

Lesotho

## Workmen's Compensation Act, 1977

Act 13 of 1977

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## Act 13 of 1977

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## ACT

**To replace the law relating to compensation to workmen for injuries suffered in the course of their employment, to provide for the payment of medical expenses in respect of such injuries, and for connected purposes.**

Enacted by the Assembly

### 1. Short title and commencement

This Act may be cited as the Workmen's Compensation Act 1977 and shall come into operation on such date as the Minister may by notice appoint and different dates may be appointed for different provisions of the Act.

## Part I – Interpretation

### 2. Meaning of 'workman' and application of Act

- (1) In this Act, unless the context otherwise requires, the expression "workman", subject to the provisions of [section 4](#), means any person who has, either before or after the commencement of this Act, entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour or otherwise, whether the contract is expressed or implied, is oral or in writing, and whether the remuneration is calculated by time or by work done.
- (2) The following persons shall be excepted from the definition of "workman"—
  - (a) a person whose employment is of a casual nature and who is employed otherwise than for the purpose of the employer's trade or business, not being a person employed for the purpose of any game or recreation and engaged or paid through a club;
  - (b) an outworker;
  - (c) a domestic servant;
  - (d) any person whose services are rewarded in kind according to custom;
  - (e) a member of the employer's family dwelling in his house;
  - (f) any class of persons whom the Minister may by notice declare not to be workmen for the purpose of this Act.

- (3) If in any proceedings for the recovery of compensation under this Act it appears to the court that the contract of service or apprenticeship under which the injured person was working at the time when the accident causing the injury happened was illegal, the court may, if having regard to all the circumstances of the case it thinks proper so to do, deal with the matter as if the injured person had at the time been a person working under a valid contract of service or apprenticeship.
- (4) Any reference to workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependants or any of them or such officer as the Minister may appoint to act on behalf of the dependants of the workman.

### 3. Interpretation

In this Act, unless the context otherwise requires—

**"business"** in the case of an administrative or public authority, includes the exercise and performance of functions of that authority;

**"child"** means an unmarried son or daughter under the age of sixteen years of a workman, or any such unmarried son or daughter under the age of twenty one years if he/she is undergoing a full time course of study at a recognised educational institute; including an illegitimate child, a step child, an adopted child or any child of the workman or his wife who is born within ten months of the death of a workman;

**"compensation"** means compensation as provided for by this Act;

**"court"** means a Subordinate Court of the Resident Magistrate;

**"dependants"** means those members of the family of a workman, including any child, who were wholly or in part dependant upon his earnings at the time of his death, or would but for the incapacity due to the accident have been so dependant and, where the workman, being the parent or grandparent of an illegitimate child, leaves such child so dependant upon his earnings, or being an illegitimate child, leaves a parent or grandparent so dependant upon his earnings, shall include such an illegitimate child or parent or grandparent respectively Provided that—

- (a) where the workman does not leave a widow to whom he was married at the time of his death, "dependant" shall be deemed to include any woman with whom he was living as man and wife at the time of his death;
- (b) a person shall not be deemed to be a partial dependant of another person unless he was dependant partially on contributions from that other person for the provision of the ordinary necessities of life;

**"district"** means any one of the several areas into which Lesotho has been, or may be divided for the purposes of administration;

**"domestic servant"** means a domestic servant employed as such in a private household;

**"earnings"** include wages and any allowance in respect of increased cost of living paid to the workman by the employer and the value of any food, fuel or quarters supplied to the workman by the employer if as a result of the accident the workman is deprived of such food, fuel or quarters; and any overtime payments or other special remuneration for work done whether by way of bonus or otherwise, if of constant character or for work habitually performed, but shall not include remuneration for intermittent overtime, or casual payments of a non-recurrent nature, any ex gratia payment, whether given by the employer or other person, or the value of a travelling allowance, or the value of any travelling concession or a contribution, paid by the employer of a workman towards any pension or provident fund, or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

Provided that the value of such food and quarters shall not be assessed at a figure of less than seven rand per month in respect of each;

**"employer"** includes the Government and any body of persons corporate or 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 Act, be deemed to continue to be the employer of the workman whilst he is working for that other person; and in relation to a person employed for the purposes of any game or recreation and engaged or paid through a club, the manager, or members of the managing committee of the club shall, for the purposes of this Act, be deemed to be the employer;

**"industrial disease"** means any disease specified in the First Schedule;

**"insurer"** includes any insurance society, association, company or underwriter;

**"Labour Commissioner"** means the Labour Commissioner appointed under section 4 of the Employment Act 1967 and includes any other officer authorised in writing by the Labour Commissioner to carry out the functions of the Labour Commissioner under this Act;

**"medical aid"** means medical, surgical and hospital treatment, skilled nursing services, and the supply of medicine within Lesotho or, with the approval of the Medical Superintendent, outside Lesotho and the supply, maintenance, repair and renewal of artificial limbs, or any other artificial appliances or apparatus;

**"medical practitioner"** means a medical practitioner registered or licensed under the provision of the Medical, Dental and Pharmacy Order 1970;

**"member of the family"** means the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister;

**"Medical Superintendent"** means the Medical Superintendent in the government;

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

**"partial incapacity"** means—

- (a) where the incapacity is of a temporary nature, such incapacity as reduces the earning of a workman in any employment in which he was engaged at the time of the accident resulting in the incapacity; and
- (b) where the incapacity is of a permanent nature, such incapacity as reduces his earning capacity in any employment which he was capable of undertaking at that time:

Provided that disfigurement, if of a nature to cause a loss of earning capacity, and every injury specified in the Second Schedule, (except such injury or combination of injuries in respect of which the percentage or aggregate percentage of the loss of earning capacity as specified in that Schedule against such injury or injuries amounts to one hundred per centum or more) shall be deemed to result in permanent partial incapacity;

**"serious and wilful misconduct"** includes—

- (a) drunkenness;
- (b) a wilful contravention of any law or statutory regulation made for the purpose of ensuring the safety of or preventing accidents to workmen;
- (c) any other act or omission which a court of law having regard to all the circumstances of an accident, may declare to be serious and wilful misconduct;

**"total incapacity"** means such incapacity, whether of a temporary or permanent nature, as incapacitates a workman for any employment which he was capable of undertaking at the time of the accident resulting in such incapacity:

Provided that permanent total incapacity shall be deemed to result from an injury or from a combination of injuries specified in the Second Schedule where the percentage or aggregate percentage of the loss of earning capacity, as specified in that Schedule against such injury or injuries, amounts to one hundred per cent or more.

#### 4. Application to workmen employed by the Government

- (1) This Act shall apply to workmen employed by the Government in the same way and to the same extent as if the employer were a private person.
- (2) Notwithstanding sub-section (1) and [section 2](#), nothing in this Act shall apply to—
  - (a) any member of His Majesty's Armed Forces, the Lesotho Mounted Police or the Prison Service;
  - (b) a workman in the services of the Government where in consequence of injury received by him in the discharge of his duties, a pension or gratuity is payable to him or, in the case of his death, to any of his dependants under any Act providing for the grant of such pension or gratuity.

### Part II – Compensation for injury

#### 5. Employer's liability for compensation for death or incapacity resulting from accident

- (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 be liable to pay compensation in accordance with the provisions of this Act:

Provided that—

- (a) the employer shall not be liable under this Act in respect of any injury which does not incapacitate the workman for at least three days from earning full wages at the work at which he was employed; and
- (b) if it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall be disallowed:

Provided that where the injury results in death or serious and permanent incapacity, the court, on consideration of all the circumstances may award the compensation provided for by this Act or such part thereof as it shall think fit.

- (2) For the purposes of this Act an accident resulting in the death or serious and permanent incapacity of a workman shall be deemed to arise out of and in the course of his employment, notwithstanding that the workman was at the time when the accident happened, acting in contravention of any statutory or other regulation applicable to his employment, or of any orders given by or on behalf of his employer or that he was acting without instructions from his employer, if such act was done by the workman for the purposes of and in connection with his employer's trade or business.
- (3) No compensation shall be payable under this Act in respect of any incapacity or death resulting from a deliberate self-injury.
- (4) No compensation shall be payable under this Act in respect of any incapacity or death resulting from personal injury if the workman has at any time represented in writing to the employer that he was not suffering and had not previously suffered from that or a similar injury, knowing that the representation was false.



## 6. Compensation in fatal cases

Where death results from the injury—

- (a) and the workman leaves any dependants wholly dependant on his earnings, the amount of the compensation shall be a sum equal to forty eight months' earnings or twelve thousand rand whichever is less; but where in respect of the same accident compensation has been paid under the provisions of section 7 or 8 there shall be deducted from the sum payable under this paragraph any sums so paid as compensation;
- (b) and the workman does not leave any dependants wholly dependant on his earnings but leaves any dependants in part so dependant, the amount of compensation shall be such sum, not exceeding in any case the amount payable under paragraph (a) of this section, as may be determined by the court to be reasonable and proportionate to the injury to such dependants;
- (c) in addition to any sums payable under (a) and (b) above, the reasonable expenses of the burial of the deceased workman not exceeding the sum of one hundred and fifty rand and the reasonable expenses of medical attention as laid down in Part III of this Act shall be paid by the employer.

## 7. Compensation in case of permanent total incapacity

- (1) Where permanent total incapacity results from the injury, the amount of compensation shall be a sum equal to fifty-four months' earnings:

Provided that in no case shall the amount of compensation in respect of permanent total incapacity be greater than thirteen thousand five hundred rand nor less than one thousand eight hundred rand.

- (2) Notwithstanding the provisions of sub-section (1), where an injury results in permanent total incapacity of such a nature that the injured workman must have the constant help of another person, additional compensation shall be paid amounting to one-quarter of the amount which is otherwise payable under this section.

## 8. Compensation in case of permanent partial incapacity

- (1) Where permanent partial incapacity results from the injury, the amount of compensation shall be —
  - (a) in the case of an injury specified in the Second Schedule, such percentage of fifty-four months' earnings as is specified therein as being the percentage of the loss of earning capacity caused by that injury; and
  - (b) in the case of an injury not specified in the Second Schedule, such percentage of fifty-four months' earnings as is proportionate to the loss of earning capacity permanently caused by the injury as assessed by a medical practitioner or the medical board, or, where such assessment is disputed, as determined by the Court.
- (2) Where more injuries than one are caused by the same accident, the amount of compensation payable under this section shall be aggregated but shall in no case exceed the amount that would have been awarded if the accident had resulted in permanent total incapacity.

## 9. Compensation in case of temporary incapacity

- (1) Where temporary incapacity whether total or partial results from the injury, the compensation shall be the periodical payments hereinafter mentioned, payable at such intervals as may be

agreed upon or as the court may order, or a lump sum calculated accordingly, having regard to the probable duration and probable changes in the degree of the incapacity.

Provided that—

- (a) neither the aggregate of the periodical payments nor the lump sum payable under the provisions of this subsection shall exceed the lump sum which would be payable in respect of the same degree of incapacity under the provisions of subsection (1) of [section 7](#) or [section 8](#), as the case may be, if the incapacity were permanent;
  - (b) the period covered by hospitalisation or absence from duty certified necessary by a medical practitioner shall be regarded as a period of temporary total incapacity irrespective of the outcome of the injury, and any period subsequent thereto but preceding final assessment of disability shall be regarded as a period of temporary partial incapacity, both periods being continuous with each other, variations in payment notwithstanding, and the maximum duration of periodical payments under this section shall not exceed ninety-six months;
  - (c) in the event of death or permanent incapacity following after temporary incapacity, no deductions shall be made from any lump sum payable under [section 6](#), [7](#), or [8](#) by reason of periodical payments or a lump sum payment having been made under this section.
- (2) During any period of temporary total incapacity the periodical payments shall be a monthly payment of an amount equal to seventy five per cent of the monthly earnings which the workman was earning at the time of the accident.
  - (3) During any period of temporary partial incapacity the periodical payments shall be a monthly payment equal to seventy five percent of the workman's loss of earnings. For the purpose of this sub-section loss of earnings shall be deemed to be an amount by which the workman's monthly earnings before the accident exceed the monthly earnings that he is earning after the accident in any employment or business, or is able to earn in some suitable employment provided or found for him after the accident by the employer by whom he was employed at the time of the accident.
  - (4) In fixing the lump sum of periodical payments payable under subsection (1) (2) or (3), the court may deduct the value of any payment, allowance or benefit including the value of any food, fuel or quarters which the workman may receive from the employer during the period of incapacity but excluding expenses in respect of medical aid under Part III of this Act.
  - (5) On the ceasing of the incapacity before the date on which any periodical payment falls due, there shall be payable in respect of that period a sum proportionate to the duration of the incapacity in that period.
  - (6) Where a workman in receipt of periodical payments under the provisions of this section intends to leave the district in which he was employed for the purpose of residing elsewhere, he shall give notice of such intention to the employer, who may agree with the workman for the redemption of such periodical payments by a lump sum or for the continuance of such periodical payments. If the employer and workman are unable to agree, either party may apply to the Labour Commissioner who may order such redemption and determine the amount to be paid, or order the continuance of the periodical payments:

Provided that any lump sum so ordered to be paid, together with the periodical payments already made to the workman, shall not exceed the lump sum which would be payable in respect of the same degree of incapacity under the provisions of subsection (1) of [section 7](#) or [8](#), as the case may be, if the incapacity were permanent.
  - (7) If a workman in receipt of periodical payments under the provisions of this section leaves the district in which he was employed, for the purpose of residing elsewhere, without giving notice as provided in sub-section (6), or having given such notice, leaves the neighbourhood as aforesaid without having come to an agreement with his employer for the redemption or continuance of such periodical payments, or without having made application to the Commissioner of Labour under the provisions of sub-section (6), he shall not be entitled to any benefits under

the provisions of this Act during or in respect of the period of his absence. If the period of such absence exceeds six months, the workman shall cease to be entitled to any benefits under the provisions of this Act.

## 10. Method of calculating earnings

- (1) For the purpose of this Act the monthly earnings of a workman shall be computed in such manner as is best calculated to give the rate per month at which the workman was being remunerated at the date of the accident:

Provided that—

- (a) 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 his employment, it is impracticable to compute the rate of remuneration in the manner aforementioned, regard may be had to the average monthly amount which during the twelve months previous to the accident, was being earned by a person of similar earning capacity in the same grade employed at the same work by the same employer, or if there is no person so employed, by a person of similar earning capacity in the same grade employed in the same class of employment and in the same district;
- (b) for the purposes of assessing compensation payable in the case of permanent incapacity—
- (i) where the workman was, at the date of the accident, under the apparent age of eighteen years, his earnings shall be deemed to be such amount as, had he not met with the accident, he would probably have received upon attaining the age of eighteen years, or at the end of a period of five years after the accident, whichever calculation is more favourable to the workman; and
- (ii) where the workman was, at the date of the accident, employed under a contract of apprenticeship or as an improver or learner, his earnings shall be deemed to be such amount as, had he not met with the accident, he would probably have received upon the completion of his apprenticeship or the period during which he was employed as on improver or learner.
- (2) For the purposes of sub-section (1) 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.
- (3) Where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one employer and at another time for another employer, his monthly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident:
- Provided that the earnings of the workman under the concurrent contract shall be disclosed to any other employer at the time of his engagement with the latter and shall be taken into account only insofar as the workman is incapacitated from performing the concurrent contract.
- (4) The employer liable to pay compensation shall, if so required by the workman or the Labour Commissioner, furnish in writing a list of the earnings which have been earned by that workman upon which the amount of the monthly earnings may be calculated for purposes of this section.

## 11. Persons entitled to compensation

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

- (2) Where there are both total and partial dependants nothing in this Act shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.
- (3) Where a dependant dies before a claim in respect of death is made under this Act or, if a claim has been made, before an order for the payment of compensation has been made, the legal personal representative of the dependant shall have no right to payment of compensation and the claim for compensation shall be dealt with as if that dependant had died before the workman.

## 12. Distribution of compensation

- (1) Compensation payable where the death of a workman has resulted from an injury shall be paid into court and the court may order any sum so paid in to be apportioned among the dependants of the deceased workman, or any of them in such proportion as the court thinks fit, or in the discretion of the court, to be allotted to any one such dependant, and the sum allotted to any dependant shall be paid to him or be invested, applied or otherwise dealt with for his benefit in such manner as the court thinks fit.
- (2) Where, on application being made in accordance with rules made under this Act, it appears to the court that, on account of the variation of the circumstances of the various dependants or for any other sufficient cause, an order made under sub-section (1) ought to be varied, the court may make such order for the variation of the former order as in the circumstances of the case the court may think just.
- (3) Compensation payable under the provisions of section 7 or 8 and lump sums payable under the provisions of section 9 shall be paid into court, and the court may order any sum so paid to be paid to the person entitled thereto or to be invested, applied, periodical payments to be made or otherwise dealt with for his benefit in such manner as the court thinks fit.
- (4) Nothing in this section shall prevent an employer from making any payment to a workman pending the settlement or determination of the claim and the court may order that the whole or any part of such payment shall be deducted from the amount of compensation payable to him under the provisions of this section.
- (5) Any other compensation payable under this Act may be paid to the workman or into court and when so paid in shall be paid by the court to the person entitled thereto.
- (6) The receipt of the clerk of the court shall be sufficient discharge in respect of any amount paid to the court under the provisions of this Act.
- (7) Any order or directions of the court under this section shall be final.

## 13. Requirements as to notice of accident and application for compensation

Proceedings for the recovery under this Act of compensation for an injury shall not be maintainable unless notice of the accident has been given either orally or in writing to the employer, or to any foreman or other official under whose supervision the workman is employed, by or on behalf of the workman as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury or, in the case of death, within six months from the time of death:

Provided that—

- (a) the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if the employer is proved to have had knowledge of the accident from any other source at or about the time of the accident, or if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the

hearing postponed, be prejudiced in his defence by the want, defect or inaccuracy, or that such want, defect or inaccuracy was occasioned by mistake or other reasonable cause;

- (b) the failure to make a claim for compensation 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 or other reasonable cause,

but no proceedings for the recovery of compensation shall be maintainable unless the claim for compensation is made within a period of three years from the date of the accident.

#### 14. Duty of employer to report accident

- (1) Whenever an accident occurs which results in the death or absence of a workman from his employment for three days or more, or in any injury which would entitle him to compensation in terms of this Act, notice in the prescribed form shall be given to the Labour Commissioner by the employer within three days of the accident coming to his notice.
- (2) In the event of the death of a workman occurring after notice of accident has been sent under the provisions of sub-section (1), the employer shall inform the Labour Commissioner in writing of such death and of the date thereof.
- (3) On the receipt of a notice under sub-section (1) or (2) the Labour Commissioner may make such investigations as he may think fit, and if it appears to him that a claim for compensation may lie under this Act in respect of the death of the workman he shall take steps—
  - (a) to ascertain whether there are any dependants of the deceased workman and if so the degree of their dependancy; and
  - (b) to inform such dependants, if any, of the reported cause and circumstances of the death of the workman, and to ascertain whether such dependants intend to make a claim for compensation or wish a claim to be made on their behalf.
- (4) Any employer who fails to comply with the provisions of this section without reasonable cause shall be guilty of an offence and on conviction liable to a fine not exceeding two hundred rand or in default of payment to imprisonment for a term not exceeding one year.

#### 15. Medical examination and treatment

- (1) Where a workman has given notice of an accident, the employer shall, as soon as reasonably possible after the date on which notice has been given, arrange to have him medically examined free of charge to the workman, by a medical practitioner named by the employer and any workman who is in receipt of periodical payments under [section 9](#) shall submit himself for such medical examination from time to time as may be required by the employer.
- (2) The workman shall, when required, attend upon the medical practitioner at such reasonable time and place as shall be notified to the workman by the employer or the medical practitioner.
- (3) In the event of the workman being, in the opinion of any medical practitioner, unable or not in a fit state to attend on the medical practitioner named by the employer, that fact shall be notified to the employer, and the medical practitioner so named shall fix a reasonable time and place for a personal examination of the workman and shall send him notice accordingly.
- (4) If the workman fails to submit himself for such examination, his right to compensation shall be suspended until such examination has taken place; and if such failure extends for a period of fifteen days from the date when the workman was required to submit himself for examination under the provisions of sub-section (2) or (3), as the case may be, no compensation shall be payable unless it is established that there was reasonable cause for such failure.
- (5) The workman shall be entitled to have his own medical practitioner present at such examination but at his own expense.

- (6) During the period of temporary total incapacity, the employer shall arrange to submit the workman for normal medical treatment by either the employer's medical practitioner or the workman's medical practitioner approved by the employer, at the expense of the employer. Such normal medical treatment shall include any specialist treatment which the medical practitioner may advise the workman to undergo:
- Provided that when the employer nominates the medical practitioner the workman may appeal to the Labour Commissioner for leave to be treated by his own medical practitioner, and the Labour Commissioner's decision shall be final, but any additional expense incurred for such treatment or for transport shall be borne by the workman.
- (7) If the workman has failed to submit himself for treatment by a medical practitioner when so required under the provisions of sub-section (6) or having submitted himself for such treatment has disregarded the instructions of such medical practitioner, then if it is proved that such failure or disregard was unreasonable in the circumstances of the case and the injury has been aggravated thereby, the injury and resulting incapacity shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had submitted himself for treatment by and duly carried out the instructions of, such medical practitioner, and compensation, if any, shall be payable accordingly.
- (8) Where under the provisions of this section a right of compensation is suspended, no compensation shall be payable in respect of the period of suspension.
- (9) Notwithstanding the previous provisions of this section, where a claim for compensation is made in respect of the death of a workman then if the workman had failed to submit himself to examination by a medical practitioner when so required under the provisions of this section or, having submitted himself for such treatment, disregarded the instructions of such medical practitioner, and if it is proved that such failure or disregard was unreasonable in the circumstances of the case and that the death of the workman was caused thereby, the death shall not be deemed to have resulted from the injury, and no compensation shall be payable in respect of the injury.

## 16. Agreement as to compensation

- (1) The employer and workman may with the approval of the Labour Commissioner or a person appointed by him after the injury in respect of which the claim to compensation has arisen, agree in writing as to the compensation to be paid by the employer. Such agreement shall be in triplicate, one copy to be kept by the employer and one copy to be kept by the workman and the third copy to be retained by the Labour Commissioner.
- Provided that—
- (a) the compensation agreed upon shall not be less than the amount payable under the provisions of this Act; and
- (b) the agreement shall not be binding against the workman unless it is endorsed by a certificate of the Labour Commissioner or the person appointed by him, to the effect that he read over and explained to the workman the terms thereof and that the workman appeared fully to understand and approve of the agreement.
- (2) Any agreement made under the provisions of sub-section (1) may on application to the court be made an order of the court.
- (3) Where compensation has been agreed the court may, notwithstanding that the agreement has been made an order of the court under the provisions of sub-section (2), on application by any party within three months after the date of the agreement cancel it and make such order (including an order as to any sum already paid under the agreement) as in the circumstances the court may think just if it is proved—

- (a) that the sum paid was or is not in accordance with the provisions of sub-section (1); or
  - (b) that the agreement was entered into in ignorance of or under a mistake as to the true nature of the injury; or
  - (c) that the agreement was obtained by such fraud, undue influence, misrepresentation or other improper means as would in law be sufficient ground for avoiding it.
- (4) No stamp duty shall be leviable or payable on any agreement under this section.

### **17. Workman's Compensation Medical Board**

- (1) There shall be a Board to be known as the Workman's Compensation Medical Board.
- (2) The Board shall consist of three members appointed by the Minister as follows—
- (a) a medical practitioner employed by the Government who shall be chairman;
  - (b) a medical practitioner not employed by Government; and
  - (c) a legal practitioner.
- (3) Members of the Board shall hold office at the pleasure of the Minister and be paid out of the public revenue such fees and allowances as the Minister may fix.
- (4) Notwithstanding sub-section (3) no member of the Board shall be paid any fees in respect of the performance of his duties as a member of the Board if he is an employee of the Government.
- (5) The quorum of the Board shall be two members, provided that where only two members of the Board attend any meeting and agreement is not reached on any matter referred to the Board, such matter shall be deferred to a meeting attended by the full Board. Subject to this requirement, this Act and the regulations the Board shall regulate its own procedure.

### **18. Functions of Workmen's Compensation Medical Board**

- (1) The Labour Commissioner may refer to the Board any dispute regarding—
- (a) the degree and duration of incapacity under section [7](#), [8](#), or [9](#);
  - (b) the medical examination and treatment provided for in [section 15](#);
  - (c) the necessity for or the character or sufficiency of any medical aid provided, or to be provided, to any workman under this Act; or
  - (d) an assessment made by a medical practitioner pursuant to [section 8\(1\)\(b\)](#).
- (2) The Board shall provide the Labour Commissioner with its written opinion on any dispute referred to it by the Labour Commissioner.

### **19. Determination of claims**

- (1) If an employer on whom notice of the accident has been served under the provisions of [section 13](#) does not within twenty-one days after the receipt of the notice agree in writing with the workman as to the amount of compensation to be paid, the workman may, in the prescribed form and manner, make an application to the court for the purpose of enforcing his claim to compensation.
- (2) All claims for compensation under this Act unless determined by agreement, and any matter arising out of proceedings thereunder shall be determined by the court whatever be the amount involved, and the court may, for that purpose, call upon any government officer or any

independent medical practitioner to give evidence, if the court is of opinion that such officer or practitioner is, by virtue of his expert knowledge, able to assist the court.

## 20. Review

- (1) Any periodical payment payable under the provisions of this Act either under agreement between the parties, or under the order of the court, may be reviewed by the court on the application either of the employer or of the workman:

Provided that any such application shall be supported by a certificate of a medical practitioner.

- (2) Any periodical payment may, on review under this section, subject to the provisions of this Act, be continued, increased, diminished, converted to a lump sum or ended.
- (3) If the accident is found to have resulted in permanent incapacity, the periodical payment shall be converted to the lump sum to which the workman is entitled under the provisions of section 7 or 8, as the case may be and such lump sum shall be dealt with in accordance with the provisions of sub-section (2) of [section 12](#).
- (4) Where application is made by an employer under the provisions of this section for any periodical payment to be ended or diminished and the application is supported by the certificate of a medical practitioner, the employer may pay into court the periodical payment or so much thereof as is equal to the amount by which he contends that the periodical payment should be diminished, to abide the decision of the court made on review under this section.
- (6) In making a review under the provisions of this section the court shall have regard only to the capacity for work of the workman as affected by the accident.

*[Please note: numbering as in original.]*

## 21. Limitation on power of employer to end or decrease periodical payments

Subject to the provisions of subsection (5) of [section 9](#), sub-section (4) of [section 15](#) and sub-section (4) of [section 20](#), an employer shall not be entitled, otherwise than in pursuance of an agreement or an order of the court—

- (a) to end periodical payments except—
  - (i) where a workman resumes work and his earnings are not less than the earnings which he was obtaining before the accident; or
  - (ii) where a workman dies; or
  - (iii) where the medical practitioner who attended the workman under the provisions of [section 15](#) has certified the workman as being fully recovered and fit for work.
- (b) to diminish periodical payments, except that where the earnings of workman in receipt of periodical payments together with such payments, exceed the amount of his earnings at the date of the accident, the employer may diminish the payments of such workman by an amount equal to such excess.

## 22. Jurisdiction of court

- (1) Save as is provided in this Act and any regulations made thereunder, the court shall, upon or in connection with any question to be investigated or determined thereunder, have all the powers and jurisdiction exercisable by a Subordinate Court of the Resident Magistrate in or in connection with civil actions in court; and the law, rules and practice relating to such civil actions and to enforcement of judgement and orders of the court shall, *mutatis mutandis*, apply.



- (2) Where in any proceedings under this Act on a claim for compensation in respect of the death of a workman, the court is satisfied that other or sufficient evidence as to the dependancy on the deceased workman of a person claiming to be a dependant residing outside the district in which the proceedings are being taken, or as to the degree of such dependancy cannot be procured, without undue hardship to the claimant or other party to the proceedings, a statement as to dependancy and as to the degree of dependancy of the claimant, purporting to be signed by the District Administrator of the district in which the claimant resides within Lesotho, or a Magistrate or similar judicial officer of the area within which the claimant resides in any other territory, shall be *prima facie* proof of the facts stated therein. The said signature shall be admitted without proof unless the court shall have reason to doubt the genuineness thereof.
- (3) If in such proceedings any evidence is adduced which in the opinion of the court traverses the facts set out in such a statement, or if for any other reason the court thinks fit, the court may request a court having jurisdiction in the district in which a person claiming to be a dependant resides, to investigate the fact of the dependancy and the degree of the dependancy of such person. The record of any such investigation, including the finding of the court thereon, shall be receivable as evidence in the proceedings, and a certificate purporting to be signed by an officer of the court which has conducted the investigation, shall be sufficient proof of such record and such signature shall be admitted without proof, unless the court shall see reason to doubt the genuineness thereof.
- (4) Where a request is received by a court from a court in another district within Lesotho, or from any other territory for any matter arising out of proceedings for compensation instituted in such other court under this Act, or, if the other court is in another territory, under a law relating to workman's compensation, the court shall have jurisdiction to conduct such investigation, and shall transmit to such other court the record of such investigation, including its findings thereon, duly certified by an officer of the court.
- (5) In this section, "territory" means any country with which the Minister may have made arrangements for the purposes of enforcing this section.

### **23. Power of court to submit question of law**

The court may, if it thinks fit, submit any question of law for the decision of the High Court. Such submission shall be in the form of a special case in accordance with rules made under the provisions of this Act.

### **24. Appeals**

- (1) Subject to the provisions of this section and of sections 12 and 23 an appeal shall lie to the High Court from any order of the court.
- (2) Except with the leave of the court or of the High Court (which shall not be granted unless in the opinion of such court some substantial question of law is involved in the appeal), no appeal shall lie if the amount in dispute is less than one thousand rand.
- (3) No appeal shall lie in any case in which the parties have specifically agreed to abide by the decision of the court or in which the order of the court gives effect to an agreement reached by the parties.
- (4) No appeal shall lie after the expiration of thirty days from the date of the order of the court.

### **25. Liability in case of workman employed by contractors**

- (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 the provisions of 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.

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

## 26. Liability of third parties for compensation

- (1) Where an accident in respect of which compensation is payable was caused under circumstances creating a legal liability in some other person, (hereinafter in this section referred to as the third party) other than the employer, to pay damages in respect thereof—
  - (a) the workman may claim compensation both under this Act and also take proceedings in a court of law against the third party to recover damages:

Provided that where such proceedings are instituted the court shall, in awarding damages, have regard to the amount which is likely to become payable to the employer or which has been paid to the employer, as the case may be, by the third party in accordance with paragraph (b);
  - (b) the employer by whom compensation is payable shall have a right of action against the third party for the recovery of compensation paid or to be paid under this Act as a result of the accident and may exercise such right by intervening in any proceedings instituted by the workman against the third party or by instituting separate proceedings:

Provided that the amount recoverable under this paragraph shall not exceed the amount of compensation payable by the employer to the workman under the provisions of this Act.
- (2) The workman shall, before instituting proceedings under paragraph (a) of sub-section (1) of this section, notify the Commissioner of Labour and the employer, in writing, of his intention so to do and shall likewise notify the Commissioner of Labour and the employer if proceedings are abandoned, relinquished, or settled privately with the full concurrence of the workman.

## 27. Proceedings independently of Act

- (1) Where the injury was caused by the personal negligence or wilful act of the employer, or of some other person for whose act or default the employer is responsible, nothing in this Act shall prevent proceedings to recover damages being instituted against the employer in a civil court independently of this Act:

Provided that any sum received by a workman, or by or on behalf of a workman, under the provisions of this Act, shall be deducted from any sum awarded by the court as a result of such proceedings.

- (2) Where proceedings are instituted independently of this Act, or where on appeal it is determined that the employer is not liable under such proceedings, the court in which such proceedings are taken, or the appeal court, may assess any extra costs which in the opinion of the court or appeal court have been incurred by the employer by reason of the proceedings having been taken independently of this Act, and may make an order that such costs shall be deducted from any compensation which has been paid or which may be payable under the provisions of this Act.

## **28. Obligation of employer to insure**

- (1) Every employer other than the Government who employs a workman shall insure and keep himself insured in respect of all liability which he may incur under the provisions of this Act with such insurer as the Minister may, subject to sub-section (2) approve by notice.
- (2) Before approving an insurer under sub-section (1), the Minister shall satisfy himself that the insurer has adequate facilities in Lesotho for issuing policies of insurance for the purpose referred to in sub-section (1) and assessing claims thereunder.
- (3) The Minister may by certificate under his hand exempt any employer from the provisions of sub-section (1) on any conditions as to the provision of a security or otherwise as he may determine.
- (4) For the purposes of sub-section (3) a security shall consist of an undertaking by a surety approved by the Minister to make good, subject to any conditions specified therein and up to an amount approved by the Minister, any failure by the employer to discharge any liability which he may incur under the provisions of this Act to any workman employed by him.
- (5) Any employer who acts in contravention of the provisions of sub-section (1) shall be guilty of an offence and shall be liable to a fine of three hundred rand, or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment; and, if the contravention in respect of which he was so convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction in respect thereof to a fine not exceeding twenty rand for each day on which the contravention was so continued.

## **29. Procedure where workman's earnings do not exceed a prescribed amount**

Notwithstanding anything contained in this Act, where the workman's earnings do not exceed such amount as may be prescribed, the following provisions shall apply and in the case of conflict or inconsistency shall prevail over any other provisions of the Act, but any such provisions as are not inconsistent shall also apply in relation to such workman—

- (a) any compensation shall be paid to the Labour Commissioner, who shall pay such sum, in cases of incapacity, to the workman entitled to receive it; in any case involving the death of a workman the provisions of sub-section (1) of [section 12](#) shall apply;
- (b) the form and manner in which payments are made by the Labour Commissioner under the provisions of the last preceding paragraph shall be at his sole discretion;
- (c) any notices required under the provisions of this Act to be served by a workman may be served by the Labour Commissioner;
- (d) the receipt of the Labour Commissioner shall be a sufficient discharge in respect of any amount paid to him under the provisions of this Act.

## **30. Insolvency of employer**

- (1) Where any employer has entered into a contract with any insurer in respect of any liability under this Act to any workman, then, in the event of the employer becoming insolvent or assigning his estate or making a composition or arrangement with his creditors, or if the employer is a company,

in the event of the commencement of winding-up proceedings in respect of such company, or of the appointment of a receiver or judicial manager of the company's business or undertaking, the rights of the employer against the insurer as respects the liability shall, notwithstanding anything contained in the law relating to insolvency or assignment or the winding-up of companies, be transferred to and vest in the workman, and upon any such transfer the insurer shall have the same rights and remedies and be subject to the same liabilities as if the insurer were the employer; but the insurer's liability to the workman shall not be greater than it would have been to the employer.

- (2) If the liability of the insurer 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 assignment or winding-up.
- (3) There shall be included amongst the debts which—
  - (a) under the provisions of section 98 of the Insolvency Proclamation 1957, are in the distribution of the property or assets of an insolvent to be paid in priority to other debts; and
  - (b) under the provisions of section 256 of the Companies Act 1967, are in the winding-up of a company to be paid in priority to all debts; please bring out the amount due in respect of any compensation or liability for compensation accrued before the following dates, that is to say—
    - (i) in the first case the date of the sequestration order; and
    - (ii) in the second case the date of commencement of the winding up of the company.
- (4) Where the compensation is a periodical payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the periodical payments could if redeemable, be redeemed if the employer made an application for that purpose under the provisions of this Act.
- (5) Where the insolvent or company in liquidation has entered into such contract with insurers as is referred to in sub-section (1) the provisions of sub-section (3) shall not apply in respect of the liability of the employer to the workman or that part thereof which is met by the insurers.

### **31. Contracting out**

Any contract or agreement, whether made before or after the commencement of this Act, whereby a workman relinquishes any right to compensation from an employer for injury arising out of and in the course of his employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under the provisions of this Act:

Provided that a workman who has obtained compensation in respect of permanent partial or permanent total incapacity may enter into a contract reducing or giving up his right to compensation under the provisions of this Act in respect of any further personal injury by accident if such contract is certified to be fair and reasonable by the Labour Commissioner.

### **32. Compensation not to be assigned, charged or attached**

Compensation payable under the provisions of this Act 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 such compensation.

### Part III – Medical aid

#### 33. Medical expenses

- (1) The employer shall pay the reasonable expenses incurred by a workman within Lesotho or, with the approval of the Medical Superintendent, outside Lesotho, as a result of an accident which would entitle the workman to compensation under the provisions of this Act—
  - (a) in respect of medical, surgical and hospital treatment, skilled nursing services and the supply of medicines to an aggregate amount not exceeding one thousand rand;
  - (b) in respect of the supply, maintenance, repair and renewal of non-articulated artificial limbs or any other artificial appliances to an aggregate amount not exceeding seven hundred rand; and
  - (c) in respect of reasonable transport charges, not exceeding in the aggregate the sum of two hundred and fifty rand incurred in the transfer of a workman to and from a place where the necessary treatment is available, provided that such transfer is certified as necessary by the medical practitioner in charge of the case.
- (2) All disputes as to the necessity for, or the character or sufficiency of, any medical aid provided or to be provided under this Part of this Act shall be determined by the Labour Commissioner acting on the advice of the Medical Board.
- (3) Any decision of the Labour Commissioner given under subsection (2) of this section shall be final.

#### 34. Power of court

The court may, when determining any dispute in respect of compensation or upon the application of any interested person, order the payment of any of the expenses referred to in [section 33](#) to the persons entitled to receive it, and, if those expenses exceed the amount provided in [section 33\(1\)\(a\)](#), the court may apportion the amount available in such manner as it may deem expedient.

#### 35. Fees for medical aid to be prescribed

The fees and charges for medical aid to workmen within Lesotho shall be in accordance with such scale as may be prescribed and no claim for an amount in excess of a fee or charge in accordance with that scale shall lie against any workman or his employer in respect of any such medical aid.

#### 36. Employer not to receive contribution from workman

No employer shall receive from a workman any contribution towards the expense of medical aid rendered or to be rendered to such workman in terms of this Part and any employer acting in contravention of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rand and, in default of payment, to imprisonment for a period not exceeding six months. In addition such employer shall be ordered by the court to refund to the workman any sums so received.

### Part IV – Industrial diseases

#### 37. Compensation for industrial diseases

- (1) Where it appears from a certificate granted by a medical practitioner that a workman is suffering from a disease mentioned in the First Schedule to this Act (hereinafter referred to as an industrial disease) causing incapacity, or where the death of a workman was caused by such disease, and the

disease is due to the nature of any work to which the Act applies and in which the workman was employed at any time within twenty four months previous to the date of such certificate or of his death, as the case may be, the workman or his dependants shall be entitled to claim compensation under this Act as if the contracting of such disease were a personal injury caused by accident arising out of and in the course of his work within the meaning of this Act, and the provisions of this Act shall, *mutatis mutandis* apply, unless at the time of entering into employment, the workman wilfully and falsely represented, in writing to the employer, in reply to a specific question, that he did not previously suffer from the disease.

- (2) The Minister may in respect of any class or description of work by regulation declare any disease to be an industrial disease and may by notice in the *Gazette* delete from the First Schedule to this Act any disease mentioned therein and may in like manner insert any disease in the said Schedule.

### **38. Employer's liability for compensation**

- (1) The compensation shall be recoverable from the employer who last employed the workman during the twenty four months referred to in section 37 in the work to the nature of which the disease was due, unless the employer establishes that the disease was not contracted while the workman was in his employment.
- (2) The workman or his dependants if so required, shall furnish to the employer from whom compensation is claimed, such information as he or they may possess as to the names and addresses of all other employers who, during the said twenty four months, employed the workman in the work to the nature of which the disease was due.
- (3) If the 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 cause such other employer to be joined as a party to the application, and if the allegation is proved, that other employer shall be the employer from whom the compensation is to be recoverable.
- (4) If the disease is of such a nature as to be contracted by a gradual process, any other employer who during the said twenty four months employed the workman in the work to the nature of which the disease was due, shall be liable to make the employer from whom compensation is recoverable, such contribution as in default of agreement, may be determined by the court.

### **39. Fixing date from which compensation payable**

- (1) The date of certificate referred to in section 37, or of the death of the workman, as the case may be, shall be treated for the purpose of industrial diseases as the date of the happening of the accident.
- (2) Notice as provided by [section 13](#) shall be given to the employer who last employed the workman during the said twenty four months in the work to the nature of which the disease is due.
- (3) For the purpose of calculating compensation under this Part of this Act the earnings of the workman shall be his average monthly earnings, in the work to the nature of which the disease was due with the employer from whom compensation is recoverable, at the date of the certificate or at date of his death (if there is no previous period of incapacity immediately preceding his death), and, if the workman is not then so employed, the earnings shall be the average monthly earnings of the workman when he was last so employed with the employer from whom compensation is recoverable.

### **40. Determination of cause of disease**

If the workman at or immediately before the date of the certificate or of his death, as the case may be, was employed in any work mentioned in the First Schedule to this Act, and the disease contracted is the disease set opposite the description of the work in that Schedule, the disease, unless the certifying medical practitioner certifies that in his opinion it was not due to the nature of the work, shall be deemed

to have been due to the nature of that work, unless the employer from whom compensation is claimed proves the contrary.

#### **41. Liability of previous employer**

Nothing in this Act contained shall be construed as preventing compensation being recovered from any employer who employed the workman during the twenty four months referred to in section 37, if the employer who last employed the workman during that period is able to establish that the disease was not contracted while the workman was in his employment, in which case the provisions of [section 38](#) shall apply.

#### **42. Disease resulting from accident**

Nothing in this Act contained shall affect the rights of a work-man to recover compensation under this Act in respect of a disease, other than an industrial disease, if the disease is the result of an accident to such workman.

#### **43. Special provisions as to pneumoconiosis**

- (1) Where the disease contracted is pneumoconiosis, the 24 months referred to in sections 37 to 41 should be read and construed as five years.

### **Part V – General**

#### **44. Regulations**

The Minister may make regulations to give effect to the purposes and provisions of this Act and without prejudice to the generality of the foregoing power he may make regulations—

- (a) prescribing procedure, forms and fees;
- (b) prescribing anything which is to be or may be prescribed under this Act.
- (c) requiring employers and insurers carrying on in Lesotho the business of insuring employers against their liabilities under this Act to make periodic or other returns as to such matters as he may think fit, and prescribing a time limit for the making of such returns.

#### **45. Penalties**

- (1) Any person required to make a return by virtue of any regulation made under [section 44](#) who—
  - (a) fails to make such return within the time within which he is required to make it, or
  - (b) makes or causes to be made a return which he knows to be false in any material particular, or
  - (c) on being so required, fails to give any information or explanation respecting the return which it is in his power to give,shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rand, and, if the contravention in respect of which he was so convicted is continued after conviction, he shall be guilty of a further offence and liable on conviction in respect thereof to a fine not exceeding ten rand for each day on which the contravention is continued.
- (2) Where a person convicted of an offence under sub-section (1) is a company, the chairman and every director and every officer of the company shall be guilty of a like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

- (3) Any person who commits an offence under or contravenes or fails to comply with any of the provisions of this Act or of any regulations made thereunder for which no specific penalty is provided shall be liable to a fine not exceeding two hundred rand in default to imprisonment not exceeding six months.

#### **46. Rules of court**

The Chief Justice may make rules of court for regulating proceedings before the court under the provisions of this Act and for the fees payable in respect thereof.

#### **47. Repeal**

The Workmen's Compensation Proclamation, 1948, is repealed.



### First Schedule

Description of disease	Description of work
1. Pneumoconiosis caused by Sele-ragenetic mineral dust (silicosis, anthracosilicosis, asbestosis) and silicotuberculosis, provided that siliosis is an essential factor is causing the resultant incapacity or death.	All work involving exposure to the risk concerned
2. Disease caused by phosphorus or its toxic compounds.	All work involving exposure to the risk concerned
3. Disease caused by beryllium or its toxic compounds.	All work involving exposure to the risk concerned
4. Diseases caused by chrome or its toxic compounds.	All work involving exposure to the risk concerned
5. Disease caused by manganese or its toxic compounds.	All work involving exposure to the risk concerned
6. Disease caused by arsenic or its toxic compounds.	All work involving exposure to the risk concerned
7. Disease caused by mercury or its toxic compounds.	All work involving exposure to the risk concerned
8. Diseases caused by lead or its toxic compounds.	All work involving exposure to the risk concerned
9. Disease caused by carbon bisulphide.	All work involving exposure to the risk concerned
10. Disease caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series.	All work involving exposure to the risk concerned
11. Disease caused by benzene or its toxic homologues.	All work involving exposure to the risk concerned
12. Disease caused by nitro and amido-toxic derivatives of benzene or its homologues.	All work involving exposure to the risk concerned
13. Disease caused by ionising radiations.	All work involving exposure to the action of ionising radiations.
14. Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.	All work involving exposure to the risks concerned
15. Anthrax infection.	Work in connection with animals infected with anthrax. Handling of animal carcasses or parts of such carcasses including hides, hoofs and horns. Loading and unloading or transport of merchandise

which may have been contaminated by animals or animal carcasses infected with anthrax.

## Second Schedule

Loss of two limbs	Per cent
Loss of two limbs	100
Loss of both hands or all fingers and both thumbs	100
Loss of both feet	100
Total loss of sight	100
Total paralysis	100
Injuries resulting in being bedridden permanently	100
Any other injury causing permanent total disablement	100
Loss of remaining eye by a one-eyed workman	100
Loss of remaining arm by a one-armed workman	100
Loss of remaining leg by a one-legged workman	100
Loss of arm at shoulder	90
Loss of arm between elbow and shoulder	80
Loss of arm at elbow	70
Loss of arm between wrist and elbow	60/65
Loss of hand at wrist	60
Loss of four fingers and thumb of one hand	60
Loss of four fingers	35
Loss of thumb — both phalanges	35
Loss of thumb — one phalanx	10
Loss of index finger — three phalanges	10
Loss of index finger — two phalanges	8
Loss of index finger — one phalanx	4
Loss of middle finger — three phalanges	6

Loss of middle finger – two phalange	4
Loss of middle finger – one phalanx	2
Loss of ring finger – three phalanges	5
Loss of ring finger – two phalanges	4
Loss of ring finger – one phalanx	2
Loss of little finger – three phalanges	4
Loss of little finger – two phalanges	3
Loss of little finger – one phalanx	2
Loss of metacarpals – third, fourth or fifth (additional)	2
Loss of leg at or above knee	75
Loss of leg below knee	40
Loss of foot	40
Loss of toes – all	15
Loss of toes – great, both phalanges	5
Loss of toe – great, one phalanx	2
Loss of toes – other than great, if more than one toe lost (each)	1
Loss of eye – eye out	30
Loss of eye – sight of	30
Loss of eye – lens of	30
Loss of eye – sight of, except perception of light	30
Loss of hearing – both ears	50
Loss of hearing – one ear	7

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

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

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

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

- (a) where two digits have been injured, the sum total of the percentages shall be increased by 20 per cent of such sum total;
- (b) where three digits have been injured, the sum total of the percentages shall be increased by 30 percent of such sum total;
- (c) where four digits have been injured, the sum total of the percentages shall be increased by 40 percent of such sum total.