

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 22 of 1931.

AN ORDINANCE

**Relating to Compensation to Workmen for Injuries
suffered in the course of their Employment and
for other purposes.**

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act* 1909 and the *Seat of Government (Administration) Act* 1910-1931, as follows:—

1. This Ordinance may be cited as the *Workmen's Compensation Ordinance* 1931. Short title.
2. This Ordinance shall be administered by the Minister of State for Home Affairs, and shall commence on a date to be fixed by him by notice in the *Gazette*. Commencement.
3. The Employers' Liability Act of 1897 of the State of New South Wales shall cease to apply to the Territory. State Act to cease to apply.
- 4.—(1.) In this Ordinance, unless the contrary intention appears— Definitions.

“Dependants” means such of the members of the 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 injury have been so dependent, and includes a person so dependent to whom the workman stands *in loco parentis* or a person so dependent who stands *in loco parentis* to the workman; and where the workman, being a 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, includes such an illegitimate child and parent or grandparent respectively;

2645.—PRICE, 1s..

“Employer” includes any body of persons, corporate or un-incorporate, 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 while he is working for that other person;

“Member of a family” means wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, adopted child, and mother-in-law;

“Outworker” means a person to whom articles or materials are given out to be treated or manufactured in his own home or on other premises not under the control or management of the person who gave out the articles or materials;

“Regulations” means regulations made under this Ordinance;

“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, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing, but does not include—

- (a) any person whose remuneration exceeds Five hundred and fifty pounds per annum;
- (b) a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business;
- (c) an outworker;
- (d) a member of the employer's family dwelling in his home; or
- (e) any person employed in the service of the Commonwealth,

and any reference to a workman who has been injured 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.

Compensation
for personal
injuries to
workmen.

5.—(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 to this Ordinance, be

liable to pay compensation in accordance with the First Schedule to this Ordinance:

Provided that—

- (a) the workman shall not be entitled to recover compensation from the employer or any person or to receive from the employer any payment in respect of the accident, or in respect of the illness or incapacity arising from the accident, both independently of and also under this Ordinance; but, subject to this paragraph, this Ordinance shall not affect any civil liability of the employer under any other law;
- (b) if it is proved that the injury to a workman is attributable to his serious and wilful misconduct, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed;
- (c) compensation shall not be payable on account of any injury to or death of a workman caused by an intentional self-inflicted injury;
- (d) in the case of the death of a workman leaving no dependants, no compensation shall be payable under this Ordinance other than for ambulance service, medical, surgical and hospital treatment and funeral expenses;
- (e) if it appears that the claimant has a claim against the employer or any person for compensation or for any payment in respect of the injury under any other law in force in the Territory or any other place, compensation under this Ordinance shall only be allowed upon the claimant undertaking not to claim compensation for the injury under any such law;
- (f) where the workman continues in the service of the employer after the injury, any pay (not including allowances paid in respect of children of the workman) received by him from the employer shall be deducted from any compensation payable under this Ordinance in respect of the same period; and
- (g) where the liability of the employer is redeemed by the payment of a lump sum, such sum shall be reduced by the amount of any weekly payments received by the workman under the First Schedule to this Ordinance during any period of the incapacity arising from the injury.

(2.) If any question arises, in any proceedings under this Ordinance, as to the liability to pay compensation under this Ordinance (including any question as to whether the person injured is a workman to whom this Ordinance applies) or as to the amount or duration of compensation under this Ordinance, the question shall, subject to the provisions of the First Schedule to this Ordinance, be determined by arbitration in accordance with the provisions of the Second Schedule to this Ordinance.

(3.) Any undertaking given in pursuance of paragraph (d) of the proviso to sub-section (1.) of this section shall have effect as a contract between the claimant and the employer or person, as the case requires, from whom the compensation or payment is claimed.

**Medical
benefits.**

6.—(1.) In addition to any compensation payable by an employer under this Ordinance to, or with respect to, a workman the employer shall pay the cost not exceeding the maximum amounts prescribed in this section, of such medical, surgical and hospital treatment and ambulance service as are reasonably necessary in relation to the injury. The amount payable under this section shall, in the absence of agreement, be determined by arbitration in accordance with the Second Schedule to this Ordinance.

(2.) For the purposes of this section—

“ Ambulance service ” includes any conveyance of an injured workman to a medical practitioner or to a hospital;

“ Medical treatment ” includes—

- (a) treatment by a legally qualified medical practitioner, a registered dentist, or a masseur;
- (b) the provision of skiagrams, crutches and artificial members; and
- (c) any nursing, medicines, medical or surgical supplies or curative apparatus supplied or provided for him otherwise than as a patient at a hospital; and

“ Hospital treatment ” means treatment at any hospital and includes the maintenance of the workman as a patient at the hospital, and the provision or supply by the hospital of nursing, attendance, medicines, medical or surgical supplies or other curative apparatus, and any other ancillary service.

(3.) (a) The sum for which an employer shall be liable for the hospital treatment of any workman as an in-patient shall be the cost to the hospital of the hospital treatment, calculated at a rate not exceeding Three pounds and three shillings per week.

(b) The sum for which an employer shall be liable for the hospital treatment of any workman as an out-patient shall be calculated at a rate of Three shillings per treatment, but not exceeding One pound and one shilling per week.

(c) The maximum sum for which an employer shall be liable for hospital treatment afforded to a workman on account of the same injury (whether such treatment is afforded at different stages of the injury or not) shall be Twenty-five pounds.

(d) The Director-General of Health or any officer thereunto authorized in writing by the Director-General, or, in the case of a private hospital, the proprietor, may recover from the employer any sum for which the employer becomes liable in respect of hospital treatment under this sub-section.

(4.) (a) The sum for which an employer shall be liable for the medical treatment of a workman shall be such sum as is reasonably appropriate to the treatment afforded, having regard to the reasonable necessity for the treatment and the customary charge made in the community for such treatment.

(b) The maximum sum for which an employer shall be liable for medical treatment afforded to a workman on account of the same injury (whether the treatment is afforded at different stages of the injury or not) shall be Twenty-five pounds.

(5) The maximum sum for which an employer shall be liable for ambulance service rendered to a workman shall be Two pounds and two shillings.

(6.) (a) Where a workman receives medical treatment or hospital treatment or ambulance service on account of an injury he shall without undue delay notify the employer in the manner prescribed that he has received such treatment and furnish him with reasonable particulars of the treatment or service.

(b) Where a workman receives medical treatment for an injury his employer shall be entitled to cause an examination of the workman to be conducted in consultation with the person who afforded such medical treatment by a legally qualified medical practitioner selected by the employer.

7. Where a workman sustains, by accident arising out of and in the course of his employment, any of the injuries specified in the first column of the Third Schedule to this Ordinance, the compensation payable under this Ordinance shall, when the injury results in total or partial incapacity, be the amount, specified in the second column of that Schedule opposite the injury so sustained, less any amount received by the workman under the First Schedule to this Ordinance during any period of his total incapacity arising from his injury.

Compensation
for certain
injuries.

8. Notwithstanding anything contained in this Ordinance, a workman shall not, with respect to any one accident, be entitled to receive as compensation under this Ordinance—

Maximum
compensation.

- (a) where partial or temporary incapacity for work results from the injury, an amount exceeding Seven hundred and fifty pounds; or

(b) where total and permanent incapacity results from the injury, an amount exceeding One thousand pounds, in addition to such expenses as are payable to him under section six of this Ordinance.

Time for
taking
proceedings.

9.—(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 it has happened, and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation has been made—

- (a) within six months after the occurrence of the accident; or
- (b) in case of death—within six months after advice of the death has been received by the claimant:

Provided that—

- (i) the want of or any defect or inaccuracy in the notice shall not be a bar to the maintenance of the proceedings if it is found, in the proceedings for settling the claim, that the employer is not or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect, or inaccuracy, or that the want, defect, or inaccuracy was occasioned by mistake or other reasonable cause; and
- (ii) the failure to make a claim within the period above specified shall not be a bar to the maintenance of the proceedings if it is found that the failure was occasioned by mistake or other reasonable cause.

(2.) Notice in respect of any injury to which this Ordinance applies shall contain the name and address of the person injured, and a statement in ordinary language of the cause of the injury and the date at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of the employers.

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

(4.) Where the employer is a body of persons, corporate or unincorporate, the notice may also be served by delivering it at, 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 of the offices of the body.

Contracting out.

10.—(1.) If the Minister, after taking steps to ascertain the views of the employer and workmen, certifies that any scheme of compensation, benefit or insurance for the workmen of an employer in any employment, whether or not the scheme includes other employers and their workmen, provides scales of

compensation not less favorable to the workmen and their dependants than the corresponding scales contained in this Ordinance, and that, where the scheme provides for contributions by the workmen, the scheme confers benefits at least equivalent to those contributions, in addition to the benefits to which the workmen would have been entitled under this Ordinance, and that a majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favour of the scheme, the employer may, while the certificate is in force, contract with any of his workmen that the provisions of the scheme shall be substituted for the provisions of this Ordinance and thereupon the employer shall be liable only in accordance with the scheme, but otherwise this Ordinance shall apply notwithstanding any contract to the contrary made after the commencement of this Ordinance.

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

(3.) A scheme shall not be so certified which contains an obligation upon the workmen to join the scheme as a condition of their hiring, or which does not contain provisions enabling a workman to withdraw from the scheme.

(4.) If complaint is made to the Minister by and on behalf of the workmen of any employer that the benefits conferred by any scheme no longer conform to the conditions stated in sub-section (1.) of this section, or that the provisions of the scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the Minister shall investigate the complaint, and, if satisfied that good cause exists therefor, shall, unless the cause of complaint is removed, revoke the certificate.

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

(6.) Whenever a scheme has been so certified the employer shall answer all such inquiries and furnish all such accounts in regard to the scheme as are made or required by the Minister.

11.—(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 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 under this Ordinance which he would have been liable to pay if that workman had been Sub-contracting

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 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:

Provided that, where the contract relates to threshing, ploughing, or other agricultural work, and the contractor provides and uses machinery driven by mechanical power for the purposes of that work, he and he alone shall be liable under this Ordinance to pay compensation to any workman employed by him on that work.

(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 amount of any such indemnity shall in default of agreement be settled by arbitration in accordance with the provisions of the Second Schedule to this Ordinance.

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

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

Remedies both
against the
employer and
a stranger.

12. 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—

(a) the workman may take proceedings against that person to recover damages and may also make a claim against any person liable to pay compensation under this Ordinance for such compensation, but shall not be entitled to recover both damages and compensation; and

(b) if the workman has received 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 eleven of this Ordinance shall be indemnified by the person so liable to pay damages, 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 arbitration in accordance with the provisions of the Second Schedule to this Ordinance.

13.—(1.) Where—

Application of
Ordinance to
Industrial
diseases.

- (a) a workman is suffering from a disease specified in the Fourth Schedule to this Ordinance, and is thereby disabled from earning full wages at the work at which he was employed;
- (b) a workman is, in pursuance of any law, suspended from his usual employment on account of having contracted any such disease; or
- (c) the death of a workman is caused by any such disease, and the disease is due to the nature of any employment in which the workman was employed at any time within the twelve months immediately preceding the date of the disablement or suspension, whether under one or more employers, he or his dependants shall be entitled to compensation under this Ordinance as if the disease or the suspension were a personal injury by accident arising out of and in the course of that employment, subject to the following modifications:—

- (i) the disablement or suspension shall be treated as the happening of the accident;
- (ii) if it is proved that the workman has at the time of entering the employment wilfully and falsely represented himself in writing as not having previously suffered from the disease, compensation shall not be payable; and
- (iii) the compensation shall be recoverable from the employer who last employed the workman during that period of twelve months in the employment to the nature of which the disease was due:

Provided that—

- (1) the workman or his dependants, if so required, shall furnish that employer with such information as to the names and addresses of all the other employers who employed him in the employment during that period of twelve months as he or they possess, and, if that information is not furnished, or is not sufficient to enable that employer to take proceedings under paragraph (2) of this proviso, that employer, upon proving that the disease was not contracted while the workman was in his employment shall not be liable to pay compensation;
- (2) if that 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 that other employer as a party to the arbitration, and if the allegation is proved, that other employer shall be the employer from whom the compensation shall be recoverable; and

(3) if the disease is of such a nature as to be contracted by a gradual process, any other employers who, during that period of twelve months, employed the workman in the employment to the nature of which the disease was due, shall be liable to make to the employer from whom compensation is recoverable such contributions as, in default of agreement, are determined in the arbitration in accordance with the Second Schedule to this Ordinance for settling the amount of the compensation;

(iv) the amount of the compensation shall be calculated with reference to the earnings of the workman under the employer from whom compensation is recoverable; and

(v) the employer to whom notice of the death, disablement or suspension is to be given shall be the employer who last employed the workman during that period of twelve months in the employment to the nature of which the disease was due, and the notice may be given notwithstanding that the workman has voluntarily left his employment.

(2.) If the workman, at or immediately before the date of the disablement or suspension, was employed in any process specified in the second column of the Fourth Schedule to this Ordinance, and the disease contracted is the disease in the first column of that Schedule set opposite the description of the process, the disease, except where a medical referee appointed under this Ordinance certifies that in his opinion the disease was not due to the nature of the employment, shall be deemed to have been due to the nature of that employment, unless the employer proves the contrary.

(3.) For the purposes of this section the date of disablement shall be such date as the medical referee certifies as the date on which the disablement commenced, or, if he is unable to certify such a date, the date on which the certificate is given:

Provided that where a workman dies without having obtained a certificate of disablement, or is at the time of death not in receipt of a weekly payment on account of disablement, it shall be the date of death.

(4.) Nothing in this section shall affect the rights of a workman to recover compensation in respect of a disease to which this section does not apply, if the disease is a personal injury by accident within the meaning of this Ordinance.

(5.) The provisions of the First Schedule to this Ordinance shall, subject to this Ordinance, be deemed to apply to, or in respect of, any claim for compensation made in pursuance of this section.

14.—(1.) The Minister may appoint any legally qualified medical practitioners residing in or out of the Territory to be medical referees for the purposes of this Ordinance.

(2.) Where a medical referee has been employed as a medical practitioner in connexion with any case by or on behalf of an employer or workman or by any insurers interested, he shall not act as medical referee in that case.

15.—(1.) Every employer in any industry to which the Minister directs that this section shall apply, shall, on or before such day in every year as the Minister directs, send to the Civic Administrator a correct return specifying the number of injuries in respect of which compensation has been paid by him under this Ordinance during the previous year, and the amount of the compensation, together with such other particulars as to the compensation as the Minister directs. Returns as to compensation.

(2.) Any employer who fails to comply with this section shall be guilty of an offence.

Penalty: Ten pounds.

16. Any contract existing at the commencement of this Ordinance, whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment, shall not, for the purposes of this Ordinance, be deemed to continue after the time at which the workman's contract of service would determine if notice of the determination thereof were given at the commencement of this Ordinance. Provisions as to existing contracts and schemes.

17.—(1.) Every employer shall obtain from an insurer approved by the Minister for the purposes of this Ordinance, a policy of insurance or indemnity for the full amount of his liability under this Ordinance to all workmen employed by him and shall maintain such policy in force: Compulsory Insurance.

Provided that the Minister may authorize any employer to undertake the liability to pay compensation to his own workmen who furnishes to the Minister a certified copy of his balance-sheets for his last three trading years, and such other particulars as are required. The Minister may at any time upon notice to the employer concerned, and consideration of such evidence as he desires to submit, review and continue, suspend or terminate, any such authority as he deems expedient.

(2.) An insurer shall not, except with the consent in writing of the Minister, given after due inquiry into the circumstances, refuse to issue such a policy of insurance or indemnity to any employer who has complied with the conditions determined by the Minister.

(3.) Every policy of insurance or indemnity indemnifying an employer against his liability under this Ordinance shall contain only such provisions relating thereto as are determined by the Minister, but may contain such other provisions relating to liability under any other law of the Territory as are appropriate to any particular case.

Any contravention of this provision shall not annul such policy or diminish or affect the liability of the insurer to the person insured under such policy.

Every such policy shall provide that the insurer shall, as well as the employer, be directly liable to any workman insured under such policy and in the event of his death, to his dependants, to pay the compensation for which an employer is liable, and that the insurer shall be bound by and subject to any order, decision or award made against the employer of such workman under the provisions of this Ordinance.

(4.) Every employer or insurer who fails to comply with any provision of this section shall be liable to a penalty not exceeding One hundred pounds, and after the date of conviction of any such failure to comply he shall from time to time be liable to further penalties not exceeding Twenty pounds for every week during which he continues to make default in compliance with any such provision.

(5.) It shall be sufficient defence on any prosecution under this section instituted within twelve months from the commencement of this Ordinance, if the person charged proves that he is insured by an insurance company carrying on business in the Territory and approved by the Minister against the full amount of his liability to pay compensation under this Ordinance to all workmen employed by him.

(6.) Where several persons may become liable to pay compensation in respect of the same workmen, it shall be sufficient to obtain a joint policy in respect of such liability. The premium chargeable in respect of such policy shall not exceed the current rates for insurance of an employer's liability in respect of workmen engaged in the same trade, occupation, calling or industry.

(7.) (a) Every employer applying to an insurer to issue or renew a policy of insurance or indemnity against liability under this Ordinance shall supply to the insurer a full and correct statement of all wages paid to workmen in his employment during the period relevant to the determination of the premium payable by him for such policy of insurance.

(b) Any employer who fails to supply such full and correct statement of wages in respect of any such period shall be guilty of an offence.

18.—(1.) The Minister or an officer authorized by the Minister in that behalf may by notice in writing require an employer— Inspection of policies.

- (a) to produce for inspection any policy of insurance or indemnity indemnifying him against his liability under this Ordinance; and
- (b) to furnish such particulars in relation thereto as the Minister or officer deems necessary.

(2.) Any employer who fails to comply with any such requirement within the time and in the manner stated in the notice shall be guilty of an offence.

Penalty: One hundred pounds.

19.—(1.) A workman shall be entitled to inquire of his employer the name and address of the insurer from whom the employer has obtained a policy of insurance or indemnity against his liability under this Ordinance, or if the employer is a self insurer, to be so informed. Workman's right to information.

(2.) Any person or person acting for an employer in the management of the business who refuses to supply such particulars or who in reply to an inquiry under this section gives any false or misleading information shall be guilty of an offence.

Penalty: Twenty pounds.

20.—(1.) The Attorney-General may make rules of court for carrying out or giving effect to this Ordinance. Rules of Court.

(2.) Rules made under this section shall be deemed to be regulations within the meaning of the *Interpretation Ordinance* 1914-1930.

21. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Ordinance and in particular for prescribing matters providing for and in relation to— Regulations.

- (a) the procedure in regard to the medical examination of injured workmen;
- (b) the duties and fees of medical referees appointed under this Ordinance;
- (c) fees and expenses to be paid for medical examinations and medical treatment;
- (d) the procedure in regard to compulsory insurance; and
- (e) penalties not exceeding Fifty pounds for any breach of the regulations.

THE SCHEDULES.

Sections 5, 18;

THE FIRST SCHEDULE.

SCALE AND CONDITION OF COMPENSATION.

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

(a) where death results from the injury—

- (i) if the workman leaves any dependants wholly dependent upon his earnings, a sum equal to one hundred and fifty-six times his weekly pay at the time of the injury, or the sum of Four hundred pounds, whichever of those sums is the larger, but not exceeding in any case Seven hundred and fifty pounds:

Provided that the amount of any weekly payments made under this Ordinance, and any lump sum paid in redemption thereof, shall be deducted from such sum, but so that the amount payable to the dependants upon the death of the workman shall not be less than Two hundred pounds;

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

- (iii) if he leaves no dependants, the reasonable expenses of his burial, not exceeding Twenty-five pounds;

(b) where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding two-thirds of the workman's weekly pay at the time of the injury, such weekly payment not to exceed Three pounds ten shillings;

Provided that, as respects the weekly payments during total incapacity of a workman who is under twenty-one years of age at the date of the injury, and whose weekly pay is less than Thirty shillings, one hundred per centum shall be substituted for two-thirds of his weekly pay, but the weekly payment shall in no case exceed One pound; and

(c) Where total incapacity for work results from the injury, there shall be added to any amount payable under the foregoing provisions of this Schedule an amount of Seven shillings and sixpence per week with respect to each child under the age of fourteen years (including an illegitimate child or a child to whom the workman stands *in loco parentis*) totally or mainly dependent upon the workman at the time of the injury, and the payment of that amount shall be continued during such incapacity until the child, with respect to whom the payment is received, attains the age of fourteen years:

Provided that the total weekly payment under this section shall not exceed a sum equal to the workman's weekly pay at the time of the injury, or the sum of Five pounds, whichever is the smaller amount.

2. Where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not for the purposes of this Schedule be reckoned as part of the weekly pay of the workman.

3. In fixing the amount of the weekly payment, regard shall be had to any payment, allowance, or benefit which the workman may receive from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between

FIRST SCHEDULE—*continued.*

the amount of the weekly pay of the workman before the accident and the weekly amount which he is earning or is able to earn in some suitable employment or business after the accident, but shall bear such relation to the amount of that difference as under the circumstances of the case may appear proper.

4. Where a workman has given notice of an accident or an industrial disease specified in the Fourth Schedule to this Ordinance, he shall, if so required by the employer, submit himself for examination by a legally-qualified medical practitioner provided and paid by the employer, and if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceeding under this Ordinance in relation to compensation, shall be suspended until such examination has taken place.

5. The payment in the case of death shall, unless otherwise ordered in pursuance of the provisions of this Schedule, be paid into the Court of Petty Sessions, and any sum so paid into Court shall, subject to Rules of Court, and the provisions of this Schedule, be invested, applied, or otherwise dealt with by the Court in such manner as the Court in its discretion thinks fit for the benefit of the persons entitled thereto under this Ordinance, and the receipt of the Clerk of the Court shall be a sufficient discharge in respect of the amount paid in:

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

6. Where a weekly payment is payable under this Ordinance to a person under any legal disability, the Court of Petty Sessions may, on application being made in accordance with Rules of Court order that the weekly payment be paid during the disability into Court, and the provisions of this Schedule with respect to sums required by this Schedule to be paid into Court shall apply to sums paid into Court in pursuance of any such order.

7. Any question as to who is a dependant shall, in default of agreement, be settled by arbitration under this Ordinance, or, if not so settled before payment into Court under this Schedule, shall be settled by the Court of Petty Sessions, and the amount payable to each dependant shall be settled by arbitration under this Ordinance, or, if not so settled before payment into Court under this Schedule, by the Court of Petty Sessions. Where there are both total and partial dependants, nothing in this Schedule shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

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

9. Any workman receiving weekly payments under this Ordinance shall, if so required by the employer, from time to time submit himself for examination by a legally-qualified medical practitioner provided and paid by the employer. If the workman refuses to submit himself to such examination, or in any way obstructs the examination, his right to such weekly payments shall be suspended until the examination has taken place.

10. A workman shall not be required to submit himself for examination by a medical practitioner under paragraph 4 or paragraph 9 of this Schedule otherwise than in accordance with the regulations, or at more frequent intervals than may be prescribed by those regulations.

FIRST SCHEDULE—continued.

Where a workman has so 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 Clerk of the Court of Petty Sessions, on application being made to the Court by both parties, may, on payment by the applicants of such fee not exceeding One pound, as may be prescribed, refer the matter to a medical referee.

The medical referee to whom the matter is so referred shall, in accordance with the regulations, 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.

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 paragraph shall, subject to the regulations, apply as if the question were a question as to the condition of the workman.

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, or in any way obstructs the medical referee, 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 weekly payment, his right to that weekly payment shall be suspended until such examination has taken place.

Rules of Court may be made for prescribing the manner in which documents are to be furnished or served, and applications made under this paragraph and the forms to be used for those purposes and as to the fee to be paid under this paragraph.

11. Any weekly payment may be reviewed at the request either of the employer or of the workman, and on such review may be ended, diminished, or increased, subject to the maximum above provided, and the amount of payment shall, in default of agreement, be settled by arbitration under this Ordinance:

Provided that where the workman was at the date of the accident under twenty-one years of age, and the review takes place more than twelve months after the accident, the amount of the weekly payment may be increased to any amount not exceeding two-thirds of the weekly sum which the workman would probably have been earning at the date of the review if he had remained uninjured, but not in any case exceeding Three pounds.

12. Where, in any case other than one of total or permanent incapacity, any weekly payment has been continued for not less than six months, the liability therefor may, with the consent of the workman on application by or on behalf of the employer, be redeemed by the payment of a lump sum of such amount as may be settled by arbitration under this Ordinance, and such lump sum may be ordered by the arbitrator or Court of Petty Sessions to be invested or otherwise applied for the benefit of the person entitled thereto:

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

13. If a workman receiving a weekly payment ceases to reside in the Territory, he shall thereupon cease to be entitled to receive any weekly payment unless the medical referee certifies that the incapacity resulting from the injury is likely to be of a permanent nature or that his absence from the Territory is desirable for recuperative purposes. If the medical referee so certifies, the workman shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter, so long as he proves in such manner and at such intervals as may be prescribed by Rules of Court, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

FIRST SCHEDULE—*continued*.

14. A weekly payment, or a sum paid by way of redemption thereof, shall not be capable of being assigned, charged, or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against the same.

15. Where under this Schedule a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension.

THE SECOND SCHEDULE.

Section 6.

ARBITRATION. ETC.

1. For the purpose of settling any matter which, under this Ordinance, is to be settled by arbitration, if any committee representative of an employer and his workmen exists with power to settle matters under this Ordinance, in the case of the employer and workmen, the matter shall, unless either party objects by notice in writing, sent to the other party before the committee meets to consider the matter, be settled by the arbitration of such committee, or be referred by it, in its discretion, to arbitration as provided in this Schedule.

2. If either party so objects, or there is no such committee, or the committee so refers the matter or fails to settle the matter within six months from the date of the claim, the matter shall be settled by a single arbitrator agreed on by the parties, or in the absence of agreement by the Court of Petty Sessions, according to the procedure prescribed by Rules of Court.

3. The *Arbitration Act* 1902, of the State of New South Wales, shall not apply to any arbitration under this Ordinance; but a committee or an arbitrator may, if it or he thinks fit, submit any question of law for the decision of the Court of Petty Sessions, and the decision of the Court on any question of law, shall be final and conclusive, unless within the time, and in accordance with the conditions prescribed by Rules of the High Court, either party appeals to the High Court. The Court of Petty Sessions, or the arbitrator appointed by him, shall, for the purpose of proceedings under this Ordinance, have the same powers of procuring the attendance of witnesses and the production of documents as if the proceedings were an action in the Court of Petty Sessions.

4. The Court of Petty Sessions may, if it thinks fit, summon a medical referee to sit with it as an assessor.

5. Rules of Court may make provision for the appearance in any arbitration under this Ordinance of any party by some other person.

6. The costs of and incidental to the arbitration proceedings connected therewith shall be in the discretion of the committee, arbitrator, or Court of Petty Sessions, subject, as respects that Court and an arbitrator appointed by it, to Rules of Court. The costs, whether before a committee or an arbitrator or in the Court of Petty Sessions, shall not exceed the limit prescribed by those Rules, and shall be taxed in manner prescribed by those Rules, and that taxation may be reviewed by the Court of Petty Sessions.

7. In the case of the death or refusal or inability to act of an arbitrator, the Court of Petty Sessions may, on the application of any party, appoint a new arbitrator.

8. Where an agreement has been made before ascertainment of compensation between a workman and his employer for payment of a lump sum by way of compromise and satisfaction of all claims, or the amount of compensation under this Ordinance has been ascertained, or any weekly payment varied, or any other matter decided under this Ordinance, either by a committee or by an arbitrator or by agreement, a memorandum thereof shall be sent, in manner prescribed by Rules of Court, by the committee or

SECOND SCHEDULE—*continued.*

arbitrator, or by any party interested, to the Clerk of the Court of Petty Sessions, who shall, subject to those Rules, on being satisfied as to its genuineness, record the memorandum in a special register without fee, and thereupon the memorandum shall for all purposes be enforceable as a judgment of that Court:

Provided that—

- (a) no such memorandum shall be recorded before seven days after the despatch by the Clerk of notice to the parties interested;
- (b) where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation under this Ordinance, and the employer, in accordance with Rules of Court, 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 the memorandum, the memorandum shall only be recorded, if at all, on such terms as the Court of Petty Sessions, under the circumstances, thinks just;
- (c) the Court of Petty Sessions may at any time rectify the register;
- (d) where it appears to the Clerk of the Court of Petty Sessions, on any information which he considers sufficient, that an agreement made before ascertainment of compensation between a workman and his employer for payment of a lump sum by way of compromise in satisfaction of all claims or an agreement as to the redemption of a weekly payment by a lump sum, or an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence, or other improper means, he may refuse to record the memorandum of the agreement sent to him for registration, and refer the matter to the Court, who shall, in accordance with Rules of Court, make such order (including an order as to any sum already paid under the agreement) as under the circumstances it thinks just; and
- (e) the Court may, within six months after a memorandum of an agreement as to compromise of claims or the redemption of a weekly payment by a lump sum or of an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, has been recorded in the register, order that the record be removed from the register on proof to its satisfaction that the agreement was obtained by fraud or undue influence or other improper means, and may make such order (including an order as to any sum already paid under the agreement) as under the circumstances it thinks just.

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

10. The duty of the Court of Petty Sessions under this Ordinance, or of an arbitrator appointed by it, shall, subject to Rules of Court, be part of the duties of the Court, and the officers of the Court shall act accordingly, and Rules of Court may be made both for any purpose for which this Ordinance authorizes Rules of Court to be made, and also generally for carrying into effect this Ordinance so far as it affects the court, or an arbitrator appointed by it, and proceedings in the Court or before any such arbitrator, and such Rules shall be deemed to be regulations within the meaning of the *Interpretation Ordinance 1914-1930*.

SECOND SCHEDULE—*continued.*

11. No court fee, except such as may be prescribed under paragraph 10 of the First Schedule to this Ordinance, shall be payable by any party to respect of any proceedings by or against a workman under this Ordinance in the Court prior to the award.

12. Any sum awarded as compensation shall, unless paid into Court under this Ordinance, be paid on the receipt of the person to whom it is payable under any agreement or award, and the solicitor or agent of a person claiming compensation under this Ordinance shall not be entitled to recover from him any costs in respect of any proceedings in an arbitration under this Ordinance, or to claim a lien in respect of those costs on, or deduct those costs from, the sum awarded or agreed as compensation, except such sum as may be awarded by the committee, the arbitrator, or the Court, on an application made either by the person claiming compensation, or by his solicitor or agent, to determine the amount of costs to be paid to the solicitor or agent, such sum to be awarded subject to taxation and to the scale of costs prescribed by Rules of Court.

13. Any committee, or arbitrator, or the Court of Petty Sessions may, subject to regulations made under this Ordinance, submit to a medical referee for report any matter which seems material to any question arising in the arbitration.

14. The Minister may, by order, either unconditionally or subject to such conditions or modifications as he thinks fit, confer on any committee representative of an employer and his workmen, in respect of any matter in which the committee act as arbitrators, or which is settled by agreement submitted to and approved by the committee, all or any of the powers conferred by this Ordinance exclusively on the Court of Petty Sessions, and may by the order provide how and to whom compensation money is to be paid in cases where, but for the order, the money would be required to be paid into Court, and the order may exclude from the operation of provisos (d) and (e) of paragraph 8 of this Schedule agreements submitted to and approved by the committee, and may contain such incidental, consequential, or supplemental provisions as appear to the Minister to be necessary or proper for the purposes of the order.

THE THIRD SCHEDULE.
COMPENSATION FOR SPECIFIED INJURIES.

Section 7.

Nature of Injury.						Amount Payable.		
						£	s.	d.
Loss of both eyes	..	..	..	..	..	750	0	0
Loss of both hands	..	..	..	..	..
Loss of both feet	..	..	..	..	..
Loss of a hand and a foot	..	..	..	..	..
Total and incurable loss of mental powers, involving inability to work	..	..	..	..	..	675	0	0
Total and incurable paralysis of limbs or mental powers	..	..	..	..	..
Loss of either arm, or of the greater part thereof	..	..	..	..	..	600	0	0
Loss of lower part of either arm, either hand, or five fingers of either hand	..	..	..	..	..	600	0	0
Loss of leg	..	..	..	..	..	600	0	0
Loss of the lower part of a leg	..	..	..	..	..	562	10	0
Loss of a foot	..	..	..	..	..	525	0	0
Loss of one eye, with serious diminution of the sight of the other	..	..	..	..	..	675	0	0
Loss of sight of one eye*	..	..	..	..	..	375	0	0
Loss of hearing	..	..	..	..	..	600	0	0
Complete deafness of one ear	..	..	..	..	..	200	0	0
Loss of a thumb	..	..	..	..	..	225	0	0
Loss of a forefinger	..	..	..	..	..	150	0	0
Loss of part of a thumb..	..	..	..	..	..	112	10	0
Loss of little finger, middle finger or ring finger	..	..	..	..	..	112	10	0
Loss of a toe or the joint of a finger	..	..	..	..	..	90	0	0
Loss of a joint of a toe	..	..	..	..	..	75	0	0

* For the partial loss of the sight of one eye, there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

THIRD SCHEDULE—*continued.*

For the purposes of this Schedule, the loss of a specified part of the body shall be deemed to include—

(a) the loss of the use of that part; and

(b) the loss of the efficient use of that part in and for the purposes of his employment:

Provided that in that case a percentage of the prescribed amount payable, equal to the percentage of the diminution of the full efficient use as aforesaid, may be awarded in lieu of the full amount.

Section 14.

THE FOURTH SCHEDULE.

Description of Disease.	Description of Process.
Arsenic, phosphorus, lead, mercury or other mineral poisoning	Any employment involving the use or handling of arsenic, phosphorus, lead, mercury or other mineral, or their preparations or compounds
Anthrax	Woolcombing, woolsorting; handling of hides, skins, wool, hair, bristles or carcasses
Zymotic diseases	Persons employed in a hospital or quarantine station, or in an ambulance brigade
Poisoning by benzol or its homologues or their nitro and amido derivatives (dinitro-benzol, anilin and others)	Any process involving the use of benzol or its homologues or their nitro and amido derivatives or their preparations or compounds
Poisoning by carbon bisulphide ..	Any process involving the use of carbon bisulphide or its preparations or compounds
Poisoning by nitrous fumes ..	Any process in which nitrous fumes are evolved
Poisoning by cyanogen compounds	Any process in which cyanogen compounds are used
Poisoning by carbon monoxide ..	Any process in which carbon monoxide is used or evolved
Chrome ulceration	Any process involving the use of chromic acid, or bichromate of ammonium, potassium or sodium or their preparations
Dermatitis produced by dust or caustic or corrosive liquids or ulceration of the mucous membranes of the nose or mouth produced by dust	Any industrial process
Ankylostomiasis	Any employment involving exposure to hookworm infestation
Pneumoconiosis	Quarrying or stone crushing or cutting
Nystagmus	
Subcutaneous cellulitis of the hand (beat hand)	Mining, or quarrying, or stone crushing or cutting
Subcutaneous cellulitis over the patella (miner's beat knee)	
Acute bursitis over the elbow (miner's beat elbow)	
Inflammation of the synovial lining of the wrist joint and tendon sheath	

Dated this sixth day of November, One thousand nine hundred and thirty-one.

ISAAC A. ISAACS
Governor-General.

By His Excellency's Command,

ARTHUR BLAKELEY
Minister of State for Home Affairs.

By Authority: H. J. GREEN, Government Printer, Canberra.