



ANNO SECUNDO

GEORGII V REGIS.

A.D. 1911.

No. 1053.

An Act to amend the Law with respect to Compensation to Workmen for Injuries suffered in the course of their Employment.

[Assented to, December 14th, 1911.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as "The Workmen's Compensation Act, 1911." Short title.

2. This Act shall come into operation on the first day of January, one thousand nine hundred and twelve (which date is in this Act referred to as the commencement of this Act), but, except so far as it relates to references to medical referees, and proceedings consequential thereon, shall not apply in any case where the accident happened before the commencement of this Act. Commencement
Imp. Act 6 Ed. VII.,
c. 58.

3. "The Workmen's Compensation Act, 1900," and "The Workmen's Compensation Amendment Act, 1904," are hereby repealed, but shall continue to apply to cases where the accident happened before the commencement of this Act, except to the extent to which this Act applies to those cases as provided by section 2. Repeal of existing
Acts.
739 of 1900.
857 of 1904

4. In this Act, unless inconsistent or repugnant to the context, or some other meaning is clearly intended— Interpretation.
Imp Act 6 Edw. VII.,
c. 58, s. 13.

"Certifying medical practitioner" means a legally qualified medical practitioner appointed under this Act as a certifying medical practitioner:
"Dependants"

The Workmen's Compensation Act.—1911.

“Dependants.”

“Dependants” means such 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 accident have been so dependent; and where the workman, being the parent of an illegitimate child, in respect of which the workman has contributed maintenance in his lifetime or has signed any agreement for support, or in respect of which child any maintenance or pre-maternity order has been made against the workman, dies, leaving such child so dependent upon his earnings, or being an illegitimate child dies leaving a mother so dependent upon his earnings, such illegitimate child or mother respectively shall be deemed a dependant of the workman:

“Employer.”

“Employer” includes any body of persons, corporate or unincorporate, 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 Act, be deemed to continue to be the employer of the workman whilst he is working for that other person, but shall be entitled to be indemnified by that other person to the extent of any compensation paid under this Act by the employer in respect of any injury received by such workman whilst he is working for that other person:

“Member of family.”

“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:

“The Minister.”

“The Minister” means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor:

“Outworker.”

“Outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale in his own home, or on other premises not under the control or management of the person who gave out the materials or articles:

“Ship.”

“Ship” means any ship, vessel, boat, or other craft:

Ibid.

“This Act” includes regulations made under this Act:

“This Act.”

“This State” means the State of South Australia:

“This State.”

“Workman.”

“Workman” means a person working in connection with his employer's trade or business under a contract of service or apprenticeship, whether expressed or implied, oral or in writing, at manual work, but does not include—

(a) A person whose average weekly earnings exceed Five Pounds; or

(b) An out-worker; or

(c) A

The Workmen's Compensation Act.—1911.

- (c) A member of an employer's family (dwelling in his house); or
- (d) A seaman where the injury occurs outside the territorial jurisdiction of South Australia; or
- (e) A person employed in agricultural, horticultural, viticultural, dairying, or pastoral pursuits, and not at the time of the accident using steam, oil, water, gas, electricity, compressed air, or other like mechanical power; or
- (f) Any clerk or domestic servant:

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:

Reference to workman.

The exercise and performance of the powers and duties of a Municipal Corporation or District Council or Tramways Trust or other statutory body shall, for the purposes of this Act, be treated as the trade or business of such Municipal Corporation or District Council or Tramways Trust or other statutory body.

Local and other authorities.

5. (1) This Act does not apply to persons in the naval or military service of the Crown, but otherwise applies to workmen employed by or under the Crown to whom this Act would apply if the employer were a private person.

Application to workmen in employment of Crown.

Ibid., s. 9.

(2) All moneys payable under this Act by or on behalf of the Crown shall be paid out of moneys to be provided by Parliament.

Fund for payment of claims.

(3) The Minister may, notwithstanding anything in this Act, frame schemes for Government departments with a view to their being certified by the Public Actuary under section 8.

Minister may frame schemes.

(4) In all claims against the Crown, whether arising out of injuries to workmen employed by or under the Crown, or in respect of any other claim under this Act by any other person, proceedings may be taken and prosecuted under this Act by suit against the Attorney-General as representing the Crown in his representative capacity and without imposing any personal liability upon the occupant of the office of Attorney-General.

Attorney-General to be nominal defendant.

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

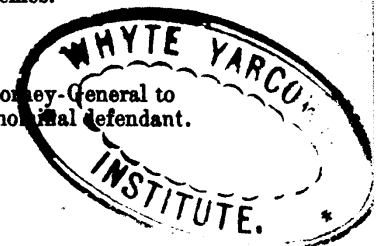
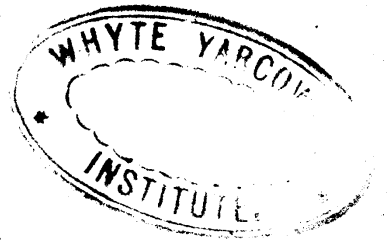
Liability of employers to workmen for injuries.

Ibid., s. 1.

(2) Provided that—

- (a) The employer shall not be liable under this Act in respect of any injury which does not disable the workman for a period of at least one week from earning full wages at the work at which he was employed: (b) When

Minimum period of disablement.



The Workmen's Compensation Act.—1911.

Liability independ-
ently of Act.

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

Injuries due to mis-
conduct of workman.

(c) If the injury to a workman is consequent on or attributable to the serious and wilful misconduct of that workman, no compensation in respect of that injury shall be allowed:

Where claim exists
elsewhere as well as
in this State.

(d) If a claim for compensation has already been made by the claimant in respect of the injury under any law of the United Kingdom or of any other part of His Majesty's dominions, compensation under this Act shall not be allowed to the claimant, nor shall any person having such a claim under any such law claim under this Act unless he declares in writing that he has not claimed, and will not claim, compensation for the injury under any such law.

Cf. Comm. Seamen's
Compensation Act,
1909, s. 5 (e).

Settlement of
questions as to com-
pensation.

(3) If any question arises in any proceedings under this Act as to the liability to pay compensation under this Act (including any question as to whether the person injured is a workman to whom this Act applies), or as to the amount or duration of compensation under this Act, the question, if not settled by agreement, shall, subject to the provisions of the First Schedule, be settled by arbitration, in accordance with the Second Schedule.

Where action brought
for injury for which
compensation is
payable under this
Act.

(4) If, within the time hereafter in this Act limited for taking proceedings, an action is brought to recover damages independently of this Act for injury caused by any accident, and it is determined in such action that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under the provisions of this Act, the action shall be dismissed; but the Court in which the action is tried shall, if the plaintiff so chooses, proceed to assess such compensation, but may deduct from such compensation all or part of the costs which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this Act. In any proceeding under this subsection, when the Court assesses the compensation it shall give a certificate of the compensation it has awarded and the directions it has given as to the deduction for costs, and such certificate shall have the force and effect of an award under this Act.

(5) Nothing

The Workmen's Compensation Act.—1911.

(5) Nothing in this Act shall affect any proceeding for a fine or penalty under the enactments relating to mines, factories, or workshops, or the application of any such fine or penalty. Penalties not affected.

7. (1) Proceedings for the recovery under this Act of compensation for any injury shall not be maintainable unless— Time for taking proceedings.
Ibid., s. 2.

(a) Notice of the accident has been given as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured; and Notice of accident.

(b) The claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death: Time for making claim.

Provided always that—

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

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

(2) Notice in respect of an injury under this Act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date and place at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of such employers. Contents of claim.

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

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

(5) When the employer was the Crown notice shall be served on the Crown Solicitor, at Adelaide, or the manager of the work upon which the workman was employed at the time of the accident. Where employer is the Crown.

8. (1) If

The Workmen's Compensation Act.—1911.

Contracting out.

Ibid., s. 3.

Certificate by Public Actuary as to scheme.

8. (1) If the Public Actuary, after taking steps to ascertain the views of the employer and workmen, certifies—

(a) That any scheme of compensation, benefit, or insurance for the workmen of an employer in any employment (whether or not such 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 Act ; and

(b) 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 Act, and that a majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favor of such scheme,

Scheme may be substituted for Act.

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

Period of certificate.

(2) The Public Actuary may give a certificate to expire at the end of a limited period of not more than five years, and may from time to time renew, with or without modifications, such certificate so as to expire at the end of the period for which it is renewed.

In what circumstances scheme may not be certified.

(3) No scheme shall 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.

Revocation of certificate.

(4) If complaint is made to the Public Actuary by or on behalf of the workmen of any employer—

(a) That the benefits conferred by any scheme no longer conform to the conditions stated in subsection (1) of this section, or

(b) That the provisions of such scheme are being violated, or

(c) That the scheme is not being fairly administered, or

(d) That satisfactory reasons exist for revoking the certificate,

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

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

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

(6) Whenever

The Workmen's Compensation Act.—1911.

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

Inquiries and accounts.

(7) The Public Actuary shall include in his annual report the particulars of his proceedings under this Act.

Public Actuary's report.

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

Regulations.

9. (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 Act which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Act, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed:

Sub-contracting.

Ibid., s. 4.

Liability of principal.

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

Exception in case of agricultural or pastoral 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 under this Act.

Indemnity of principal.

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

Saving of right to recover from contractor.

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

Section not to apply in certain cases.

10. (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then, in the event of the employer becoming insolvent, or making a composition or arrangement with his creditors, or, if the employer is a company, in the event of the company having commenced to be wound

Provision as to cases of insolvency of employer.

Ibid., s. 5.

Rights of employers against insurer vest in workmen.

The Workmen's Compensation Act.—1911.

wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding any statutory enactment relating to insolvency or to the winding-up of companies, 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, so however that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

Workmen may prove for balance.

(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 insolvency or liquidation.

Amount due for compensation to be a preferential debt.

385 of 1886.
597 of 1892.

(3) There shall be included among the debts which, under sections 201 and 202 of "The Insolvent Act, 1886," in the distribution of the property of an insolvent may, and which under section 151 of "The Companies Act, 1892," in the distribution of the assets of a company being wound up are to be paid in priority to all other debts, the amount, not exceeding in any individual case One Hundred Pounds, due in respect of any compensation the liability wherefor accrued before the date of the filing of the petition for adjudication or the date of the commencement of the winding up (as the case may be), and those Acts shall have effect accordingly. Where the compensation is a weekly payment the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the First Schedule.

Not a preferential debt if employer insured.

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

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

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

Remedies both against employer and stranger.

Imp. Act 6 Edw. VII.,
c. 58 s. 6.

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

(1) The workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this Act for such compensation, but shall not be entitled to recover both damages and compensation; and

Indemnities.

(2) If the workman has recovered compensation under this Act, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the section of this Act relating to sub-contracting, shall be entitled to be indemnified by the person so liable to pay damages

The Workmen's Compensation Act.—1911.

damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be settled by action, or, if the parties consent, by arbitration under this Act.

12. (1) Where—

- i. Any certifying medical practitioner certifies that a workman is suffering from a disease mentioned in the Third Schedule and is thereby disabled from earning full wages at the work at which he was employed; or

Application of Act to industrial diseases.
Ibid., s. 8.

- ii. 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 previous to the date of the disablement, whether under one or more employers, the workman or his dependants shall be entitled to compensation under this Act as if the disease were a personal injury by accident arising out of and in the course of that employment, subject to the following modifications:—

- (a) The disablement shall be treated as the happening of the accident: Treated as happening of accident.
- (b) If it is proved that the workman 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: No compensation in cases of misrepresentation.
- (c) The compensation shall be recoverable from the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due: Last employer primarily liable.

Provided that—

- i. 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 the said twelve months as he or they may possess, and if such information is not furnished, or is not sufficient to enable that employer to take proceedings under the next following proviso, that employer upon proving that the disease was not contracted whilst the workman was in his employment shall not be liable to pay compensation; and Workman to furnish information as to previous employers.
- ii. If that employer alleges that the disease was in fact contracted whilst the workman was in the employment of some other employer, and not whilst in his employment, he may join such 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 is to be recoverable; and Where disease contracted during previous employment
- iii. If

The Workmen's Compensation Act.—1911.

Contributions in case
disease contracted
gradually.

111. If the disease is of such a nature as to be contracted by a gradual process, any other employers who during the said 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, may be determined in the arbitration under this Act for settling the amount of the compensation:

How amount of com-
pensation calculated.

(d) The amount of the compensation shall be calculated with reference to the earnings of the workman under the employer from whom the compensation is recoverable:

Employer to whom
notice to be given.

(e) The employer to whom notice of the death or disablement, is to be given shall be the employer who last employed the workman during the said 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:

Reference to medical
referee.

(f) If an employer or a workman is aggrieved by the action of a certifying medical practitioner in giving or refusing to give a certificate of disablement for the purposes of this section, the matter shall, upon request in writing by such employer or workman, be referred by the Minister to a medical referee, whose decision shall be final.

Certain diseases
deemed to be due to
nature of employment
unless contrary
certified.

(2) If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of the Third Schedule, 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 the certifying medical practitioner 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.

Regulations as to
duties of practitioners
and referees.

(3) The Governor may make regulations as to the duties and fees of certifying medical practitioners and medical referees under this section.

Date of disablement,
how ascertained.

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

Provided that—

(a) Where the medical referee allows an appeal against a refusal by a certifying medical practitioner to give a certificate of disablement, the date of disablement shall be such date as the medical referee determines:

(b) Where a workman dies without having obtained a certificate of disablement, or is at the time of death not in receipt of

The Workmen's Compensation Act.—1911.

of a weekly payment on account of disablement, the date of death shall be deemed to be the date of disablement.

(5) In such cases, and subject to such conditions as the Minister may direct, any medical practitioner appointed by the Minister for the purpose shall have the powers and duties of a certifying medical practitioner under this section, and this section shall be construed accordingly.

Appointment of practitioner to act under the section.

(6) (a) The Governor may, by Proclamation published in the *Government Gazette*, from time to time extend the provisions of this section to diseases and processes other than those mentioned in the Third Schedule, and to injuries due to the nature of any employment specified in the Proclamation not being injuries by accident, either without modification or subject to such modifications as may be contained in the Proclamation.

Extension of section to other diseases and processes.

(b) Every such Proclamation shall, upon publication and while in force, have the same effect as if the diseases and processes mentioned therein were inserted in the Third Schedule.

(7) 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 Act.

Claims in respect of other diseases not affected.

13. (1) This Act applies in respect of an accident happening to a workman employed on a South Australian ship, as defined in this section, if the accident happens out of and in the course of his employment: Provided that it happens within this State or within the jurisdiction of this State.

Act to apply as to accidents to persons employed on "South Australian ships."

N.Z. Workers' Comp. Act, 1908, s. 11.

Imp. Act 6, Ed. VII., c. 58, s. 7.

(2) In this Act the term "South Australian ship" means any ship which—

(a) Is registered in this State; or

(b) Is owned by a body corporate established under the laws of this State or having its principal office or place of business in this State, or is in the possession of any such body corporate by virtue of a charter; or

(c) Is owned by any person or body corporate whose chief office or place of business in respect of the management of such ship is in this State, or is in the possession of any such person or body corporate by virtue of a charter; or

(d) Is owned by the Crown in respect of the Government of this State, or is in the possession of the Crown in that respect by virtue of a charter.

(3) The application of this Act in respect of accidents happening to workmen, as provided by this section, shall be subject to the following modifications:—

Modifications of Act in case of accidents to seamen.

Ibid., adapted.

(a) The notice of accident and the claim for compensation may, except where the person injured is the master, be served

on

The Workmen's Compensation Act.—1911.

on the master of the ship as if he were the employer, but where the accident happened and the incapacity commenced on board the ship it shall not be necessary to give any notice of the accident:

(b) In the case of the death of the workman, the claim for compensation shall be made within six months after news of the death has been received by the claimant:

No. 237 of 1881.

(c) In the case of the death of a workman leaving no dependants, no compensation shall be payable if the owner of the ship is under the "Marine Board and Navigation Act, 1881," or any Act amending or substituted for that Act, liable to pay the expenses of burial:

No. 237 of 1881

(d) The weekly payment shall not be payable in respect of the period during which the owner of the ship is, under the "Marine Board and Navigation Act, 1881," or any Act amending or substituted for that Act, liable to defray the expenses of maintenance of the injured workman:

Imp. Act 57 and 58,
Vict., c. 60.

(e) Any sum payable by way of compensation by the owner of a ship under this Act shall be paid in full notwithstanding anything in section 503 of the "Merchant Shipping Act, 1894" (which relates to the limitation of a ship-owner's liability in certain cases of loss of life, injury, or damage), but the limitation on the owner's liability imposed by that section shall apply to the amount recoverable by way of indemnity, under the section of this Act relating to remedies both against employer and stranger, as if the indemnity were damages for loss of life or personal injury:

No. 237 of 1881.

(f) Section 95 of the "Marine Board and Navigation Act, 1881" (which relates to the recovery of wages of seamen lost with their ship), shall apply as respects proceedings for the recovery of compensation by the dependants of a workman lost with his ship as they apply with respect to proceedings for the recovery of wages due to seamen and apprentices; and proceedings for the recovery of compensation shall in such a case be maintainable if the claim is made within eighteen months of the date at which the ship is deemed to have been lost with all hands.

Crew of fishing
vessel.

Ibid.

(4) This Act does not apply in respect of accidents to such members of the crew of a fishing vessel as are remunerated by shares in the profits or the gross earnings of the working of such vessel.

Appointment and
remuneration of
medical referees and
practitioners.

Ibid., s. 10.

14. (1) The Minister may appoint such legally qualified medical practitioners to be medical referees and certifying medical practitioners respectively for the purposes of this Act as he may determine; and the remuneration of, and expenses incurred by, medical referees and certifying medical practitioners under this Act shall, subject to regulations made by the Governor, be paid out of moneys provided by Parliament.

(2) Where

The Workmen's Compensation Act.—1911.

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

Referee not to act if previously employed.

15. (1) Any contract (other than a contract substituting the provisions of a scheme certified under "The Workmen's Compensation Act, 1900," for the provisions of that Act) existing at the commencement of this Act, 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 Act, 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 Act.

Provisions as to existing contracts and schemes.

Ibid., s. 15.

(2) Every scheme under "The Workmen's Compensation Act, 1900," in force at the commencement of this Act shall, if recertified by the Public Actuary, have effect as if it were a scheme under this Act.

Existing scheme to continue if recertified.

(3) The Public Actuary shall recertify any such scheme if it is proved to his satisfaction that the scheme conforms, or has been so modified as to conform, with the provisions of this Act as to schemes.

To be recertified if conforms with Act.

(4) If any such scheme has not been so recertified before the expiration of six months from the commencement of this Act, the certificate thereof shall be deemed to be revoked.

Revoked unless recertified within six months.

16. Subject to a scheme certified under section 8 it shall not be lawful for any employer or any person on his behalf, or for any insurers or any person on their behalf, to directly or indirectly take or receive any money from any workman, whether by way of deduction from wages or otherwise howsoever, in respect of any liability of an employer to pay compensation under this Act. All money so taken or received as aforesaid from any workman, whether with the consent of such workman or not, may be recovered in any Court of competent jurisdiction as a debt due to him by the employer, insurers, or person who took or received it.

Deductions towards compensation not lawful.

Qd., 26, 1905, s. 14.

17. (1) If it is alleged that the owners of any ship are liable as such owners to pay compensation under this Act, and at any time that ship is found in any port or river in this State or in any water within the territorial jurisdiction of this State, a Judge of the Supreme Court may, upon its being shown to him by any person applying summarily that the owners are probably liable as such to pay such compensation, and that none of the owners resides in this State, issue an order directed to any officer of the said Court, or of the Marine Board of South Australia, or of any authority exercising the powers now vested in the said Board, named in the order, requiring such officer to detain the ship until such time as the owners, agent, master, or consignee thereof have paid such compensation, or have given security, to be approved by a Judge of the said Court, to

Order for detention of ship.

Imp. Act 6 Ed. VII., c. 58, s. 11.

And Com. Seaman's Comp. Act, 1909, s. 13, adapted.

abide

The Workmen's Compensation Act.—1911.

abide the event of any proceedings that may be instituted to recover such compensation and to pay such compensation and costs as may be awarded thereon.

Detention.

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

Parties.

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

Residence of corporation.

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

Penalty for proceeding to sea.
Cf. Marine Board Act, S.A. 1881, s. 176.

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

Officer taken to sea.
Cf. *ibid.*, s. 176.

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

Agreements and receipts under the Act exempt from stamp duty.

18. Any agreement in writing and any memorandum of agreement (whether under seal or not) as to any matter under this Act, or any Act hereby repealed, and any receipt given for or upon the payment of any money payable under this Act, or any Act hereby repealed, or under any such agreement aforesaid, shall be exempt from all stamp duties chargeable under the "Stamp Act, 1886," or any Act amending or substituted for that Act.

No. 372 of 1886.

Regulations.

19. (1) The Governor may make regulations for any purpose for which this Act authorises regulations to be made, or for which it is by this Act contemplated that regulations may or will be made, and generally such regulations as may be necessary or convenient for carrying out or giving effect to the provisions of this Act.

Penalties.

(2) Any such regulations may prescribe penalties for any breach thereof, or of other regulations, not exceeding Ten Pounds for any such breach.

Publication and effect.

(3) Such regulations shall—

(a) Be published in the *Government Gazette* ;

(b) Take

The Workmen's Compensation Act.—1911.

(b) Take effect from the date of such publication, or from a later date, to be specified therein; and

(c) Be laid before both Houses of Parliament within fourteen days after publication, if Parliament is in Session, and if not, then within fourteen days after the commencement of the next Session.

(4) If either House of Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any time within fourteen sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done, or of the omission of anything, in the meantime.

Disapproval by Parliament.

This subsection shall apply notwithstanding that the said fourteen sitting days, or some of them, do not occur in the same Session or Parliament as that in which the regulation is laid before such House.

20. Rules of Court may be made under the “Supreme Court Act, 1878,” for the regulation of all matters relating to the practice and procedure of the Supreme Court on appeals thereto under the Second Schedule, and generally as to all matters connected with such appeals, or for the regulation of any other matter in which the Supreme Court or a Judge thereof has jurisdiction under this Act; and such rules may also prescribe such forms and such scales of fees, costs, and expenses as may be necessary or convenient for the purposes of this Act.

Rules of Supreme Court.

S.A. 116, 1878, Part V.

21. Rules of Court may be made under the “Local Courts Act, 1886,” for any purpose for which this Act authorises Rules of Court (not being Rules of the Supreme Court) to be made, and also generally for regulating the practice of Local Courts, Special Magistrates, and officers of Local Courts under this Act, and for carrying into effect this Act so far as it affects or relates to such Courts or Magistrates or officers, and to proceedings in Local Courts or before Special Magistrates; and such rules may also prescribe such forms and such scales of fees, costs, and expenses as may be necessary or convenient for the purposes of this Act.

Rules of Local Courts.

386, 1886, s. 28.

22. All proceedings in respect of offences against this Act shall be by information, and shall be heard and determined in a summary way by a Special Magistrate or two Justices of the Peace, and shall be regulated by the Ordinance No. 6 of 1850, or any Act for the time being in force regulating the duties of Justices of the Peace as to summary proceedings.

Summary proceedings.

23. (1) There shall be an appeal to the Local Court of Adelaide in its Full Jurisdiction from any order or conviction by a Magistrate or Justices under this Act, or from any order by a Magistrate or Justices dismissing any information for any offence against this Act.

Appeals.

(2) Such

The Workmen's Compensation Act.—1911.

(2) Such appeal shall be regulated by the said Ordinance No. 6 of 1850, or any Act for the time being in force regulating appeals to Local Courts: Provided that the Court may make any order as to costs although such costs exceed Ten Pounds.

Special case.

(3) Such Local Court may state a special case or cases for the opinion of the Supreme Court.

(4) The Supreme Court shall hear and decide all such special cases according to the practice of the Supreme Court on special cases, and may make such order as to costs of any special case as to the said Court appears just.

(5) The Local Court shall make an order in respect of the matters referred to the Supreme Court in conformity with the certificate of the said Supreme Court, or of any Judge thereof; and such order shall be enforced in manner provided for the enforcement of orders of Justices by the said Ordinance No. 6 of 1850, or any Act in force as aforesaid.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

DAY H. BOSANQUET, Governor.

The Workmen's Compensation Act.—1911.

SCHEDULES.

FIRST SCHEDULE.

Scale and Conditions of Compensation.

Section 6.

(1) The amount of compensation under this Act shall be—

Amount of compensation.

(a) Where death results from the injury—

In case of death.

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

II. If the 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 Act, to be reasonable and proportionate to the injury to the said dependants ; and

III. If he leaves no dependants, the reasonable expenses of his medical attendance and burial, not exceeding Twenty Pounds :

(b) Where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding fifty per centum of his average weekly earnings during the previous twelve months, if he has been so long employed ; but if not, then for any less period during which he has been in the employment of the same employer ; such weekly payment not to exceed One Pound, and the total liability of the employer in respect thereof not to exceed Three Hundred Pounds :

In case of incapacity for work.

Provided that—

(a) If the incapacity lasts less than two weeks no compensation shall be payable in respect of the first week :

Incapacity for less than two weeks.

(b) 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 average weekly earnings are less than Twenty Shillings, one hundred per centum shall be substituted for fifty per centum of his average weekly earnings, but the weekly payment shall in no case exceed Ten Shillings :

Workman under twenty-one years of age.

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

Workman over sixty years of age.

1. Where death results from the injury, and the workman leaves any dependants, than Fifty Pounds :

II. Where total or partial incapacity for work results from the injury, than a weekly payment during the incapacity of Five Shillings, and a total liability of Fifty Pounds.

The Workmen's Compensation Act.—1911.

Computation of
"earnings" and
"average weekly
earnings."

(2) For the purposes of the provisions of this Schedule relating to "earnings" and "average weekly earnings" of a workman, the following rules shall be observed:—

- (a) Average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated: Provided that where, by reason of the shortness of the time during which the workman has been in the employment of his employer, or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average weekly amount which, during the twelve months previous to the accident, was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district:
- (b) Where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident:
- (c) Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause;
- (d) Where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings.

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

Medical examination.

(4) Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination by a duly 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 Act in relation to compensation, shall be suspended until such examination has taken place.

Investment of pay-
ment in case of death.

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

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.

Transfer of money
from one Court to
another.

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

Payment of weekly
sum due to person
under disability.

(7) Where a weekly payment is payable under this Act to a person under any legal disability, a Special Magistrate 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 Workmen's Compensation Act.—1911.

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.

(8) Any question as to who is a dependant shall, in default of agreement, be settled by arbitration under this Act, or, if not so settled before payment into Court under this Schedule, shall be settled by the Special Magistrate whose duty, for the time being, it is to preside over the Local Court where the sum is; and the amount payable to each dependant shall be settled by arbitration under this Act, or, if not so settled before payment into Court under this Schedule, by the Special Magistrate whose duty, for the time being, it is to preside over the Local Court where the sum is. 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.

Questions as to dependants.

(9) Where, on application being made in accordance with Rules of Court, it appears to a Special Magistrate 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 a Special Magistrate 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 Special Magistrate hearing the application may make such order for the variation of the former order or the award as in the circumstances of the case he may think just.

Power to vary order or award.

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

Investment in insurance society.

(11) Any sum to be so invested may be accepted by the Savings Bank of South Australia as a deposit in the name of the Clerk of a Local Court.

Deposit in Savings Bank.

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

Limits as to deposits and interest not to apply.

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

Payment out of Bank.

(14) Any workman receiving weekly payments under this Act shall, if so required by the employer, from time to time submit himself for examination by a duly 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 same, his right to such weekly payments shall be suspended until such examination has taken place.

Periodical medical examinations.

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

Regulations as to such examinations

(16) (a) 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 a Local Court, on application being made to the Court by both parties, may, on payment by the applicants of such fee, not exceeding Two Pounds, as is prescribed by any Rule of Court, refer the matter to a medical referee.

Reference to medical referee.

(b) The medical referee to whom the matter is so referred shall, in accordance with regulations made by the Governor, 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.

(c) Where

The Workmen's Compensation Act.—1911.

(c) 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 any regulations made by the Governor, apply as if the question were a question as to the condition of the workman.

(d) If a workman, on being required so to do, refuses to submit himself for examination by a medical referee to whom the matter has been so referred as aforesaid, or in any way obstructs the same, his right to compensation and to take or prosecute any proceeding under this Act 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 as to this paragraph.

(e) 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.

Review of weekly payment.

(17) Any weekly payment may be reviewed at the request either of the employer or of the workman, and on such review, which in default of agreement shall be by way of arbitration under this Act, may be ended, diminished, or increased subject to the maximum above provided, as from such date as the arbitrator having regard to the past or present condition of the workman may see fit.

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 fifty per centum 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 One Pound.

Lump sum in redemption of weekly payments.

(18) Where any weekly payment has been continued for not less than six months, the liability therefor may, on application by or on behalf of either the workman or the employer, be redeemed by the payment of a lump sum to be settled, in default of agreement, by arbitration under this Act, and such lump sum may be ordered by the arbitrator or Special Magistrate to be invested or otherwise applied as above-mentioned:

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.

Workman ceasing to reside in the State.

(19) If a workman receiving a weekly payment ceases to reside in South Australia, he shall thereupon cease to be entitled to receive any weekly payment, unless a medical referee, on a reference made in accordance with Rules of Court, certifies that the incapacity resulting from the injury is likely to be of a permanent nature. 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.

Payments not assignable.

(20) 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.

Suspension of payment.

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

The Workmen's Compensation Act.—1911.

SECOND SCHEDULE.

Arbitration.

The following provisions shall apply for settling any matter which, under this Act, is to be settled by arbitration :—

- (1) Subject to paragraph (2) of this Schedule every such matter shall be settled by a single arbitrator agreed on by the parties. Arbitration by a single arbitrator.
- (2) If a single arbitrator is not agreed on by the parties within one month after the making of the claim, the matter shall be settled by the Special Magistrate according to the procedure prescribed by Rules of Court. By Special Magistrate arbitration not agreed on.
- (3) "The Arbitration Act, 1891," shall not apply to any arbitration under this Act. Arbitration Act not to apply.
- (4) The arbitrator may, if he thinks fit, submit any question of law for the decision of the Special Magistrate. Question of law may be submitted to Special Magistrate.
- (5) Either party may appeal, on a question of law or facts or both, to the Supreme Court within the time and in accordance with the conditions prescribed by Rules of the Supreme Court, and such appeal may be in the nature of a re-hearing. Decision of Magistrate.
- (6) In case of such an appeal the Supreme Court shall decide the matter of the appeal, and may either dismiss the appeal or reverse or vary the decision or order appealed from, and may make such order as to the costs of the appeal and of the arbitration or proceedings before the arbitrator or Special Magistrate, or both, as the Court thinks proper ; and any decision or order of the Court under this paragraph shall be final. Appeal to Supreme Court.
- (7) The arbitrator or Special Magistrate shall, for the purposes of proceedings under this Act, have the same powers of procuring the attendance of and administering oaths and affirmations to witnesses, and of procuring the production of documents, as if the proceedings were an action in the Local Court. Powers of arbitrators and Magistrates as to witnesses and documents.
- (8) The Special Magistrate may, if he thinks fit, summon a medical referee to sit with him as an assessor, but such assessor shall not take part in the decision. Magistrate may summon medical referee as assessor.
- The arbitrator or Special Magistrate may, subject to regulations made by the Governor, appoint a medical referee to report to him on any matter which seems material to any question arising in the arbitration. Arbitrator or Magistrate may obtain report of medical referee.
- (9) Rules of Court may make provision for the appearance in an arbitration under this Act of any party by some other person. Representation of parties.
- (10) Subject to paragraph (6) of this Schedule and to any Rules of Court, the costs of and incidental to the arbitration and proceedings connected therewith shall be in the discretion of the arbitrator or Special Magistrate. The costs ordered by the arbitrator or Special Magistrate may be a lump sum, and shall not exceed the limit prescribed by Rules of Court, and shall, if necessary, be taxed in manner prescribed by those rules ; and such taxation may be reviewed by the Special Magistrate. Costs.
- (11) In the case of the death, or refusal or inability to act, of an arbitrator, the Special Magistrate may, on the application of any party, settle the matter. Failure of arbitrator to act.
- (12) Where the amount of compensation under this Act has been ascertained, or any weekly payment varied, or any other matter decided under this Act, either by an arbitrator or by agreement, a memorandum thereof shall be sent, in manner prescribed by Rules of Court, by the arbitrator, or by any party interested, to the clerk of the Local Court, who shall, subject to such rules, on being satisfied as to its genuineness, record such memorandum in a special register without fee, and thereupon the memorandum shall for all purposes be enforceable as a Local Court judgment : Registration of memorandum of agreement or arbitrator's decision.

Provided that —

- (a) No such memorandum shall be recorded before seven days after the dispatch by the clerk of the Court 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 Act, 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 such memorandum, the memorandum shall only be recorded, if at all, on such terms as the Special Magistrate, under the circumstances, may think just :

(c) The

The Workmen's Compensation Act.—1911.

- (c) The Special Magistrate may at any time rectify the register :
- (d) Where it appears to the clerk of the Court on any information which he considers sufficient, that an agreement as to the redemption of a weekly payment by a lump sum, or an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence, or other improper means, he may refuse to record the memorandum of the agreement sent to him for registration, and in that case shall refer the matter to the Special Magistrate, 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 he may think just :
- (e) The Special Magistrate may, within six months after a memorandum of an agreement as to the redemption of a weekly payment by a lump sum, or of an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, has been recorded in the register, order that the record be removed from the register on proof to his satisfaction that the agreement was obtained by fraud or undue influence or other improper means, and may make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think just.

Effect of non-registration of agreement.

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

What Court or Special Magistrate to have jurisdiction.

(14) (a) Where any matter under this Act is to be done in a Local Court, then, unless the contrary intention appears, the same shall, subject to Rules of Court, be done in the Local Court of Full Jurisdiction nearest to which the party applying resides, or to which the matter is transferred in manner and in the circumstances prescribed by Rules of Court.

(b) Where in this Act a Special Magistrate or a clerk of a Local Court is referred to, such Magistrate or clerk shall, unless the context shows a different intention, be the Special Magistrate whose duty, for the time being, it is to preside at the Local Court prescribed by sub-paragraph (a) of this paragraph and the clerk of such Court respectively.

Duties to be part of duties of Local Courts.

(15) The duties of a Special Magistrate under this Act, shall, subject to Rules of Court, be part of the duties of Local Courts, and the officers of the Court shall act accordingly.

Fees.

(16) No Court fee, except such as may be prescribed under paragraph (16) of the First Schedule, shall be payable by any party in respect of any proceedings by or against a workman under this Act in the Court prior to the award.

Payment to be made to persons entitled.

(17) Any sum awarded as compensation shall, unless paid into Court under this Act, be paid on the receipt of the person to whom it is payable under any agreement or award ; and no solicitor and no agent of a person claiming compensation under this Act shall be entitled to recover from him any costs in respect of any proceedings in an arbitration under this Act, or to claim a lien in respect of such costs on, or deduct such costs from, the sum awarded or agreed as compensation, except such sum as may be awarded by the arbitrator or Special Magistrate, 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 ; and any such sum, unless it is a lump sum, shall be awarded subject to taxation and to the scale of costs prescribed by Rules of Court.

Costs to be taxed.

Persons under disability need not be represented.

(18) Unless so directed by the arbitrator or Special Magistrate, it shall not be necessary upon any arbitration, or any application connected therewith, for dependants, who are married women, infants, or persons of unsound mind or under any legal disability, to be represented.

(19) The

The Workmen's Compensation Act.—1911.

(19) The arbitrator or Special Magistrate shall, in all cases where he thinks it necessary, direct the manner in which dependants who are married women, infants, or persons of unsound mind or under any legal disability, shall be represented, and may make any direction which he deems proper for the representation of any class of dependants by a member of such class or otherwise.

Directions for representation of such persons.

(20) An acknowledgment or receipt in writing of money payable under this Act shall not be invalid merely on the ground that any person was under the age of twenty-one years at the time of his signing or giving the same.

Receipt sufficient discharge.

THIRD SCHEDULE.

Section 12.

| Description of Disease. | Description of Process. |
|--|---|
| Anthrax | Handling of wool, hair, bristles, hides and skins. |
| Lead poisoning or its <i>sequelæ</i> | Any process involving the use of lead or its preparations or compounds. |
| Mercury poisoning or its <i>sequelæ</i> | Any process involving the use of mercury or its preparations or compounds. |
| Phosphorus poisoning or its <i>sequelæ</i> | Any process involving the use of phosphorus or its preparations or compounds. |
| Arsenic poisoning or its <i>sequelæ</i> . . | Any process involving the use of arsenic or its preparations or compounds. |
| Ankylostomiasis | Mining. |