	the use or handling of, or exposure to the fumes, dust or vapour of, lead or compound of lead, or a substance containing lead.
(2) Phosphorous or its compound, and its sequelae	the use or handling of, or exposure to the fume, dust or vapour of phosphorus or a compound of phosphorus, or a substance containing phosphorus.
(3) arsenic or its compounds, and its sequelae	the use of handling of, or exposure to the fumes, dust or vapour of, arsenic or a compound of arsenic, or a substance containing arsenic or exposure to any solution containing arsenic or compound of arsenic.

Description of occupational disease or injury	Nature of occupation.
(4) mercury, its amalgams and compounds and their sequelae	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) Carbon bisulphide	the use or handling of, or exposure to the fumes or vapour of, carbon bisulphide, or a compound of carbon bisulphide, or a substance containing carbon bisulphide.
(6) benzene or its homologues, their nitro — and amido — derivative, and its sequelae	the use or handling of, or exposure to the fumes of, or vapour containing benzene or any of its homologues.
(7) Manganese	the use or handling of manganese or substances containing manganese.
(8) Organic phosphates	the use or handling of organic phosphates for the destruction of pests or vermin.
(9) Nitrous fumes	the use or handling of nitric acid or exposure to nitrous fumes.
(10) Rengas wood	the manipulation of Rengas wood or any process in or incidental to the manufacture of articles therefrom.
(11) Carbon monoxide gas	any process involving the use of: <ul style="list-style-type: none"> (i) dynamite and gun-powder for blasting in subterranean galleries; (ii) illuminating gas; (iii) powder or producer gas; (iv) blast furnaces, furnaces and stoves for the burning of charcoal, coke and other fuel; (v) gas engines.
(12) Carbon dioxide gas	any process involving blasting the manufacture of mineral waters, fermentation in breweries and the formation of lime in lime kilns.

Description of occupational disease or injury	Nature of occupation.
(13) The halogens derivatives of hydrocarbons of the aliphatic series	any process involving the production, liberation or use of halogen derivatives of hydrocarbons of the aliphatic series.
2. Anthrax	any occupation involving: the handling of wool, hair, bristle, hides or skins or other animal products or residues, or contact with animals infected with anthrax, or the loading, unloading or transport of merchandise.
3. Glanders	contact with equine animals or their carcasses.
4. Infection by leptospira ictero haemorrhagiae	work in rat infested places.
5. (a) Ulceration of the corneal surface of eye	the use or handling of, or exposure to tar, pitch, bitumen, mineral oil (including paraffin), soot, or any compound, product or residue of any of these substances.
(b) Localised new growth of the skin, papillomatous or keratotic	
(c) Epithelomatous cancer or ulceration of the skin, due in any case to tar, pitch, bitumen, mineral oil (including paraffin) soot or any compound, product or residue of any of these substances	
6. Chrome ulceration	the use or handling of chromic acid, chromate or bichromate of ammonium potassium, zinc, or sodium, or any preparation or solution containing any of those substances.

Description of occupational disease or injury	Nature of occupation.
7. Inflammation, ulceration or malignant disease of the skin or subcutaneous tissues or of the bones, or leukaemia, or anaemia of the aplastic type, due to X-rays, ionising particles, radium or other radio-active substances	exposure to X-rays, ionising particules, radium, or other radio-active substances or other forms of radiant energy.
8. Toxic jaundice	the use or handling of tetrachlorethane or nitro or amio-derivates of benzene, or other poisonous substances.
9. Cataract produced by exposure to the glare of or rays from, molten glass or molten or red-hot metal	frequent or prolonged exposure to the glare of, or rays from molten glass or molten or red-hot metal.
10. Subcutaneous cellulitis or acute bursitis arising at or about the knee (Beat knee)	manual labour causing servere or prolonged friction or pressure at or about the knee.
11. Subcutaneous cellulitis of the hand (Beat hand)	manual labour causing servere or prolonged friction or pressure on the hand.
12. Subcutaneous cellulitis or acute bursitis arising at or about the elbow	manual labour causing servere or prolonged friction or pressure at or about the elbow.
13. Inflammation of the synovial lining of the wrist joint and tendon sheaths	manual labour, or frequent or repeated movements of the hand or wrist.
14. Telegraphists' cramp	the use of Morse-key telegraphists' instruments for prolonged periods.
15. Compressed-air illness or its sequelae	any occupation or process carried on in compressed air.

Description of occupational disease or injury	Nature of occupation.
16. Tuberculosis	<p>any occupation involving close and frequent contact with a source or sources of tuberculosis infection by reason of employment:—</p> <p>(a) in the medical treatment or nursing of a person suffering from tuberculosis, or in a service ancillary to such treatment or nursing;</p> <p>(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;</p> <p>(c) as a research worker engaged in research in connection with tuberculosis;</p> <p>(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 any occupation ancillary to such employment.</p>
<p>17. Silicosis with or without pulmonary tuberculosis: Provided that silicosis is an essential factor in causing the incapacity or death.</p>	<p>Any occupation involving breathing—in of fine particles of silica generated by industrial processes, e.g. granite crushing, sand blasting, kaolin grinding, ceramic work.</p>
18. Asbestosis	<p>Any occupation involving exposure to asbestos dust.</p>

THIRD SCHEDULE*(Section 8)***AMOUNT OF COMPENSATION PAYABLE****1.** Where death results from the injury —

(a) If the workman leaves any dependents wholly dependent on his earnings the amount of compensation shall be a lump sum equal to 48 months' earnings or \$28,000, whichever is the less:

Provided that such compensation shall not be less than \$9,600;

(b) If in respect of the same accident compensation has been paid under the provisions of paragraph 2, any sum so paid as compensation shall be deducted from the sum payable under this paragraph;

(c) If the workman does not leave any dependants wholly dependent on his earnings, but leaves any dependants in part so dependent, the amount of compensation shall be such sum not exceeding in any case the amount payable under sub-paragraph (a) as may be determined by the Commissioner to be reasonable and proportionate to the injury to the said dependants;

(d) The reasonable expenses of the burial of the deceased workman and the reasonable expenses of medical attendance on the deceased workman, not exceeding in all such sum as may be prescribed, shall be paid by the employer.

2. Where permanent incapacity results from the injury —

(a) If such permanent incapacity is total, the amount of compensation shall be a lump sum equal to 60 months' earnings or \$36,000, whichever is the less:

Provided that such compensation shall not be less than \$12,000:

And provided further that if the permanent total incapacity which results from an injury is of such a nature that the workman is unable to perform the essential actions of life without the constant attention of another person, additional compensation shall be paid amounting

to one quarter of the amount which would otherwise be payable under this sub-paragraph;

(b) If such permanent incapacity is partial, the amount of compensation shall be a lump sum equal to such percentage of the compensation which would have been payable in the case of permanent total incapacity as is proportionate to the permanent loss of earning capacity caused by the injury:

Provided that in the case of an injury specified in the Second Schedule to this Act the compensation payable shall not be less than such percentage of the compensation which would have been payable in the case of permanent total incapacity as is specified therein as being the percentage of the loss of earning capacity caused by that injury;

(c) Where more injuries than one are caused by the same accident and permanent incapacity results, the amount of compensation payable in respect of all such injuries shall be aggregated but not so as to exceed in any case the amount which would have been payable in respect of permanent total incapacity.

3. (a) Where temporary incapacity, whether total or partial, results from the injury, the compensation shall be periodical payment equal to, at a rate proportionate to, the difference between two thirds of the monthly earnings which the workman was earning at the time of the accident or \$400, whichever is the less, and the monthly earnings which he is earning or is in the opinion of the Commissioner capable of earning in some suitable employment or business after the accident;

(b) For the purpose of this paragraph a period of absence from duty certified to be necessary by a medical practitioner shall be deemed to be a period of total temporary incapacity irrespective of the outcome of the injury;

(c) Periodical payments under this paragraph shall be payable on the same days as wages would have been payable to workman if he had continued to be employed under the contract of employment under which he was employed at the time of the accident:

Provided that —

- (i) by agreement or by order of the Commissioner the periodical payments may be made at shorter intervals; and
- (ii) the interval between periodical payments shall not exceed one month.

(d) Where the incapacity ceases before the date on which any periodical payment falls due, there shall be payable in respect of the period a sum proportionate to the duration of the incapacity during that period;

(e) Where death or permanent incapacity follows a period not exceeding 12 months of total or partial temporary incapacity there shall not be deducted from the lump sum payable in respect of such death or permanent incapacity any periodical payments paid or payable under this paragraph;

(f) Where death or permanent incapacity follows a period exceeding 12 months of total or partial temporary incapacity there shall be deducted from the lump sum payable in respect of such death or permanent incapacity any periodical payments paid or payable under this paragraph in respect of any period in excess of 12 months.