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# Workmen's Compensation Act, 1934

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*Number 9 of 1934.*

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## **WORKMEN'S COMPENSATION ACT, 1934.**

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Act Referred to

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No. 30 of 1923




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*Number 9 of 1934.*

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**WORKMEN'S COMPENSATION ACT, 1934.**

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO COMPENSATION TO WORKMEN FOR INJURIES SUFFERED IN THE COURSE OF THEIR EMPLOYMENT AND TO AMEND SECTION 18 OF THE COAL MINES ACT, 1911. [22nd March, 1934.]

BE IT ENACTED BY THE OIREACTHAS OF SAORSTÁT EIREANN AS FOLLOWS:—

## PART I.

## Preliminary and General.

- Short title.           **1.**—This Act may be cited as the Workmen's Compensation Act, 1934.
- Commencement of Act.   **2.**—This Act shall come into operation on such day as shall be fixed for that purpose by order of the Minister for Industry and Commerce.
- Application of Act.   **3.**—This Act shall not save as expressly provided thereby apply in any case where the accident happened before the commencement of this Act.
- Definitions.           **4.**—In this Act:—
- the expression “the Minister” means the Minister for Industry and Commerce;
- the expression “the Court” means the Circuit Court;
- the words “ship” “vessel” “seaman” and “port” have the same meanings as in the Merchant Shipping Act, 1894 ;
- the word “manager” when used in relation to a ship means the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner;
- the word “prescribed” means prescribed by regulations made by the Minister under this Act.

"Workman".

5.—(1) In this Act the word "workman" means a person who complies with both the following conditions, that is to say:—

(a) is either:—

- (i) a person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied or is oral or in writing, or
- (ii) a person engaged in plying for hire with any vehicle or vessel the use of which is obtained from the owner thereof under any contract of bailment (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise, and

(b) is not an excepted person.

(2) Each of the following persons shall be an excepted person for the purposes of this section, that is to say:—

- (a) a person employed otherwise than by way of manual labour whose remuneration exceeds three hundred and fifty pounds a year;
- (b) a person whose employment is of a casual nature unless such person is either:—
  - (i) employed for the purposes of his employer's trade or business, or
  - (ii) employed for the purposes of any game or recreation and engaged or paid through a club, or
  - (iii) employed for the purposes of any work in or about the residence of his employer;
- (c) a member of the *Gárda Síochána*;
- (d) a member of the Defence Forces of Saorstát Éireann, including a member of the Reserve established under Part III of the Defence Forces (Temporary Provisions) Act, 1923 (No. 30 of 1923), in respect of any accident arising out of and in the course of his military service or otherwise howsoever under his contract of enlistment;
- (e) a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented 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;
- (f) a member of the employer's family dwelling in his house.

(3) If in the course of 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 of such accident been a person working under a valid contract of service or apprenticeship.

(4) References in this Act to a workman who has been injured shall, where the workman is dead, be construed as including references to his legal personal representative, or to his dependants, or other person to whom or for whose benefit compensation is payable.

Meaning of "member of a family".

**6.**—In this Act the expression "member of the 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.

Meaning of "dependants".

**7.**—(1) In this Act the word "dependants" means such of the members of the family of a workman as were wholly or in part dependant on the earnings of such workman at the time of his death, or would but for the incapacity due to the accident which resulted in such workman's death have been so dependent, and where a workman being the parent or grand-parent of an illegitimate child leaves such a child so dependent on his earnings or, being an illegitimate child, leaves a parent or grand-parent so dependent upon his earnings, shall include such illegitimate child and parent or grand-parent respectively.

(2) In this Act the expression "adult dependant" when used in relation to a deceased workman means a dependant of such workman who is not under the age of fifteen at the date of the death of such workman and includes a person, other than a dependant of such workman within the meaning of sub-section (1) of this section, who is not under the age of fifteen at the date of the death of such workman and who was resident with such workman and wholly dependent on his earnings at the said date.

(3) In this Act the expression "juvenile dependant" when used in relation to a deceased workman means a dependant of such workman who is under the age of fifteen at the date of the death of such workman and includes a person, other than a dependant of such workman within the meaning of sub-section (1) of this section, who is under the age of fifteen at the date of the death of such workman and who was resident with such workman and wholly dependent on his earnings at the said date.

(4) A person shall not for the purposes of this Act 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 suitable for persons in his class and position.

(5) For the purposes of the immediately preceding sub-section insurance shall be deemed to be one of the ordinary necessities of life.

Meaning of  
"employer".

**8.—**(1) In this Act the word "employer" includes any person and the legal personal representative of a deceased employer.

(2) Where the services of a workman are temporarily lent or let on hire to another person by the person with whom such 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.

(3) Where a person is engaged in plying for hire with any vehicle or vessel, the use of which is obtained from the owner thereof under a contract of bailment, such owner shall for the purposes of this Act be deemed to be the employer of such person.

(4) Where a person is 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 such club shall, for the purposes of this Act, be deemed to be the employer of such person.

(5) Where a person is employed by the owners of a ship which is not registered in Saorstát Eireann under the Merchant Shipping Acts, the agent of such owners shall for the purposes of this Act be deemed to be the employer of such workman unless such owners reside or have a place of business in Saorstát Eireann.

(6) Where a person is employed under a local or other public authority, such authority shall, notwithstanding that the appointment of such person by such authority was or the dismissal of such person by such authority is subject to the approval of a Minister of State, be deemed for the purposes of this Act to be the employer of such person.

Local and public  
authorities.

**9.—**The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this Act, be treated as the trade or business of such authority.

Medical referees.

**10.—**(1) The Minister may from time to time appoint such and so many medical referees (in this Act referred to as medical referees) for the purposes of this Act as he may think necessary and the Minister for Finance shall sanction.

(2) Every medical referee shall be a duly qualified medical practitioner.

(3) Every medical referee shall hold office on such terms and on such conditions and shall receive such remuneration and allowances as the Minister, with the sanction of the Minister for Finance, shall appoint.



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

Regulations. **11.**—The Minister may by order make regulations in respect of any matter or thing which is referred to in this Act as prescribed or to be prescribed.

Expenses. **12.**—All expenses incurred by the Minister and the Minister for Justice under this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Repeals. **13.**—(1) The enactments mentioned in the First Part of the First Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule, subject, however, as follows—

(a) the said enactments shall continue to apply to cases where the accident happened before the commencement of this Act, and for that purpose any scheme, order, rule, regulation, agreement, certified, issued or made, or any other thing done under the enactments so repealed and in force at the commencement of this Act shall continue in force and have effect as if the said enactments had not been repealed;

(b) the repeal of sub-section (2) of section 16 of the Workmen's Compensation Act, 1906, shall not affect the application of the Workmen's Compensation Acts, 1897 and 1900, to cases to which by virtue of that sub-section the said Acts are to apply.

(2) The enactments mentioned in the Second Part of the First Schedule to this Act are hereby repealed.

Increase of weekly payment under Workmen's Compensation Acts, 1897 and 1900 and Workmen's Compensation Act, 1906, in cases of total incapacity. **14.**—Where a workman is at any time after the commencement of this Act entitled to a weekly payment by way of compensation under the Workmen's Compensation Act, 1906, or the Workmen's Compensation Acts, 1897 and 1900, in respect of total incapacity arising from an accident which occurred before the commencement of this Act, then so long as the workman remains totally incapacitated he shall, in lieu of the addition to such weekly payment which would have been payable under the Workmen's Compensation (War Addition) Acts, 1917 and 1919, if the said Acts had been continued in force, be entitled to receive in addition to such weekly payment a sum equal to three-fourths of the amount of such weekly payment and such sum shall for all purposes be treated as if it were part of such weekly payment.

## PART II.

### Compensation for Personal Injuries to Workmen and Liability Therefor.

Liability of employers to workmen for injuries. **15.**—(1) If in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, subject to the provisions of this Act, be liable to pay compensation in accordance with the provisions of this Act.

(2) Where an accident results in the death or serious and permanent disablement of a workman, such accident shall for the purpose of this Act be deemed to arise out of and in the course of his employment notwithstanding the fact that such workman was at the time when such 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 such workman for the purpose of and in connection with his employer's trade or business.

Non-liability of employer in certain cases. **16.**—(1) An employer shall not be liable under this Act in respect of any injury which does not disable a workman for a period of at least three days from earning full wages at the work at which he was employed when he sustained such injury.

(2) An employer shall not be liable under this Act in respect of any injury to any workman which is proved to be attributable to the serious and wilful misconduct of such workman, unless such injury results in the death or the serious and permanent disablement of such workman.

Prohibition of contracting out. **17.**—(1) Subject to the provisions of this section, any contract between an employer and any of his workmen whether made before or after the commencement of this Act whereby other provisions are substituted for the provisions of this Act shall be void and of no effect.

(2) This section shall not apply to any contract authorised to be made under the provisions of this Act relating to substitution of liability under a scheme for liability under this Act.

Persons entitled to compensation. **18.**—(1) Where compensation is payable under this Act in respect of an injury to a workman which does not result in his death, the compensation shall be paid to or applied in the manner provided by this Act for the benefit of such workman.

(2) Where compensation is payable under this Act in respect of an injury to a workman which results in his death—

(a) so much (if any) of such compensation as consists of the adults' lump sum shall—

(i) in case he leaves one adult dependant only, be paid to or applied in the manner provided by this Act for the benefit of such dependant;

(ii) in case he leaves two or more adult dependants, be allotted amongst such dependants in such proportions as the Court shall order, and the amount so allotted to any dependant shall be paid to or applied in the manner provided by this Act for the benefit of such dependant;

(b) so much (if any) of such compensation as consists of the children's lump sum shall—

(i) in case he leaves only one juvenile dependant, be applied in the manner provided by this Act for the benefit of such dependant;

(ii) in case he leaves two or more juvenile dependants, be applied in the manner provided by this Act for the benefit of such dependants;

(c) such compensation shall, if he leaves neither an adult dependant nor a juvenile dependant be paid to his personal representative or, if he has no such representative, to the persons to whom the expenses of medical attendance and burial are due, in such shares as may, in default of agreement between those persons, be ordered by the Court.

(3) Where compensation consisting wholly or partly of the adults' lump sum is payable under this Act in respect of an injury to a workman which results in his death and such workman leaves both total and partial adult dependants, nothing in this Act shall be construed as preventing the adults' lump sum being allotted partly to such total dependants and partly to such partial dependants.

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

Sub-contracting.

**19.—**(1) Subject to the provisions of this section, where any person (in this section referred to as the principal) in the course of or for the purpose of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of such work any compensation under this Act which he would have been liable to pay if such workman had been immediately employed by him.

(2) Where, by virtue of the foregoing sub-section, compensation is claimed from or proceedings are taken by a workman against the principal, references in this Act to the employer of such workman shall be construed as references to the principal, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the contractor.

(3) Where the contract between the principal and the contractor relates to threshing, ploughing or other agricultural work, and the contractor provides and uses machinery driven by mechanical power for the purpose of such work, the contractor alone shall be liable under this Act to pay compensation to any workman employed by him on such work.

(4) Where the principal is, by virtue of this section, liable to pay compensation to a workman he shall be entitled to be indemnified in respect of such liability by any person who would have been liable to pay such compensation independently of this section and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be determined by the Court.

(5) This section shall not operate to prevent a workman recovering compensation under this Act from the contractor instead of the principal

(6) This section shall not apply in any case where the accident which gave rise to the claim for compensation 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.

Bankruptcy of  
employer.

**20.—**(1) Where any employer has entered into a contract (in this section referred to as a contract of insurance) with any insurers in respect of any liability under this Act of such employer to any workman, then, in the event of such employer becoming bankrupt or making a composition or arrangement with his creditors, or if such employer is a company, in the event of such company having commenced to be wound up or a receiver or manager of such company's business or undertaking having been duly appointed or possession having been taken, by or on behalf of the holders of debentures secured by a floating charge, of any property comprised in or subject to that charge, the following provisions shall have effect:—

(a) the rights of such employer against such insurers as respects that liability shall, notwithstanding anything contained in any enactment, be transferred to and vest in the workman, and upon any such transfer such insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however that such insurers shall not be under any greater liability to the workman than they would have been under to the employer, and

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

(2) Where an employer (being an individual) has not entered into a contract of insurance, then in the event of such employer becoming bankrupt or making a composition or arrangement with his creditors, there shall be included amongst the debts which, under section 4 of the Preferential Payments in Bankruptcy (Ireland) Act, 1889, are in the distribution of the property or assets of a bankrupt or arranging debtor to be paid in priority to all other debts the amount due in respect of any compensation or liability for compensation under this Act by such employer accrued before in the case such employer has become a bankrupt the date of the order for adjudication, or in case such employer has become an arranging debtor, the date of the filing of the petition for arrangement.

(3) Where an employer (being a company) has not entered into a contract of insurance, then in the event of the company having commenced to be wound up, there shall be included amongst the debts which under section 209 of the Companies (Consolidation) Act, 1908 , are in the winding up of a company in priority to all other debts, the amount due in respect of any compensation or liability for compensation under this Act by such company accrued before the date mentioned in sub-section (5) of the said section 209.

(4) When an employer (being a company) has not entered into a contract of insurance, then in the event of a receiver or manager of the company's business or undertaking having been duly appointed, or possession having been taken, by or on behalf of the holders of debentures secured by a floating charge, of any property comprised in or subject to the charge, there shall be included amongst the debts which under section 107 of the Companies (Consolidation) Act, 1908 , are to be paid in priority to any claim for principal or interest in respect of debentures, the amount due in respect of any compensation or liability for compensation under this Act by the company accrued before the date of the appointment of the receiver or manager or of possession being taken mentioned in the said section 107.

(5) When the compensation is a weekly payment, the amount due in respect thereof shall, for the purposes of sub-sections (2) (3) and (4) of this section, 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 this Act.

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

## PART III.

## Amount of Compensation and Review and Redemption of Weekly Payments.

"Earnings" and  
"Average weekly  
earnings".

**21.**—For the purposes of the provisions of this Act relating to "earnings" and "average weekly earnings" of a workman the following provisions shall have effect, that is to say:—

- (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;
- (b) 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;
- (c) 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;
- (d) 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;
- (e) 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;
- (f) upon request of the workman to the employer liable to pay compensation, that employer shall furnish in writing a list of the earnings of that workman upon which the amount of the average weekly earnings may be calculated for the purpose of determining the amount of any weekly payment under this Act.

Compensation in fatal  
cases.

**22.**—(1) Where compensation is payable under this Act in respect of an injury to a workman which results in his death, the following provisions shall have effect, that is to say:—

- (a) if such workman leaves an adult dependant but does not leave any juvenile dependant, the compensation shall be a lump sum (in this Act referred to as the adults' lump sum), of an amount calculated in accordance with the rules contained in the Second Schedule to this Act;
- (b) if such workman leaves an adult dependant and also leaves a juvenile dependant, the compensation shall consist of—
- (i) the adults' lump sum, and
- (ii) a lump sum (in this Act referred to as the children's lump sum) of an amount calculated in accordance with the rules contained in the Second Schedule to this Act;
- (c) if such workman leaves no adult dependant but leaves a juvenile dependant, the compensation shall be a lump sum (in this Act also referred to as the children's lump sum) of an amount calculated in accordance with the rules contained in the Second Schedule to this Act;
- (d) if the workman leaves neither an adult dependant nor a juvenile dependant, the compensation shall be a lump sum, not exceeding fifteen pounds, equal to the reasonable expenses of his medical attendance and burial.

(2) If any weekly payments payable to a workman have been redeemed either by order of the Court or by agreement made under this Act, or if the liability to make weekly payments has been redeemed by an agreement made under this Act, or if where an employer disputed his liability to make a weekly payment under this Act to a workman, such employer and workman entered into an agreement under this Act whereby in consideration of the payment by such employer to such workman of a lump sum, such workman released such employer from his liability (if any) to make such weekly payments and the amount paid in respect of such redemption or release (as the case may be) equals or exceeds six hundred pounds, no compensation shall be awardable under this Act in respect of the death of such workman.

Amount of compensation in non-fatal cases.

**23.**—Where compensation is payable under this Act in respect of an injury to a workman which does not result in his death, the compensation shall be a weekly payment during the period of incapacity (except, where the incapacity lasts less than four weeks, the first three days of such incapacity) of an amount calculated in accordance with the rules contained in the Third Schedule to this Act.

Treatment of partial incapacity as total incapacity.

**24.**—(1) Subject to the provisions of this section if a workman, who has so far recovered from the injury as to be fit for employment of a certain kind, has failed to obtain employment and it appears to the Court either—

- (a) that, having regard to all the circumstances, it is probable that the workman would, but for the continuing effects of the injury, be able to obtain work in the same grade in the same class of employment as before the accident; or
- (b) that his failure to obtain employment is a consequence, whether wholly or mainly, of the injury,

the Court shall order that the workman's incapacity shall be treated as total incapacity resulting from the injury for such period, and subject to such conditions, as may be provided by the order, without prejudice, however, to the right of review conferred by this Act.

(2) No order shall be made under this section if it appears to the Court that the workman has not taken all reasonable steps to obtain employment.

(3) Every order under this section shall be made subject to the condition that it shall cease to be in force if the workman receives unemployment benefit.

(4) An order under this section may be made notwithstanding that any order or orders under this section has or have been previously made in relation to the same workman in respect of the same injury.

Reviews of weekly payments.

**25.—**(1) Where a workman is in receipt of a weekly payment, the Court may on the application of either the employer or the workman review such weekly payment and on such review may confirm, end, diminish or increase such weekly payment, but shall not increase such weekly payment beyond the maximum amount provided under the Third Schedule to this Act.

(2) Where the workman was at the date of the accident under twenty-one years of age and the review takes place more than six months after the accident and the application for the review is made before, or within six months after, the workman attains the age of twenty-one years, the amount of the weekly payment may be increased to such amount as would have been awarded if the workman had at the time of the accident been earning the weekly sum which he would probably have been earning at the date of the review if he had remained uninjured.



(3) Where the review takes place more than six months after the accident and it is claimed and proved that, had the workman remained uninjured and continued in the same class of employment as that in which he was employed at the date of the accident, his average weekly earnings during the twelve months immediately preceding the review would, as the result of fluctuations in rates of remuneration, have been greater or less by more than twenty per cent. than his average weekly earnings during the twelve months previous to the accident or, if the weekly payment has been previously varied on a review, during the twelve months previous to that review or the last of such reviews, the weekly payment shall be varied so as to make it such as it would have been if the rates of remuneration obtaining during the twelve months previous to the review had obtained during the twelve months previous to the accident.

Restriction on ending or diminishing weekly payments by employer. **26.**—(1) An employer shall not be entitled otherwise than under an order of the Court or under a variation agreement duly registered under Part VI . of this Act or under and in accordance with this section to end or diminish a weekly payment.

(2) An employer shall be entitled to end or diminish a weekly payment in the following cases—

- (a) where a workman in receipt of a weekly payment in respect of total incapacity has actually returned to work;
- (b) where the weekly earnings of a workman in receipt of a weekly payment in respect of partial incapacity have actually been increased.

(3) Where the medical practitioner who has under the provisions of this Act relating to medical examination of workman by employer's medical practitioner examined a workman in receipt of a weekly payment has certified that the workman has wholly or partially recovered or that the incapacity is no longer due in whole or in part to the accident, and a copy of the certificate (which shall set out the grounds of the opinion of the medical practitioner) together with notice of the intention of the employer at the expiration of twenty-one clear days from the date of the service of the notice to end the weekly payment or to diminish it by such amount as is stated in the notice has been served by the employer upon the workman, the following provisions shall have effect, that is to say:—

(a) if before the expiration of the said twenty-one clear days the workman sends to the employer the report of a duly qualified medical practitioner (which report shall set out the grounds of his opinion) disagreeing with the certificate so served by the employer, the weekly payment shall not be ended or diminished except in accordance with such report, or if and so far as the employer disputes such report, except in accordance with a certificate given by the medical referee in pursuance of the provisions of this Act relating to examination of workman by medical referee;

(b) if no such report is sent to the employer within the said time, the employer may end or diminish the weekly payment in accordance with the terms of the said notice.

(4) Where an application has been made in pursuance of the provisions of this Act relating to examination of workman by medical referee to refer the dispute to a medical referee it shall be lawful for the employer, pending the settlement of the dispute, to pay into Court—

(a) where the employer's notice was a notice to end the weekly payment, the whole of each weekly payment becoming payable in the meantime;

(b) where the employer's notice was a notice to diminish the weekly payment, so much of each weekly payment so payable as is in dispute;

and the sums so paid into Court shall, on the settlement of the dispute, be paid to the employer or the workman according to the effect of the certificate of the medical referee, or if the effect of that certificate is disputed, as in default of agreement may be determined by the Court.

(5) This section shall apply to weekly payments under the Workmen's Compensation Act, 1906, as well as weekly payments under this Act, and for the purpose of such application to weekly payments under the said Workmens Compensation Act, 1906, the following provisions shall have effect—

(a) the reference in sub-section (3) of this section to the provisions of this Act relating to medical examination of workman by employer's medical practitioner shall be construed as a reference to paragraph (14) of the First Schedule to the said Workman's Compensation Act, 1906; and

(b) the references in sub-sections (3) and (4) of this section to the provisions of this Act relating to examination of workman by medical referee shall be construed as references to paragraph (15) of the First Schedule to the Workman's Compensation Act, 1906.

Redemption of weekly payments. **27.**—(1) Where any weekly payment to a workman, whose incapacity is permanent, has been continued for not less than six months, the employer of such workman may, at any time after such workman has attained the age of twenty-one years and before he has attained the age of fifty years, apply to Court for an order redeeming his liability to make such weekly payment, and upon such application being made the Court shall order that such liability shall be redeemed, as from the date of such application, by the payment by such employer of a lump sum of such amount as would, if invested on the date of such application in the purchase of an immediate life annuity, purchase an annuity for such workman equal to seventy-five per cent. of the annual value of such weekly payment.

(2) For the purposes of the immediately preceding sub-section a life annuity shall be deemed to be purchasable at a price calculated in accordance with the Table set out in the Fourth Schedule to this Act and not otherwise.

(3) Where any weekly payment to a workman, whose incapacity is not permanent, has been continued for not less than six months, the liability of the employer of such workman for such weekly payment may, on application to the Court by or on behalf of such employer, be redeemed by the payment of a lump sum of such amount as may be determined by the Court.

(4) Any such lump sum as is mentioned in sub-sections (1) or (3) of this section may be ordered by the Court to be invested or otherwise applied for the benefit of the person entitled thereto.

(5) Where an application is made under sub-section (3) of this section for the redemption of the weekly payment to a workman under the age of twenty-one years at the date of such application, the right which such workman, if the redemption did not take place, would have to have such weekly payment increased on a review under sub-section (2) of section 25 (which relates to reviews of weekly payments) of this Act shall be taken into account.

#### PART IV.

#### Conditions of Compensation.

Notice of accident generally. **28.**—(1) Subject to the provisions of this and the next following section, proceedings for the recovery under this Act of compensation for an injury shall not be maintained unless notice (in this Act referred to as notice of accident) in writing 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.

(2) The want of or any defect or inaccuracy in a notice of accident shall not be a bar to the maintenance of proceedings for the recovery of compensation for any injury 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 the Court is satisfied on the hearing of such proceedings that the employer is not, or would not, if a notice or amended notice were then given and the hearing postponed, be prejudiced in his defence by such want, defect or inaccuracy, or that such want, defect or inaccuracy was occasioned by mistake, absence from Saorstát Éireann or other reasonable cause.

(3) A notice of accident shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date at which the accident happened.

(4) A notice of accident may be given to the employer or, if there is more than one employer, to one of such employers or, to any foreman or other official under whose supervision the workman is employed or to any person designated for the purpose by the employer.

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

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

Notices of accidents in mines and factories. **29.**—(1) There shall be kept constantly posted up in some conspicuous place at or near every mine, quarry, factory or workshop where it may be conveniently read by the persons employed therein, a summary in the prescribed form of the provisions of this Act with regard to a notice of accident and the procedure to be followed in the case of industrial diseases, and in the event of such summary becoming effaced, obliterated or destroyed, it shall be renewed with all reasonable dispatch.

(2) If in any mine, quarry, factory or workshop the provisions of the foregoing sub-section are not complied with, the owner, agent or manager of such mine or quarry or the occupier of such factory or workshop shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

(3) Any proceedings under the foregoing sub-section may be instituted by an inspector of mines or factories.

(4) The want of, or any defect or inaccuracy in a notice of accident shall not be a bar to the maintenance of proceedings for the recovery of compensation under this Act where the employer is the owner of a mine or quarry or the occupier of a factory or workshop—

- (a) if the summary mentioned in sub-section (1) of this section has not been posted up or, in the event of its becoming effaced, obliterated or destroyed, has not been renewed in accordance with the said sub-section; or
- (b) if the accident has been reported by or on behalf of the employer to an inspector of mines or factories; or
- (c) if the accident has been entered in any register of accidents kept by or on behalf of the employer at the mine, quarry, factory or workshop; or
- (d) if the injury has been treated in an ambulance room at the mine, quarry, factory or workshop.

(5) In this and the next following section the expression "factory or workshop" includes any works or premises to which any of the provisions of the Factory and Workshops Acts, 1901 to 1920, apply.

Accident book at mines, etc.

**30.—**(1) There shall be kept at every mine, quarry, factory, or workshop a book (in this section referred to as the accident book) in the prescribed form in which the prescribed particulars of any accident happening to any person employed at such mine, quarry, factory or workshop may be entered by such person or some other person acting on his behalf.

(2) The accident book shall be kept at such place as to be readily accessible at all reasonable times to any injured workman who was employed at the mine, quarry, factory or workshop and any person bona fide acting on his behalf.

(3) An entry of an accident in the accident book, if made as soon as practicable after the happening of the accident, shall be deemed for the purposes of this Act to be a valid notice of accident.

(4) If in any mine, quarry, factory or workshop the provisions of sub-sections (1) and (2) of this section are not complied with, such mine, quarry, factory or workshop shall be deemed not to be managed or kept in accordance with the enactments relating thereto.

Time limit for commencing proceedings.

**31.—**(1) Subject to the provisions of this section, proceedings for the recovery under this Act of compensation for an injury shall not be maintainable unless such proceedings are commenced 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.

(2) Failure to commence proceedings within the period mentioned in the foregoing sub-section shall not be a bar to maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from Saorstát Eireann or other reasonable cause.

Condition as to residence.

**32.**—(1) If a workman receiving a weekly payment ceases to reside in Saorstát Eireann, he shall thereupon cease to be entitled to receive any weekly payment unless the medical practitioner of the employer certifies that it is desirable, owing to the condition of health of the workman, that the workman should reside outside Saorstát Eireann, or a medical referee certifies that the incapacity resulting from the injury is likely to be of a permanent nature.

(2) If the medical practitioner of the employer or a 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 appointed by rules of court, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

Medical examination of workman by employer's medical practitioner.

**33.**—(1) Where a workman has given notice of accident or where an accident has occurred in respect of which the necessity of giving notice under this Act is dispensed with, he shall, if so required by his employer, submit himself for examination by a duly qualified medical practitioner provided and paid by his 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.

(2) Where any workman is receiving weekly payments under this Act, he shall, if so required by his employer, from time to time 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 such weekly payments shall be suspended until such examination has taken place.

(3) A workman shall not be required to submit himself for examination by a medical practitioner under either of the foregoing sub-sections of this section otherwise than in accordance with regulations made by the Minister under this section or at more frequent intervals than may be prescribed by those regulations.

Examination of  
workman by medical  
referee.

**34.—**(1) Where a workman has, in accordance with the immediately preceding section, been examined by a medical practitioner provided by his employer, or has been examined by a medical practitioner provided by himself, and such employer or workman, as the case may be, has within six days after such examination furnished the other with a copy of the report of such medical practitioner as to such workman's condition, then in the event of no agreement being come to between such employer and such workman as to the latter's condition or fitness for employment, such employer and workman or either of them may apply to the county registrar to make an order (in this section referred to as a reference order) referring the matter to a medical referee, and thereupon the county registrar shall, unless the application is made by one party only and he is of opinion that owing to the nature of the case the matter should be determined by the Court, make such reference order.

(2) Where the county registrar refuses to make a reference order or on the application of one of the parties only for a reference order, makes a reference order, an appeal shall lie against such refusal or such reference order (as the case may be) to the Court and the decision of the Court on such appeal shall be final.

(3) Whenever an application for a reference order is granted there shall be paid to the county registrar, before the issue of the order, by the applicant or applicants such fee not exceeding one pound as may be fixed by regulations made by the Minister for Justice with the sanction of the Minister for Finance.

(4) Every fee paid to the county registrar under the preceding sub-section shall be paid into or disposed of by him for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

(5) Whenever a reference order is made, the medical referee named in such order shall forthwith examine the workman to whom such order relates, and shall in accordance with regulations made by the Minister give a certificate as to the condition of such workman and his fitness for employment, specifying where necessary the kind of employment for which he is fit.

(6) Every certificate of a medical referee under the immediately preceding sub-section shall be conclusive evidence as to the matters certified therein in accordance with the said sub-section.

(7) Where no agreement can be come to between an employer and a workman as to whether and to what extent the incapacity of such workman is due to the accident, the foregoing provisions of this section shall, subject to any regulations made by the Minister, apply as if the question were a question as to the condition of such workman and his fitness for employment.

(8) 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 referred by a reference order, 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.

(9) Rules of court may be made providing for the manner in which documents are to be furnished or served and applications made under this section and the forms to be used for those purposes.

Suspension of right to compensation. **35.**—Where under this Part of this Act a right to compensation is suspended no compensation shall be payable in respect of the period of such suspension.

#### PART V.

##### Jurisdiction of the Circuit Court.

Jurisdiction of the Circuit Court. **36.**—(1) The Circuit Court shall have exclusive jurisdiction to hear and determine all claims for compensation arising under this Act and (in addition to all powers and jurisdictions specifically conferred on the Circuit Court by this Act) shall have power and exclusive jurisdiction to hear and determine all matters and questions arising on or incidental to any such claim.

(2) An appeal shall lie on a question of law from any decision of the Circuit Court under this Act direct to the Supreme Court, but save as aforesaid such decision shall be final and conclusive.

Rules of Court. **37.**—Until Rules of Court are made for the purposes of this Act, the Rules of Court for the purposes of the Acts repealed by this Act and in force at the commencement of this Act shall, with all necessary modifications, apply for the purposes of this Act.

Exercise of jurisdiction by the Circuit Court and county registrars. **38.**—(1) The jurisdiction conferred by this Act on the Circuit Court shall be exercised by the Judge of the Circuit Court for the time being assigned to the circuit appointed by Rules of Court and at the place in such circuit specified in such rules.

(2) Where any matter or thing under this Act is to be done by, or to the county registrar, then the same shall be done by or to the county registrar appointed in that behalf by Rules of Court.

Attendance of medical assessor. **39.**—(1) The Court may, in any case, summon a medical referee to sit as assessor to the Court.



(2) Any party to any proceedings under this Act may apply to the Court to have a medical referee summoned to sit as assessor to the Court on the hearing of such proceedings and the Court on such application being made and on payment to the county registrar by such party of such fee as may be fixed by regulations made by the Minister for Justice with the sanction of the Minister for Finance, shall summon a medical referee accordingly.

(3) Every fee received by the county registrar under this section shall be paid into or disposed of by him for the benefit of the Exchequer in such manner as the Minister for Finance shall direct.

(4) The Court may, subject to regulations made by the Minister for Justice with the concurrence of the Minister for Finance, submit to a medical referee for report any matter which seems material to any question arising in proceedings under this Act before the Court.

Variation of former order by the Court.

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

Disposal of compensation.

**41.**—(1) Where any compensation payable under this Act in respect of the death of a workman is or consists of the adults' lump sum, the following provisions shall have effect, that is to say:—

(a) where there is one dependant only, the adults' lump sum shall, as the Court may order, be either paid to the dependant or paid into Court;

(b) where there are two or more dependants, the amount of the adults' lump sum allotted to each such dependant shall, as the Court may order, either be paid to that dependant or paid into Court.

(2) Where any compensation payable under this Act in respect of the death of a workman is or consists of the children's lump sum, the children's lump sum shall be paid into Court.

(3) Where a weekly payment is payable under this Act to a person under any legal disability, the Court may, on application being made in accordance with Rules of Court, order that the weekly payment be paid during such disability into Court.

(4) The provisions of the Fifth Schedule to this Act shall have effect with respect to money paid into Court under this section and the application and investment thereof.

(5) The receipt of the county registrar shall be a sufficient discharge for any money paid into Court under this section.

Court fees.

**42.**—(1) Subject to the provisions of this section, no Court fees shall be payable by any party in any proceedings by or against a workman under this Act prior to the order of the Court granting or refusing compensation.

(2) This section shall not apply in respect of any fees payable under the provisions of this Act relating to examination of workmen by medical referee or attendance of medical assessor.

Payment of  
compensation and  
costs.

**43.**—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 order of the Court, and the solicitor of a person claiming compensation under this Act shall not be entitled to recover from him any costs in respect of any proceedings 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 Court, on an application made either by the person claiming compensation, or by his solicitor, to determine the amount of costs to be paid to the solicitor, such sum to be awarded subject to taxation and to the scale of costs fixed by Rules of Court.

## PART VI.

### Agreements in Relation to Compensation.

Matters required to be  
determined by the  
Court.

**44.**—Where compensation is payable under this Act in respect of injuries to a workman which result in his death and such workman leaves any adult dependant or juvenile dependant, the following matters, that is to say:—

- (a) the amount of such compensation;
- (b) the ascertainment of the person or persons entitled to such compensation;
- (c) the allocation of such compensation;

shall be determined by the Court and not otherwise.

Registers of  
Agreements under the  
Workmen's  
Compensation Act,  
1934.

**45.**—As soon as conveniently may be after the passing of this Act a register to be called and known as the Register of Agreements under the Workmen's Compensation Act, 1934, and in this Part of this Act referred to as the register shall be set up in every Circuit Court Office and shall be thenceforward there kept and maintained in accordance with regulations made by the Minister for Justice.

- Agreements to be in writing. **46.**—Every agreement in respect of which registration is sought under this Part of this Act shall be in writing and shall be signed by the parties thereto.
- Weekly payment agreement. **47.**—Where an employer and a workman enter into an agreement (in this Act referred to as a weekly payment agreement) fixing the amount of the weekly payment to be made to such workman under this Act, such agreement shall not, nor shall the payment of the sum payable thereunder operate to fix the amount of such weekly payment unless and until it is duly registered under this Part of this Act, but on being so registered such agreement shall as from the date thereof operate and have effect as if it were an order of the Court fixing the amount of such weekly payment.
- Variation agreements. **48.**—Where the amount of a weekly payment to be made by an employer to a workman under this Act, has been fixed by the Court or by agreement and such employer and workman enter into an agreement (in this Act referred to as a variation agreement) ending, diminishing or increasing the amount of such weekly payment, such agreement shall not, unless and until it is duly registered under this Act, operate to end, diminish or increase (as the case may be) the amount of such weekly payment but on being so registered such agreement shall as from the date specified in that behalf therein operate and have effect as if it were an order of the Court ending, diminishing or increasing (as the case may be) such weekly payment.
- Redemption of weekly payment by agreement. **49.**—Where the amount of a weekly payment to be made under this Act by an employer to a workman has been fixed by the Court or by agreement between the parties, and the parties enter into an agreement (in this Act referred to as a redemption agreement) whereby in consideration of the payment of a lump sum by such employer to such workman, the latter agrees to release the former from his liability to continue to make such weekly payment, such agreement shall not, nor shall the payment of such lump sum unless and until such agreement is duly registered under this Act, operate to release such employer from his liability to continue to make such weekly payment, but on being so registered shall operate and have effect accordingly to release such employer from such liability as from the date specified in that behalf in such agreement.
- Commutation agreements. **50.**—Where an employer admits his liability to make a weekly payment under this Act to a workman, but the amount of such weekly payment has not been fixed by the Court, or by agreement between the parties, and such parties enter into an agreement (in this Act referred to as a commutation agreement) whereby in consideration of the payment of a lump sum by such employer to such workman, the latter agrees to release the former from such liability, such agreement shall not, unless and until it is duly registered under this Act, operate to release such employer from such liability, but on being so registered shall operate and have effect to release such employer from such liability.

Agreement by way of compromise of disputed claim. **51.**—Where an employer disputes his liability to make a weekly payment under this Act to a workman, such employer and workman may enter into an agreement (in this Act referred to as an agreement by way of compromise) whereby in consideration of the payment of a lump sum by such employer to such workman, the latter agrees to release the former from such liability (if any), such agreement shall not unless and until it is duly registered under this Act, operate to release such employer from such liability (if any), but on being so registered shall operate as a release from such liability (if any).

Lump sum agreements. **52.**—(1) Every redemption agreement, commutation agreement and agreement by way of compromise shall disclose the amount (if any) paid or payable under or in respect of such agreement by the employer to the solicitor for the workman as costs.

(2) If, on any such agreement being sent to the county registrar for registration under this Act, it appears that the amount paid or payable for such costs thereunder is excessive, the county registrar may direct the solicitor to whom such costs were paid or are payable, to furnish a bill of such costs, and upon such bill being so furnished, the county registrar shall subject to review by the Court tax such costs in accordance with Rules of Court, and if such costs are reduced on such taxation, the amount of such reduction shall either be applied and dealt with for the benefit of the workman or paid to the employer or otherwise dealt with as the Court shall direct.

Applications for registration of agreements. **53.**—(1) Any person interested in any weekly payment agreement, variation agreement, redemption agreement, commutation agreement, or agreement by way of compromise may send such agreement to the county registrar with an application to have the same registered in the register.

(2) Such application shall state whether the workman who is a party to the agreement is an insured person or not and in the event of his being an insured person shall state the name and address of the approved society by which sickness or disablement benefit under the National Health Insurance Acts, 1911 to 1933, payable to such workman is administered, and shall also contain such other particulars as may be required by Rules of Court.

(3) Upon receipt of any such agreement and application, the county registrar shall serve notice of the reception thereof by him on all parties interested therein and, if the workman is an insured person, also on the approved society concerned, and no such agreement shall be registered under this Act until the expiration of seven days after the date of the service of such notice.

(4) Every person upon whom notice of an application to register an agreement is required by this section to be served is in this Act referred to as a notice party.

Objections to registration.

**54.—**(1) Any person to whom notice of an application to register an agreement has been given by the county registrar may, within seven days after the service of such notice, send a notice (in this Act referred to as a notice of objection) to the county registrar objecting to the registration of such agreement in accordance with the following provisions, that is to say:—

(a) any such person may object to the registration of such agreement on any one or more of the following grounds, namely:—

(i) that no such agreement was in fact entered into;

(ii) that the sum to be paid under such agreement is inadequate;

(iii) that such agreement was obtained by fraud, undue influence or other improper means;

(iv) that the terms agreed upon by the parties are not correctly stated in such agreement;

(v) that such agreement is no longer subsisting or enforceable;

(vi) any ground in addition to the preceding grounds upon which if such agreement were the subject of a suit for specific performance a court of equity would refuse to decree specific performance thereof; and

(b) where such agreement is a weekly payment agreement, and the same is sought to be registered on the application of the workman, the employer may object to such agreement being registered on the ground that the workman has returned to work and is earning the same wages as he did before the accident.

(2) Any objection based on any of the foregoing grounds is in this Part of this Act referred to as a statutory ground of objection.

Reference of application for registration to the Court.

**55.—**(1) Where no notice of objection based on a statutory ground of objection to the registration of an agreement the subject of an application for registration under this Act is received by the county registrar within the time limited by the immediately preceding section, but the county registrar is, for any reason which seems to him sufficient, of opinion that such agreement should not be registered except in pursuance of an order of the Court, he shall refer the application to the Court which shall make such order in the matter as it thinks proper.

(2) Where the county registrar refers an application to the Court under this section, he shall notify all notice parties of such reference and the reason therefor.

Procedure where no objection to registration.

**56.**—(1) If no notice of objection based on a statutory ground of objection to the registration of an agreement the subject of an application for registration under this Act is received by the county registrar within the time limited by this Act, the county registrar shall unless he refers such application to the Court under the immediately preceding section forthwith register such agreement in the register of agreements and shall notify all notice parties of such registration.

(2) Where an agreement made with a person under a disability, or any commutation agreement, redemption agreement, or agreement by way of compromise has been registered by the county registrar in accordance with this section, the Court may on the application of any notice party made within six months from the date of such registration make an order cancelling such registration if satisfied that such agreement was obtained by fraud, undue influence or other improper means.

(3) Where the Court cancels under this section the registration of an agreement, such agreement shall be deemed never to have been registered.

Procedure where objection to registration.

**57.**—(1) If a notice of objection based on a statutory ground of objection to the registration of an agreement the subject of an application for registration under this Act is received by the county registrar within the time limited by this Act, the county registrar shall refuse to register such agreement and shall notify all notice parties of such refusal and serve a copy of such notice on all notice parties other than the party who gave such notice.

(2) Where the county registrar refuses to register an agreement in accordance with this section, any notice party may apply to the Court to have the same registered, and the Court may on such application either make an order confirming such refusal or directing such agreement to be registered.

Matters arising on determination by Court of application for registration.

**58.**—(1) Where the objection to registration of a weekly payment agreement is made by an employer on the ground that the workman has returned to work and that he is able to earn the same wages as he did before the accident and the Court is satisfied of the truth of such ground, the Court may if it directs the agreement to be registered, direct that the agreement be registered on such terms as under the circumstances it may think just.

(2) Where an application to register an agreement under this Part of this Act has been refused, or the registration of an agreement has been cancelled by an order of the Court and any sum has been paid under such agreement, the Court shall, in accordance with Rules of Court, make such order in relation to such sum as the Court may think just.

Rectification of the register of agreements.

**59.**—The Court may at any time cause the register to be rectified (whether by variation, addition or omission) in such manner as justice may require.

## PART VII.

## Alternative Remedies by Workmen.

Independent remedies against employer. **60.**—(1) Where an injury to a workman is caused by the personal negligence or wilful act of his employer or of some person for whose act or default such employer is liable, nothing in this Act shall affect any civil liability of such employer, but in that case such workman may, at his option, either claim compensation under this Act, or take proceedings independently of this Act.

(2) Nothing in the foregoing sub-section shall be construed to make an employer liable to pay compensation for injury to a workman by accident arising out of and in the course of his employment both independently of and also under this Act, or to make an employer liable to any proceedings independently of this Act, except in case of such personal negligence or wilful act as aforesaid.

(3) If, within the time limited by this Act for taking proceedings under this Act, an action is instituted to recover damages independently of this Act for injury caused by accident, and it is determined in such action, or on appeal, 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, or if the determination is the determination (on appeal by either party), of an appellate tribunal, then such appellate tribunal shall, if the plaintiff so choose, proceed to assess such compensation, but may deduct therefrom 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.

(4) In any proceedings under the foregoing sub-section, when the Court in which the action is tried or the appellate tribunal assesses compensation, it shall give a certificate of the compensation it has awarded and the directions it has given as to the deduction of costs, and such certificate shall have the same force and effect as if it were a judgment of the Circuit Court awarding compensation under this Act.

(5) Where the determination under sub-section (3) of this section is that of the Supreme Court or the High Court, the Supreme Court or the High Court, as the case may be, may in lieu of assessing compensation in accordance with the said sub-section, remit the case to the Circuit Court for the assessment of compensation and in such case may order the Circuit Court to deduct from the amount of compensation assessed by it all or part of such costs as aforesaid.

Remedies both against employer and stranger. **61.**—Where the injury for which compensation is payable to a workman under this Act, or any scheme certified under this Act, was caused in circumstances creating a legal liability in some person other than the employer of such workman to pay damages in respect thereof, then the following provisions shall have effect, that is to say:—

- (a) such workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this Act or such scheme for such compensation, but shall not be entitled to recover both damages and compensation,
- (b) if such workman has recovered compensation under this Act or such scheme, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the provisions of this Act relating to sub-contracting, shall be liable to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of such indemnity shall, in default of agreement, be settled by action.

Substitution of liability under scheme for liability under Act. **62.**—(1) If the Registrar of Friendly Societies in Saorstát Éireann (in this section referred to as the Registrar) after taking steps to ascertain the views of the employer and workman, 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 favourable 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
- (c) that a majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favour of such scheme;

the employer may, whilst the certificate is in force, contract with any of his workmen that the provisions of the scheme shall be substituted for the provisions of this Act, and thereupon the employer shall be liable in respect of those workmen only in accordance with the scheme.

(2) The Registrar may give a certificate to expire at the end of a limited period of five years, and may from time to time renew with or without modification such a certificate to expire at the end of the period for which it is renewed.



(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.

(4) The Registrar shall not certify, or renew a certificate of, any such scheme unless he is satisfied that adequate provision is made to secure the discharge of liabilities arising under the scheme, both during the currency of the scheme and after the scheme is revoked or expires, so far as there may be any liabilities outstanding at the date of revocation or expiry.

(5) If complaint is made to the Registrar by or on behalf of the workmen of any employer that the benefits conferred by any scheme no longer conform to the conditions stated in sub-section (1) of this section, or that the provisions of such scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the Registrar 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.

(6) 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 Registrar in the event of a difference of opinion.

(7) 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 by the Registrar.

(8) Where a scheme certified under this Act provides for payment of compensation by a friendly society, the following provisions of the Friendly Societies Act, 1896, that is to say, the proviso to sub-section (1) of section 8, section 16, and section 41, shall not apply to such society in respect of such scheme.

(9) The Registrar shall include in his annual report the particulars of his proceedings under this Act.

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

Saving as respects **63.**—Nothing in this Act shall affect any proceeding for a fine under the enactments relating to mines, factories or workshops, or the application of any such fine.   
Factories Acts.

## PART VIII.

## Application of this Act to Special Classes of Persons.

Application to workmen in the employment of the State.

**64.**—(1) This Act applies to workmen employed by or under the State to whom this Act would apply if the employer were a private person and, for the purposes of such application, the following provisions shall have effect, that is to say:—

- (a) the Minister for Finance shall be deemed to be the employer, and
- (b) notwithstanding anything in any other enactment, proceedings under this Act may be brought against the said Minister without obtaining the fiat of the Attorney-General.

(2) The Minister for Finance may, by warrant laid before each House of the Oireachtas, modify for the purposes of this Act the warrant made under section 1 of the Superannuation Act, 1887, and may notwithstanding anything in that Act, or any such warrant, frame schemes with a view to their being certified by the Registrar of Friendly Societies in Saorstát Eireann under this Act.

Application to men being trained or engaged in rescue work in mines.

**65.**—(1) When provision has been made in pursuance of regulations under the Coal Mines Act, 1911, or under any order which has effect as if made under that Act, for the formation or training of a rescue brigade, any accident caused to a workman employed in or about a mine to which that Act applies, who is with the consent of his employer being trained as a member of the rescue brigade, and arising out of and in the course of his training, shall, for the purpose of this Act, be deemed to arise out of and in the course of his employment in the mine.

(2) Any workman engaged in any rescue work or ambulance work at any such mine shall for the purposes of this Act, be deemed while so engaged to be employed by the owner of the mine, as defined by the Coal Mines Act, 1911.

Application of Act to crews of certain ships.

**66.**—(1) This Act applies to masters, seamen and apprentices to the sea service and apprentices in the sea-fishing service who are workmen within the meaning of this Act and are members of the crew of any ship to which this section applies, subject to the following modifications, that is to say:—

- (a) the notice of accident may, except where the person injured is the master, be given to the master of the ship as if he were the employer, but where the accident happened and the incapacity commenced on board the ship it shall not be necessary to give any notice of the accident;

- (b) the provisions of sub-sections (1) and (2) of section 29 (which relates to notices of accidents in mines and factories) of this Act shall apply to ships and the masters thereof in like manner as it applies to factories and the occupiers thereof;
- (c) in case of the death of the master, seaman or apprentice, proceedings to recover compensation shall be commenced within six months after news of the death by accident has been received by the claimant;
- (d) where—
- (i) an injured master, seaman, or apprentice is discharged or left behind in any country outside Saorstát Eireann, and
  - (ii) proceedings are taken under this Act by or in respect of such master, seaman or apprentice, and
  - (iii) the deposition of any witness respecting the circumstances and nature of the injury has been taken in any such country on oath by a person entitled by the law to take in that country affidavits for use in matters before the High Court, and
  - (iv) such deposition purports to be sealed with the seal and to have affixed thereto the signature of such person,
- such deposition shall, upon due proof that such witness is not in Saorstát Eireann, be received in such proceedings as prima facie evidence of the matters stated therein without proof of the seal or signature of such person or of the status or official character of such person;
- (e) in the case of the death of a master, seaman or apprentice leaving no dependants, no compensation shall be payable if the owner of the ship is, under the Merchant Shipping Act, 1894 , liable to pay the expenses of burial;
- (f) the weekly payment shall not be payable in respect of the period during which the owner of the ship is, under the Merchant Shipping Act, 1894 , as amended by any subsequent enactments, or otherwise, liable to defray the expenses of the injured master, seaman or apprentice;
- (g) 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 , but the limitation on the owner's liability imposed by that section shall apply to the amount recoverable by way of indemnity under section 61 (which relates to remedies both against employer and stranger) of this Act, as if the indemnity were damages for loss of life or personal injury;

(h) sub-sections (2) and (3) of section 174 of the Merchant Shipping Act, 1894 , shall apply as respects proceedings for the recovery of compensation by dependants of masters, seamen and apprentices lost with their 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 case be maintained if they are commenced within 18 months of the date at which the ship is deemed to be lost with all hands.

(2) This Act shall not by virtue of the immediately preceding sub-section apply to such members of the crew of a fishing boat which is a ship to which this section applies as are remunerated wholly or mainly by shares in the profits or the gross earnings of the working of such boat.

(3) For the purposes of this section a pilot to whom the Pilotage Act, 1913 , applies shall when employed on any ship to which this section applies be deemed to be a seaman and a member of the crew of such ship.

(4) This section applies to—

(a) every ship registered in Saorstát Eireann under the Merchant Shipping Acts, and also

(b) every ship not so registered which complies with the following conditions, namely —

(i) either is a ship qualified for registry in Saorstát Eireann under the Merchant Shipping Acts, or a ship qualified for registry outside Saorstát Eireann under the said Acts, or a ship registered outside Saorstát Eireann under the said Acts; and

(ii) is a ship of which the owner, or (if there is more than one owner) the managing owner, or the manager resides or has his principal place of business in Saorstát Eireann.

Application of Act to persons (other than seamen) employed on certain ships. **67.**—This Act applies to any person not being a master, seaman or apprentice to the sea service or the sea fishing service, employed on board any ship to which the immediately preceding section applies, if he is so employed for the purposes of such ship or of any passengers or cargo or mails carried by such ship and if he is otherwise a workman within the meaning of this Act.

Extension of Act to certain share-fishermen. **68.**—(1) Subject to the provisions of this section, this Act shall not apply to such members of the crew of a fishing boat as are remunerated wholly or mainly by shares in the profits or gross earnings of the workings of such boat.

(2) The Minister may by order under this section declare that this Act, subject to such modifications as may be specified in such order, shall apply to such members of the crew of a fishing boat as are remunerated wholly or mainly by shares in the profits or the gross earnings of the workings of such boat, and whenever such an order is made and has come into force this Act shall with such modifications as are specified in such order, apply to such members.

(3) An order under this section shall not come into force until it has been laid before each House of the Oireachtas for a period of not less than twenty-one days during which that House has sat, and if during that period either House passes a resolution against such order or any part thereof, no further proceedings shall be taken thereon, but without prejudice to the making of a new order.

Detention of ships.

**69.**—(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 of Saorstát Eireann or within three miles of the coast thereof, a judge of the High Court or Circuit Court may, upon its being shown to him by any person applying in accordance with the Rules of the Court that the owners are probably liable as such to pay such compensation,

and that none of the owners reside in Saorstát Eireann, issue an order directed to any officer of customs and excise or other person named by the judge requiring him 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 the judge, to 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; and any officer of customs and excise or other person to whom the order is directed shall detain the ship accordingly.

(2) In any legal proceeding to recover such compensation, the person giving security shall be made 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.

(3) Where a complaint is made to the Minister that before an application can be made under this section the ship in respect of which the application is to be made will have departed from the limits within which she can be arrested, the ship shall, if the Minister so directs, be detained for such time as will allow the application to be made and the result thereof to be communicated to the officer or person detaining the ship, and that officer or person shall not be liable for any costs or damages in respect of the detention, if made in accordance with the directions of the Minister.

(4) Section 692 of the Merchant Shipping Act, 1894 , shall apply to the detention of a ship under this Act as it applies to the detention of a ship under that Act, and, if the owner of a ship is a corporation, it shall for the purposes of this section be deemed to reside in Saorstát Eireann if it has an office in Saorstát Eireann at which service can be effected.

(5) Where a ship has been demised to charterers, the provisions of this section shall apply to claims against the charterers of the ship as they apply to claims against the owners of a ship with the substitution of charterers for owners; subject however to this provision, namely, that no ship shall be detained on a claim against the charterers of the ship after the expiration of the term for which the ship is demised to them.

Conventions with  
other States.

**70.**—Where any Convention providing for reciprocity in matters relating to compensation to workmen for injuries by accident has been entered into by or on behalf of Saorstát

Eireann with any other State, or any Convention providing for reciprocity in matters relating to compensation to workmen for injuries by accident of the International Labour Organisation of the League of Nations has been duly ratified by or on behalf of Saorstát Eireann and any other State, it shall be lawful for the Executive Council by order to make provision in relation to all or any of the following matters—

- (a) the modification of this Act in its application to cases affected by such Convention, so, however, as not to alter the amount of the compensation in any case to which this Act may apply;
- (b) the determination, in cases where rights to compensation accrue both under this Act and under the law of such other State of the question whether the workman shall be entitled to recover compensation under this Act or under the law of such other State;
- (c) the conferring on the Court powers for the admission of evidence taken outside Saorstát Eireann and the procuring and taking of evidence for use outside Saorstát Eireann, or otherwise for the purpose of facilitating proceedings for the recovering of compensation under the respective laws in Saorstát Eireann and such other State.

(2) In particular, but without derogating from the generality of the provisions of the foregoing sub-section, any order made under this section may make such modifications in this Act in its application to workmen who are French citizens as appear to the Executive Council to be necessary to give effect to a Convention (a copy whereof is set out in the Schedule to the Workmen's Compensation (Anglo-French Convention) Act, 1909) signed at Paris on the third day of July, nineteen hundred and nine, and this Act shall apply to such workmen subject to the modifications contained in such order.

#### PART IX.

##### Administrative Provisions.

Transfer of  
compensation for  
administration in  
another State.

**71.**—(1) Where under any law from time to time in force in any other State compensation is payable in respect of injuries to workmen, it shall be lawful for the Executive Council to enter into a provisional arrangement with the Government of such other State whereby sums awarded in such other State under such law to persons resident or becoming resident in Saorstát Eireann may be transferred to and administered by the Judge of the Circuit Court appointed by Rules of Court and sums awarded in Saorstát Eireann as compensation under this Act to persons resident or becoming resident in such other State may be transferred to and administered by a competent authority in such other State.

(2) Whenever any such provisional arrangement is entered into it shall be lawful for the Executive Council by order to give statutory effect to such provisional arrangement and thereupon such provisional arrangement shall, as from the date of such order or any later date specified in such order, but subject to the provisions of this section, have effect as if enacted in this section.

(3) An order made by the Executive Council under this section shall only have effect by virtue of this section if and so long as the arrangement to which such order relates, in so far as it relates to the transfer of sums awarded in the other State with which such arrangement is made under the law relating to compensation in respect of injuries to workmen to persons resident or becoming resident in Saorstát Eireann to the Court in Saorstát Eireann, has the effect of law in such other State.

(4) Whenever an order is made by the Executive Council under this section Rules of Court may provide—

(a) for the transfer, in such manner as may be provided by the arrangement to which such order relates, to the State with which such arrangement is made of any money paid into Court under this Act and rules made thereunder, as applicable for the benefit of any person resident in or about to reside in such State;

(b) for the receipt and administration by the Court of any money which under any such arrangement has been transmitted from such State as money applicable for the benefit of any person resident or about to reside in Saorstát Éireann.

Prohibition against charging or assigning weekly payments. **72.**—A weekly payment payable under this Act or any scheme certified under this Act or any sum payable under an order of the Court redeeming a weekly payment or under a redemption agreement, a commutation agreement or an agreement by way of compromise 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.

Payment for medical or surgical treatment. **73.**—Where—

- (a) compensation is payable under this Act in respect of an injury to a workman, and
- (b) such workman has received, whether in hospital or elsewhere, medical or surgical treatment in respect of such injury, and
- (c) any fees are due by such workman to a medical practitioner in respect of such treatment, and
- (d) such compensation is fixed by an order of the Court or under a weekly payment agreement, commutation agreement or an agreement by way of compromise registered by order of the Court under Part VI of this Act,

the Court may, if it so thinks fit, upon the application of such medical practitioner made immediately upon the making of such order, direct the employer to pay, in addition to the compensation, to such medical practitioner in respect of such fees such sum, not exceeding five pounds, as the Court may fix, and if such direction is given the payment by the employer to such medical practitioner of the sum so fixed shall be deemed to be a payment by such workman to such medical practitioner in respect of such fees.

Returns by employers. **74.**—(1) Every employer in any prescribed industry shall on or before the prescribed day in every prescribed year send to the Minister a correct return specifying the number of injuries in respect of which compensation has been paid by him under this Act during the previous year the amount of such compensation and such other particulars as may be prescribed.

(2) If any employer in any prescribed industry makes default in complying with this section he shall be guilty of an offence under this section and be liable on summary conviction thereof to a fine not exceeding five pounds.



Amendment of section 18 of the Coal Mines Act, 1911. **75.**—Paragraph (b) of sub-section (1) of section 18 of the Coal Mines Act, 1911 is hereby amended by the substitution of the words 'and disabled, for more than three days, any person employed in or about the mine from earning full wages at the work at which he was employed' for the words 'and disabled, for more than seven days, any person employed in or about the mine from working at his ordinary work' now contained therein, and the said section shall be construed and have effect accordingly.

#### PART X.

#### Application of Act to Certain Industrial Diseases.

Application of Act to industrial diseases. **76.**—(1) Where—

- (a) the certifying surgeon appointed under the Factory and Workshop Act, 1901, for the district in which a workman is employed certifies that such workman is suffering from a disease (in this Act referred to as a scheduled disease) mentioned in the first column of the Sixth Schedule to this Act and is thereby disabled from earning full wages at the work at which he was employed; or
- (b) a workman is, in pursuance of any special rules or regulations made under the Factory and Workshop Act, 1901, suspended from his usual employment on account of having contracted any scheduled disease; or
- (c) the death of a workman is caused by any scheduled disease;

and such disease is due to the nature of any employment in which such workman was employed at any time within the twelve months previous to the date of such disablement or suspension, whether under one or more employers, such workman or, in case of his death, his dependants shall be entitled to compensation under this Act as if such disease or such suspension as aforesaid were a personal injury by accident arising out of and in the course of such employment, subject, however, to the following modifications, that is to say:—

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

- I. Such 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 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 sub-paragraph, that employer upon proving that such disease was not contracted whilst such workman was in his employment shall not be liable to pay compensation;
  - II. if that employer alleges that such disease was in fact contracted whilst such 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 proceedings, and if such allegation is proved that other employer shall be the employer from whom the compensation is to be recoverable; and
  - III. if such disease is of such a nature as to be contracted by a gradual process, any other employers who during the said 12 months employed such workman in the employment to the nature of which such 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 by the Court in the proceedings before the Court for settling the amount of the compensation, or if the amount of such compensation is determined by agreement, as may be determined by the Court;
- (iv) the amount of such compensation shall be calculated with reference to the earnings of such workman under the employer from whom the compensation is recoverable;
  - (v) the employer to whom notice of the death, disablement or suspension of such workman is to be given shall be the employer who last employed such workman during the said 12 months in the employment to the nature of which such disease was due, and such notice may be given notwithstanding that such workman has voluntarily left his employment;

(vi) if an employer or workman is aggrieved by the action of a certifying or other surgeon in giving or refusing to give a certificate of disablement or in suspending or refusing to suspend a workman for the purpose of this section, the matter shall in accordance with regulations made by the Minister be referred to a medical referee whose decision shall be final and the medical referee when deciding the matter shall certify as to the condition of the workman at the time when he is examined by him, and such certificate of such medical referee shall be final and conclusive.

(2) For the purposes of this section the date of the disablement shall be such date as the certifying surgeon certifies as the date on which such disablement commenced or, if he is unable to certify such date, the date on which the certificate is given, subject however as follows:—

(a) where the medical referee allows an appeal against a refusal by a certifying surgeon to give a certificate of disablement, the date of disablement shall be such date as the medical referee may determine;

(b) where a workman dies without having obtained a certificate of disablement, or is at the time of his death not in receipt of a weekly payment on account of disablement, the date of disablement shall be the date of the death of such workman.

(3) The Minister may from time to time by order under this section extend the provisions of this section to other diseases and other processes and to injuries due to the nature of any employment specified in such order not being injuries by accident, either without modifications or subject to such modifications as he may think fit.

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

Supplemental provisions as to industrial diseases.

**77.**—(1) If the workman at or immediately before the date of such disablement or suspension as is mentioned in the foregoing section was employed in any process mentioned in the second column of the Sixth Schedule to this Act, 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 surgeon 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.

(2) Where a workman claims to be suffering from and disabled by a disease to which the foregoing provisions of this Part of this Act apply, the employer may agree with the workman that he is liable to pay compensation without requiring the workman to obtain the certificate of the certifying surgeon mentioned in those provisions, and thereupon the workman shall be entitled to compensation as for injury by accident from the date of the agreement or from such other date as may be agreed.

(3) In such cases, and subject to such conditions as the Minister may direct, a medical practitioner appointed by the Minister for the purpose shall have the powers and duties of a certifying surgeon under the foregoing provisions of this Part of this Act, and those provisions shall be construed accordingly.

(4) The Minister may with the consent of the Minister for Finance make rules regulating the duties and fees of certifying and other surgeons (including, dentists) under the foregoing provisions of this Part of this Act.

Mutual insurance of employers engaged in industries. **78.**—(1) Where, after inquiry held on the application of any employers or workmen engaged in any industry to which the foregoing provisions of this Part of this Act apply it appears that a mutual trade insurance company or society for insuring against the risks under those provisions has been established for the industry, and that a majority of the employers engaged in that industry are insured against such risks in the company or society and that the company or society consents, the Minister may, by Provisional Order, require all employers in that industry to insure in the company or society upon such terms and under such conditions and subject to such exceptions as may be set forth in the Order.

(2) Where such company or society has been established but is confined to employers in any particular locality or of any particular class, the Minister may for the purposes of this section treat the industry, as carried on by employers in that locality or of that class, as a separate industry.

(3) A Provisional Order made under this section shall be of no force whatever unless and until it is confirmed by Act of the Oireachtas and if, while the Bill confirming any such Order is pending in either House of the Oireachtas, a petition is presented against the Order, the Bill may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of Private Bills, and any Act confirming any Provisional Order under this section may be repealed, altered, or amended by a Provisional Order made and confirmed in like manner.

Power by scheme to apply Act to workmen suffering from silicosis. **79.**—(1) The Minister may by scheme provide for the payment of compensation by the employers of workmen in any specified industry or process or group of industries or processes involving exposure to silica dust—

- (a) who are certified in such manner as may be appointed by the scheme to have suffered death or total disablement from the disease known as fibroid phthisis or silicosis of the lungs (in this section referred to as silicosis) or from that disease accompanied by tuberculosis; or
- (b) who, though not totally disabled, are found on medical examination to be suffering from silicosis, or from silicosis accompanied by tuberculosis, to such a degree as to make it dangerous to continue work in the industry or process, and are for that reason suspended from employment.

(2) The scale of compensation fixed by the scheme in the case of death or total disablement due to silicosis or silicosis accompanied by tuberculosis shall be that fixed by this Act and in any other case shall be such as may be fixed by the scheme.

(3) Provision may be made by the scheme—

- (a) for the establishment of a general compensation fund, to be administered either through a mutual trade insurance company or society of employers, or in such other manner as may be provided by the scheme;
- (b) for requiring employers to subscribe to the fund, and for the recovery of such subscriptions, and for the payment and recovery out of the fund of all compensation under the scheme, and of any expenses arising under the scheme which are directed by the scheme to be so paid, subject to such exceptions in special cases as may be made by the scheme;
- (c) for the settlement of claims and other matters arising under the scheme by committees representative of both employers and workmen, with an independent chairman, and for the procedure to be adopted before such committees;
- (d) for the appointment and remuneration of medical officers, medical boards and advisory medical bodies, and for their duties and powers in connection with the scheme;
- (e) for requiring workmen to whom the scheme applies:—
  - (i) to submit themselves to such periodical medical examination as may be specified in the scheme; and
  - (ii) to furnish such information with respect to their previous employment in any industry specified in the scheme, as involving exposure to silica dust as may be specified in the scheme;

and for making the right of the workmen to compensation conditional on compliance with such requirements, and for the suspension from employment of workmen who are found at any time to be suffering from silicosis or tuberculosis, or silicosis accompanied by tuberculosis, or who, when first medically examined in pursuance of the scheme, are found unsuitable for work in the industry or process by reason of their failure to satisfy such requirements with respect to physique as may be prescribed by the scheme; and

(f) for the application with the necessary modifications of any of the provisions of this Act, or of any enactment relating to compensation thereunder, and for defining the industries or processes to which the scheme applies; and generally for such further or supplemental matters, including provisions as to the determination of disputes arising between employers and the authority administering the fund, as appear necessary for giving full effect to the scheme.

(4) Any scheme made under this section may be extended or varied by any subsequent scheme made in the like manner, and shall have effect as if enacted in this Act.

(5) Every scheme made under this section shall be laid before each House of the Oireachtas forthwith, and if a resolution is passed by either House within the next subsequent 21 days on which that House sits next after any such scheme is laid before it that such scheme be annulled, such scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

#### FIRST SCHEDULE.

#### Enactments Repealed.

#### Part I.

Session and Chapter or Number and Year	Short Title	Extent of Repeal
6 Edw. VII., c. 58.	The Workmen's Compensation Act, 1906.	The whole Act so far as unrepealed.
9 Edw. VII., c. 16.	The Workmen's Compensation (Anglo- French Convention) Act, 1909.	The whole Act.
1 & 2 Geo. V., c. 50.	The Coal Mines Act, 1911.	Section 110.
8 & 9 Geo. V., c. 8.	The Workmen's Compensation (Illegal Employment) Act, 1918.	The whole Act.
8 & 9 Geo. V., c. 14.	The Workmen's Compensation (Silicosis) Act, 1918.	The whole Act.

## Part II.

Session and Chapter	Short Title	Extent of Repeal
7 & 8 Geo. V., c. 42.	The Workmen's Compensation (War Addition) Act, 1917.	The whole Act.
9 & 10 Geo. V., c. 83.	The Workmen's Compensation (War Addition) Amendment Act, 1919.	The whole Act.

## SECOND SCHEDULE.

## Rules for Computation of Compensation in Fatal Cases.

1. Where the workman leaves any adult dependant wholly dependant on his earnings, the following provisions shall, subject to Rule 5 of this Schedule, have effect in relation to the adults' lump sum, that is to say:—

(a) subject to the provisions of paragraph (b) of this rule, the adults' lump sum shall be whichever of the following sums is the greater, that is to say:—

(i) the sum of £200, or

(ii) a sum equal to whichever of the following sums is the less, that is to say:—

I. the sum of £300,

II. a sum equal to the earnings of such workman in the employment of the same employer during the three years next preceding the injury which resulted in his death or, if the period of such workman's employment by the said employer has been less than the said three years, then a sum equal to one hundred and fifty six times the average weekly earnings of such workman during the period of his actual employment under the said employer;

(b) where the adults' lump sum if calculated in accordance with paragraph (a) of this rule would exceed £200, and any weekly payments have been made to the workman before his death the adults' lump sum shall be whichever is the greater of the two following sums, that is to say:—

(i) the sum of £200;

(ii) the difference between the adults' lump sum if calculated in accordance with the said paragraph (a) and the amount of such weekly payments.

2. Where the workman does not leave any adult dependant wholly dependant on his earnings but leaves any adult dependant in part so dependant, the adults' lump sum shall, subject to Rule 5 of this Schedule, be such sum, not exceeding in any case the amount of the adults' lump sum which would have been payable under the immediately preceding rule if such adult dependant had been in fact wholly dependant on such earnings, as may be determined by the Court to be reasonable and proportionate to the injury to the said adult dependant or, if the workman leaves two or more adult dependants, such dependants.

3. (1) Where a workman leaves a juvenile dependant or juvenile dependants and such dependant was or all such dependants were wholly dependant on his earnings, the following provisions shall, subject to Rule 5 of this Schedule, have effect in relation to the children's lump sum, that is to say:—

(a) the children's lump sum shall not in any case exceed six hundred pounds;

(b) where the compensation consists of both the children's lump sum and the adults' lump sum, and there is one juvenile dependant only, the children's lump sum shall be a sum equal to the amount arrived at by multiplying £2 1s. 8d. by a number equal to the number of complete calendar months between the date of the death of the workman and the date on which such juvenile dependant will attain the age of fifteen years;

(c) where the compensation consists of both the children's lump sum and the adults' lump sum and there are two or more juvenile dependants, the following provisions shall have effect, that is to say:—



- (i) in case there are two juvenile dependants only, the children's lump sum shall be a sum equal to the total of the following amounts, that is to say:—
- I. the amount arrived at by multiplying £3 6s. 8d. by a number equal to the number of complete calendar months between the date of the death of the workman and the date on which the elder of such juvenile dependants will attain the age of fifteen years, and
  - II. the amount arrived at by multiplying £2 1s. 8d. by a number equal to the number of complete calendar months between the date on which the elder of such juvenile dependants will attain the age of fifteen years, and the date on which the younger of such juvenile dependants will attain that age;
- (ii) in case there are three juvenile dependants only, the children's lump sum shall be a sum equal to the total of the following amounts, that is to say:—
- I. the amount arrived at by multiplying £3 15s. 0d. by a number equal to the number of complete calendar months between the date of the death of the workman and the date on which the eldest of such juvenile dependants will attain the age of fifteen years, and
  - II. the amount arrived at by multiplying £3 6s. 8d. by a number equal to the number of complete calendar months between the date on which the eldest of such juvenile dependants will attain the age of fifteen years and the date on which the second of such juvenile dependants will attain that age, and
  - III. the amount arrived at by multiplying £2 1s. 8d. by a number equal to the number of complete calendar months between the date on which the second of such juvenile dependants will attain the age of fifteen years and the date on which the youngest of such juvenile dependants will attain that age;
- (iii) in case there are four juvenile dependants only, the children's lump sum shall be a sum equal to the total of the following amounts, that is to say:—
- I. the amount arrived at by multiplying £4 3s. 4d. by a number equal to the number of complete calendar months between the date of the death of the workman and the date on which the eldest of such juvenile dependants will attain the age of fifteen years, and

- II. the amount arrived at by multiplying £3 15s. 0d. by a number equal to the number of complete calendar months between the date on which the eldest of such juvenile dependants will attain the age of fifteen years and the date on which the second of such juvenile dependants will attain that age, and
  - III. the amount arrived at by multiplying £3 6s. 8d. by a number equal to the number of complete calendar months between the date on which the second of such juvenile dependants will attain the age of fifteen years and the date on which the third of such juvenile dependants will attain that age, and
  - IV. the amount arrived at by multiplying £2 1s. 8d. by a number equal to the number of complete calendar months between the date on which the third of such juvenile dependants will attain the age of fifteen years and the date on which the youngest of such juvenile dependants will attain that age;
- (iv) in case there are five or more juvenile dependants, the children's lump sum shall be a sum equal to the total of the following amounts, that is to say:—
- I. the amount arrived at by multiplying £4 3s. 4d. by a number equal to the number of complete calendar months between the date of the death of the workman and the date on which the eldest of the four youngest of such juvenile dependants will attain the age of fifteen years, and
  - II. the amount arrived at by multiplying £3 15s. 0d. by a number equal to the number of complete calendar months between the date on which the eldest of the four youngest of such juvenile dependants will attain the age of fifteen years and the date on which the second of the four youngest of such juvenile dependants will attain that age, and
  - III. the amount arrived at by multiplying £3 6s. 8d. by a number equal to the number of complete calendar months between the date on which the second of the four youngest of such juvenile dependants will attain the age of fifteen years and the date on which the third of the four youngest of such juvenile dependants will attain that age, and
  - IV. the amount arrived at by multiplying £2 1s. 8d. by a number equal to the number of complete calendar months between the date on which the third of the four youngest of such juvenile dependants will attain the age of fifteen years and the date on which the youngest of such juvenile dependants will attain that age;

(d) where the compensation consists of the children's lump sum only, and there is one juvenile dependant only, the children's lump sum shall be whichever is the greater of the following amounts, that is to say:—

(i) the amount arrived at by multiplying £2 1s. 8d. by a number equal to the number of complete calendar months between the date of the death of the workman and the date on which such juvenile dependant will attain the age of fifteen years, or

(ii) the amount of the adults' lump sum calculated under Rule 1 of this Schedule, if the compensation had been or included the adults' lump sum;

(e) where the compensation consists of the children's lump sum only, and there are two or more juvenile dependants, the children's lump sum shall be whichever is the greater of the following amounts, that is to say:—

(i) the amount of the children's lump sum calculated under sub-paragraph (b) of this paragraph, if the compensation had consisted of the adults' lump sum and the children's lump sum, or

(ii) the amount of the adults' lump sum calculated under Rule 1 of this Schedule, if the compensation had been or included the adults' lump sum.

(2) References in this Rule to the date on which a juvenile dependant will attain the age of fifteen years shall be construed as references to the date on which such juvenile dependant will, unless he previously dies, attain that age.

4. Where the workman leaves a juvenile dependant or juvenile dependants and such juvenile dependant or juvenile dependants or any of them were partially dependant on the workman's earnings, the children's lump sum shall, subject to Rule 5 of this Schedule, be such proportion of the sum which would have been payable under the immediately preceding rule if such juvenile dependant or all such juvenile dependants had been wholly dependent on the workman's earnings as may be determined by the Court to be reasonable.

5. (1) If any weekly payments payable to a workman have been redeemed either by order of the Court or by agreement made under this Act, or if the liability to make weekly payments has been redeemed by an agreement made under this Act, or if, where an employer disputed his liability to make a weekly payment under this Act to a workman, such employer and workman entered into an agreement under this Act whereby in consideration of the payment by such employer to such workman of a lump sum, such workman released such employer from his liability (if any) to make such weekly payments, and the amount paid in respect of such redemption or release is less than six hundred pounds, the following provisions shall have effect, that is to say:—

- (a) where the compensation in respect of the death of such workman consists of the adults' lump sum only or of the children's lump sum only, the adults' lump sum or the children's lump sum (as the case may be) shall be reduced by an amount equal to the amount paid in respect of such redemption or release;
- (b) where the said compensation consists of both the adults' lump sum and the children's lump sum, the amount paid in respect of such redemption or release shall be divided into two parts bearing to each other the same proportion as the adults' lump sum and the children's lump sum bear to each other, and an amount equal to the greater of such parts shall be deducted from the greater of such lump sums and an amount equal to the other such part shall be deducted from the lesser of such lump sums.

(2) Where the compensation payable in respect of the death of a workman consists of the adults' lump sum and the children's lump sum, and the aggregate of the said lump sums, as reduced if the circumstances so require under paragraph (1) of this Rule, exceeds six hundred pounds, the difference between the sum of six hundred pounds and the said aggregate shall be divided into two parts, bearing to each other the same proportion as the adults' lump sum and the children's lump sum bear to each other, and an amount equal to the greater of such parts shall be deducted from the greater of such lump sums and an amount equal to the other such part shall be deducted from the lesser of such lump sums.

### THIRD SCHEDULE.

#### Rules for Computation of Amount of Weekly Payments.

1. In these Rules—

the expression "pre-accident average weekly earnings" means in relation to a workman the average weekly earnings of the workman during the twelve months, immediately preceding the accident if he has been so long employed by the same employer, but if not, then for any less period immediately preceding the accident during which he has been in the employment of the same employer;

the expression "post-accident average weekly amount" in relation to a workman means the average weekly amount which he is earning or is able to earn in some suitable employment or business after the accident.

2. The weekly payment shall in no case exceed thirty shillings.

3. The weekly payment in cases of total incapacity shall during the period of total incapacity be as follows:—

- (a) where the pre-accident average weekly earnings of the workman did not exceed one pound, a sum equal to eighty per cent. of the said earnings;

(b) where the pre-accident average weekly earnings of the workman exceeded one pound, a sum equal to seventy-five per cent. of the said earnings or the sum of sixteen shillings, whichever of the said sums is the greater.

4. The weekly payment in cases of partial incapacity shall be as follows:—

(a) where the difference between the pre-accident average weekly earnings and the post-accident average weekly earnings does not exceed one pound, a sum equal to seventy-five per cent. of that difference, and

(b) where the difference between the amount of the pre-accident average weekly earnings and the post-accident average weekly amount exceeds one pound, a sum equal to eighty per cent. of that difference.

#### FOURTH SCHEDULE.

Table showing Price of an Annuity of £1 on a Single Life

Age last Birthday of Proposed Annuitant		Price of Annuity of £1					
		Males			Females		
		£	s.	d.	£	s.	d.
21	years	24	0	11	25	0	9
22	"	23	17	0	24	17	0
23	"	23	13	0	24	13	2
24	"	23	8	11	24	9	3
25	"	23	4	10	24	5	3
26	"	23	0	7	24	1	3
27	"	22	16	3	23	17	2
28	"	22	11	9	23	13	0
29	"	22	7	3	23	8	9
30	"	22	2	7	23	4	6
31	"	21	17	10	23	0	2
32	"	21	13	0	22	15	9
33	'	21	8	0	22	11	3
34	"	21	2	11	22	6	8
35	"	20	17	9	22	2	0
36	"	20	12	5	21	17	3
37	"	20	6	11	21	12	6
38	"	20	1	4	21	7	6
39	"	19	15	7	21	2	6
40	"	19	9	9	20	17	5
41	"	19	3	9	20	12	2
42	"	18	17	7	20	6	10
43	"	18	11	4	20	1	5
44	"	18	5	0	19	15	9

45	"	17	18	5	19	10	0
46	"	17	11	8	19	4	2
47	"	17	4	10	18	18	1
48	"	16	17	10	18	11	11
49	"	16	10	7	18	5	7

#### FIFTH SCHEDULE.

##### Provisions as to Payments into Court and Investment.

1. Any sum, other than the children's lump sum, paid into Court under this Act shall, subject to Rules of Court and the provisions of this Schedule, be invested, applied, or otherwise dealt with by the Court in such manner as the Court in its discretion thinks fit for the benefit of the person entitled thereto under this Act.

2. In the event of the death of any person (in this and the next following paragraph referred to as a deceased dependant) entitled as dependant to money which is or is part of the adults' lump sum paid into Court under this Act, then, if no order has been theretofore made by the Court as to the disposition thereof for the benefit of other dependants, in the event of the death of such deceased dependant the Court may, subject to the provisions of the next following paragraph, without requiring representation to be raised to the estate of such deceased dependant distribute such sum amongst such persons as appear to the Court, upon such evidence as the Court may deem satisfactory, to be entitled by law to receive the same or if such deceased dependant is illegitimate and dies intestate, amongst the persons who in the opinion of the Court would have been entitled thereto if such deceased dependant had been legitimate, and if there are no persons who (as the case may be) appear to be so entitled as aforesaid or would have been so entitled as aforesaid, the Court shall pay such sum to the Minister for Finance for payment into or disposal for the benefit of the Exchequer.

3. Where the principal value of the estate of a deceased dependant exceeds one hundred pounds, any sum paid under the foregoing paragraph without the production of probate or letters of administration, shall be liable to estate duty as part of the amount on which that duty is charged, and the Court shall, before making any such payment, require either a statutory declaration by the claimant, or by one of the claimants, that the principal value of the estate of such deceased dependant, including the sum in question, does not, after deduction of debts and funeral expenses, exceed the value of one hundred pounds, or the production of a letter or certificate from the Revenue Commissioners stating either that all the duties payable in respect of the sum in question have been paid or that no duty is payable thereon.

4. (1) Where two or more juvenile dependants are entitled to the benefit of the children's lump sum, the Court shall, after determining the amount thereof, divide and allocate the said lump sum amongst such juvenile dependants in proportion to the number of complete calendar months which must elapse between the date of such allocation and the date on which each such juvenile dependant would respectively attain the age of fifteen years.

(2) References in this Schedule to the share of a juvenile dependant shall be construed

—

(a) where there are two or more juvenile dependants entitled to the benefit of the children's lump sum, as references to the amount of the children's lump sum allotted under this paragraph to each such juvenile dependant and for the time being unapplied;

(b) where there is only one juvenile dependant entitled to the benefit of the children's lump sum, as references to the amount of the children's lump sum for the time being unapplied;

5. (1) The Court shall order the share of each juvenile dependant to be paid out for the benefit of such juvenile dependant during the period which must elapse between the date on which the share of such juvenile dependant is first ascertained and the attainment of the age of fifteen years by such juvenile dependant.

(2) In making any order for the payment of any share or part of a share of any juvenile dependant the Court may direct that such payment shall be made in instalments of equal or unequal amounts at regular intervals or fixed dates and may order that the payment of any such instalments shall cease at the expiration of a term fixed or on the happening of an event specified in such order.

6. In the event of the death under fifteen of a juvenile dependant entitled to a share (in this paragraph referred to as the first-mentioned share) the following provisions shall have effect, that is to say:—

(a) if such juvenile dependant leaves one person only under the age of fifteen who is entitled to a share (derived from the children's lump sum from which the first-mentioned share was derived), the first-mentioned share shall be added to and form part of the share of such person;



(b) if such juvenile dependant leaves two or more persons under the age of fifteen who are each entitled to a share (derived out of the children's lump sum out of which the first-mentioned share was derived) the Court shall divide and allocate the first-mentioned sum amongst such persons in proportion to their respective original shares, and the amount allocated to any such person shall be added to and form part of the original share of such person;

(c) if such juvenile dependant leaves no person under the age of fifteen who is entitled to a share (derived from the children's lump sum from which the first-mentioned share was derived) the said first-mentioned share shall be paid to the next of kin of such juvenile dependant.

7. Where the share or part of the share of a juvenile dependant is for the time being invested any moneys arising from such investment shall be added to and form part of such share.

8. Rules of Court may provide for the transfer of money paid into Court under this Act from one Judge of the Circuit Court to another Judge of the Circuit Court.

9. Any sum which under this Schedule is ordered to be invested may be invested in whole or in part in the Post Office Savings Bank or in Savings Certificates by the county registrar in his name as county registrar.

10. Any sum to be so invested may be accepted by the Minister for Posts and Telegraphs as a deposit in the name of the county registrar as such, and the provisions of any statute or regulations respecting the limits of deposits in savings banks, and the declaration to be made by a depositor, shall not apply to such sums.

11. No part of any money invested in the name of a county registrar in the Post Office Savings Bank or in Savings Certificates under this Act shall be paid out, except upon authority addressed to the Minister for Posts and Telegraphs by a Judge of the Circuit Court or such county registrar.

12. Any person deriving any benefit from any moneys invested in a post office savings bank under the provisions of this Act may, nevertheless, open an account in a post office savings bank or in any other savings bank in his own name without being liable to any penalties imposed by any enactment in respect of the opening of accounts in two savings banks, or of two accounts in the same savings bank.

#### SIXTH SCHEDULE.

Industrial Diseases.

Description of Disease	Description of Process
(1)	(2)
Anthrax	Handling of wool, hair, bristles, hides and skins.
Lead poisoning or its sequelæ	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelæ	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its sequelæ	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its sequelæ	Any process involving the use of arsenic or its preparations or compounds.
Ankylostomiasis	Mining.
Poisoning by benzene and its homologues, or the sequelæ.	Handling benzene or any of its homologues, or any process in the manufacture or involving the use thereof.
Poisoning by nitrous fumes or its sequelæ.	Any process in which nitrous fumes are evolved.
Dermatitis produced by dust or liquids	_____
Epitheliomatous cancer or ulceration of the skin due to tar, pitch, bitumen, mineral oil or paraffin, or any compound, product or residue of any of these substances.	Handling or use of tar, pitch, bitumen, mineral oil or paraffin, or any compound, product or residue of any of these substances.
Cataract in glassworkers	Any process in the manufacture of glass involving exposure to the glare of molten glass.

Where regulations or special rules made under any British Statute or Act of the Oireachtas for the protection of persons employed in any industry against the risk of contracting lead poisoning require some or all of the persons employed in certain processes specified in the regulations or special rules to be periodically examined by a certifying or other surgeon, then, in the application of this Schedule to that industry, the expression "process" shall, unless the Minister otherwise directs, include only the processes so specified.