



ST. HELENA

## CHAPTER 121

# EMPLOYEES' COMPENSATION ORDINANCE and Subsidiary Legislation

### Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email [pa.lawofficers@legalandlands.gov.sh](mailto:pa.lawofficers@legalandlands.gov.sh)]<sup>1</sup>

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

This version contains a consolidation of the following laws—

	Page
<b>EMPLOYEES' COMPENSATION ORDINANCE</b>	<b>2</b>
Ordinance 3 of 1946 .. in force 1 April 1947	
Amended by Ordinances:	
2 of 1958	
12 of 1965	
23 of 1965	
2 of 1978	
7 of 1988	
Amended by Legal Notice 9 of 1989	
Amended by Ordinance 5 of 2009	
<b>EMPLOYEES' COMPENSATION REGULATIONS – Section 29</b>	<b>18</b>
Legal Notice 19 of 1947	
Amended by LN 28 of 2009	
<b>EMPLOYEES' COMPENSATION (PRESCRIBED DISEASES) REGULATIONS – Section 4</b>	<b>56</b>
Legal Notice 10 of 1978	

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**CHAPTER 121**  
**EMPLOYEES' COMPENSATION ORDINANCE**

ARRANGEMENT OF SECTIONS

## SECTION

1. Short title, application

PART I

PRELIMINARY

2. Interpretation

PART II

COMPENSATION

3. Employer's liability for compensation
4. Compensation for disease contracted in employment
5. Amount of compensation
6. Method of calculating wages
7. Review
8. Payment of lump sum in lieu of payments
9. Distribution of compensation
10. Compensation not to be assigned, attached, or charged
11. Provisions as to case of bankruptcy of employer
12. Notice and claim
13. Medical examination
14. Hospital charges
15. Sub-contracting
16. Remedies both against employer and stranger
17. Returns as to compensation
18. Contracting out

PART III

THE COMMISSIONER

19. Appointment of Commissioner
20. Reference to Commissioner
21. Applications to Commissioner
22. Powers and procedure of Commissioner
23. Illegal employment
24. Registration of orders
25. Registration of agreements
26. Enforcement of orders and agreements
27. Effect of failure to register agreement
28. Appeals

## PART IV

## REGULATIONS AND RULES

29. Regulations and rules
30. Money amounts may be amended by Order

## CHAPTER 121

## EMPLOYEES' COMPENSATION ORDINANCE

*(Ordinances 3 of 1946, 2 of 1958, 12 of 1965,  
23 of 1965, 2 of 1978, 7 of 1988, 5 of 2009 and Legal Notice 9 of 1989)*

AN ORDINANCE TO PROVIDE FOR THE PAYMENT OF COMPENSATION TO EMPLOYEES FOR INJURIES SUFFERED IN THE COURSE OF THEIR EMPLOYMENT.

**Commencement**

*[1 April 1947]*

**Short title, application**

1. This Ordinance may be cited as the Employees' Compensation Ordinance, and shall apply to St. Helena and the Dependency of Ascension.

PART I  
PRELIMINARY**Interpretation**

2. (1) In this Ordinance, unless the context otherwise requires—  
“**adult**” and “**minor**” mean respectively a person who is not, and a person who is, under the age of eighteen years;  
“**agriculture**” includes horticulture and the cultivation of the ground for any purpose, sowing seeds, planting, removing crops, and keeping or breeding livestock, poultry, or bees;  
“**Commissioner**” means the Commissioner for Employees' Compensation appointed under section 19 of this Ordinance;  
“**compensation**” means compensation as provided for by this Ordinance;  
“**dependants**” mean such of the members of an employee's family as were wholly or in part dependent upon the earnings of the employee at the time of his death or would but for the incapacity due to the accident have been so dependent, and where the employee, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon his earnings or, being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child and parent or grandparent respectively:

Provided that a person shall not be deemed to be a partial dependant of an employee unless he was dependent partially on contributions from the employee

for the provision of the ordinary necessities of life suitable for persons in his class and position;

**“employee”**<sup>2</sup> means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether such contract is expressed or implied, is oral or in writing; and also includes 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:

Provided that the following persons shall not be regarded as employees for the purposes of this Ordinance—

- (a) persons employed to perform work of a casual nature not connected with the employer's trade or business, not being persons employed for the purposes of any game or recreation and engaged or paid through a club; or
- (b) outworkers; or
- (c) persons in the naval, military, or air forces of the Crown; or
- (d) persons in the civil employment of Her Majesty otherwise than in Her Government of St. Helena, who have been engaged in a place outside St. Helena; or
- (e) members of the employer's family dwelling in his house; or
- (f) domestic servants;

**“employer”** includes Her Majesty in Her Government of St. Helena, and any body of persons whether incorporated or not, and any managing agent of an employer and the legal representative of a deceased employer, and

- (a) where the services of an employee are temporarily lent or let on hire to another person by the person with whom the employee has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Ordinance, be deemed to continue to be the employer whilst he is working for that other person;
- (b) in relation to a person 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 (other than a hire purchase agreement), the owner of the vehicle or vessel shall be deemed to be the employer; and
- (c) in relation to a person employed for the purposes of any game or recreation and engaged or paid through a club, the manager, or members of the managing committee of the club, shall be deemed to be the employer;

**“managing agent”** means any person appointed or acting as a representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

**“member of a family”** means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, grand-daughter, stepson, stepdaughter, brother, sister, half-brother, half-sister;

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

**“partial disablement”** means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of an employee in any employment in which he was engaged at the time of the accident resulting in the disablement, and where the

<sup>2</sup> Definition of “employee” amended by Ords. 23 of 1965 and 7 of 1988

disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in the Schedule to this Ordinance shall be deemed to result in a permanent partial disablement;

“**prescribed disease**” means any disease prescribed by the Governor in Council under section 4;

“**qualified medical practitioner**” means a person qualified under the Medical Practitioners Ordinance, to practise medicine and surgery;

“**Registrar**” means the Registrar of the Supreme Court;

“**total disablement**” means such disablement, whether of a temporary or permanent nature, as incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes, or from any combination of injuries specified in the Schedule to this Ordinance, where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amount to one hundred *per centum*;

“**wages**” include any privilege or benefit which is capable of being estimated in money, other than travelling allowance, or the value of any travelling concession, or a contribution paid by the employer towards any pension or provident fund, or a sum paid to an employee to cover any special expenses entailed on him by the nature of his employment.

(2) Any reference to an employee who has been injured shall, where the employee is dead, include a reference to his legal personal representative or to his dependants or other person to whom or for whose benefit compensation is payable.

(3) The exercise and performance of the powers and duties of a local or other public authority, or of any department of the Government shall, for the purposes of this Ordinance, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

## PART II COMPENSATION

### Employer's liability for compensation

3. (1) If personal injury is caused to an employee by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Ordinance:

Provided that the employer shall not be so liable—

- (a) in respect of any injury which does not result in the total or partial disablement of the employee for a period of at least three days;
- (b) in respect of any injury to an employee resulting from an accident which is directly attributable to—
  - (i) the employee having been at the time thereof under the influence of drink or drugs, or
  - (ii) the wilful disobedience of the employee to an order expressly given, or to a regulation or rule expressly made, for the purpose of securing the safety of employees; or

- (iii) the wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employees.

(2) No compensation shall be payable to an employee in respect of any disease, unless the disease is solely and directly attributable to a specific injury by accident arising out of and in the course of his employment.

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

(4) If, within the time hereinafter in this Ordinance limited for taking proceedings, an action is brought to recover damages independently of this Ordinance for injury caused by an 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 Ordinance, the action shall be dismissed; but the court in which the action is tried, or, if the determination is the determination on an appeal (by either party) by an appellate tribunal, that tribunal shall, if the plaintiff so choose, proceed to assess such compensation, but may deduct from such compensation all or part of the costs which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this Ordinance. In any proceeding under this subsection, when the court or appellate tribunal assesses the 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 force and effect of and shall be registered as an agreement under this Ordinance:

Provided that an appellate tribunal may, instead of itself assessing such compensation, remit the case to the Commissioner for the assessment of the compensation, and in such case may order the Commissioner to deduct from the amount of compensation assessed by him all or part of such cost as aforesaid.

### **Compensation for disease contracted in employment**

4.<sup>3</sup> (1) The term “**personal injury**” as used in this Ordinance includes the effects of a prescribed disease, whether cumulatives or not, and any employee who proves disablement due to a prescribed disease which he has contracted in the course of and arising out of the nature of his employment is entitled to compensation.

(2) For the purpose of this Ordinance, a disease may be prescribed by the Governor in Council by regulations, if satisfied that—

- (a) it ought to be treated, having regard to its causes and incidence and any other relevant considerations, as a risk of occupation, and not as a risk common to all persons; and
- (b) it is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty.

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<sup>3</sup> Section 4 amended by Ord. 12 of 1965

(3) The compensation payable in respect of disablement caused by a prescribed disease and the conditions for receipt of such benefit, shall be the same as in the case of personal injury by accident arising out of and in the course of a person's employment, subject however, to the power to make different provision by regulations as respects any matter which is to be prescribed.

### Amount of compensation

5.<sup>4</sup> (1) Subject to the provisions of this Ordinance, the amount of compensation shall be as follows—

- (a) where death results from the injury and—
- (i) the employee leaves a dependant or dependants wholly dependent upon his earnings, a sum equal to thirty-six months' wages or £8,000 whichever is the less;
  - (ii) the employee does not leave a dependant or dependants wholly dependent upon his earnings, but leaves a dependant or dependants in part so dependent, such sum not exceeding the amount of compensation payable under the preceding sub-paragraph as may be agreed upon, or, in default of agreement, as may be awarded by the Commissioner to be reasonable and proportionate to the injury to the said dependant or dependants.

In addition to any sum payable under the two foregoing sub-paragraphs, there shall be payable by the employer the reasonable expenses (not exceeding £200) of the burial of the deceased employee;

- (b) where permanent total disablement results from the injury—
- (i) in the case of an adult, a sum equal to forty-eight months' wages or £9,000, whichever is less, and
  - (ii) in the case of a minor, a sum equal to ninety-six months' wages or £9,000, whichever is less:

Provided that where an injury results in total permanent disablement of such a nature that the injured employee must have the constant help of another person, additional compensation shall be paid of one-fifth of the amount otherwise payable under this sub-paragraph;

- (c) where permanent partial disablement results from the injury—
- (i) in the case of an injury specified in the Schedule to this Ordinance, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury; and
  - (ii) in the case of an injury not specified in the Schedule to this Ordinance, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury.

Where more injuries than one are caused by the same accident, the amount of the compensation payable under this head shall be aggregated, but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries;

- (d) where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day from the date of the

<sup>4</sup> Section 5 amended by by Ords. 2 of 1958 and 2 of 1978, L.N. 9/1989 and Ord. 5 of 2009

disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter—

- (i) in the case of an adult, of a sum equal to one-fourth of his monthly wages, and
- (ii) in the case of a minor, of a sum equal to one-third of his monthly wages:

Provided that there shall be deducted from any payments to which the employee is entitled under this section, any amount or allowance which the employee received from the employer by way of compensation during the period of disablement prior to the receipt of such payments, and no half-monthly payment under this section shall in any case exceed the amount (if any) by which half the amount of the monthly wages of the employee before the accident exceeds half the amount of such wages as he is earning, or is able to earn, in some suitable employment or business after the accident:

Provided further that if the incapacity lasts less than four weeks, no compensation shall be payable in respect of the first three days.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half month a sum proportionate to the duration of the disablement in that half month.

### Method of calculating wages

6.<sup>5</sup> (1) For the purposes of section 5 the monthly wages of an employee shall be calculated as follows—

- (a) where the employee has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the employee shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;
- (b) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period:

Provided that if the amount of the monthly wages arrived at by a calculation under paragraph (a) or (b) is more than £160, such monthly wages shall be assumed to be £160.

(2) A period of service shall, for the purposes of this section, be deemed to be continuous if it has not been interrupted by a period of absence from work exceeding fourteen days.

### Review

7. (1) Any half-monthly payment payable under this Ordinance either under an agreement between the parties or under the order of the Commissioner may be reviewed by the Commissioner on the application either of the employer or of the employee accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the employee or, subject to regulations made under this Ordinance, on application made without such certificate.

(2)<sup>6</sup> Any half-monthly payment may, on review under this section, subject to the provisions of this Ordinance, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the compensation payment to

<sup>5</sup> Section 6(1) amended by L.N. 9/1989

<sup>6</sup> Section 7(2) substituted by Ord. 5 of 2009



which the employee is entitled less any amount which he has already received by way of half-monthly payments.

### **Payment of lump sum in lieu of payments**

8. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

### **Distribution of compensation**

9. (1)<sup>7</sup> Compensation payable where the death or disablement of an employee has resulted from an injury shall be deposited with the Registrar and any sum so deposited shall, subject to subsection (2), be paid by way of periodic payments—

- (a) in the case of compensation arising from the death of an employee, to the dependants of the deceased employee in such proportion as the Commissioner thinks fit; or
- (b) in the case of compensation arising from the permanent disablement of an employee, to such employee.

(2)<sup>8</sup> The Commissioner may pay to the employee or a dependant of a deceased employee, as the case may be, by way of a lump sum the whole or such proportion of the compensation referred to in subsection (1), if the Commissioner is satisfied that such lump sum will be properly utilised.

(3) Any other compensation payable under this Ordinance may be deposited with the Registrar, and, when so deposited shall be paid by the Registrar to the person entitled thereto.

(4) The receipt of the Registrar shall be a sufficient discharge in respect of any amount deposited with him under the provisions of this Ordinance.

(5) On the deposit of any money under subsection (1), the Registrar may deduct therefrom the actual cost of the employee's funeral expenses, to an amount not exceeding £50, and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before the Commissioner on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any enquiry which he may deem necessary, that no dependant exists, he shall direct the Registrar to repay the balance of the money to the employer by whom it was paid. The Registrar shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(6) Where a half-monthly payment is payable under this Ordinance to an employee under any legal disability, the Commissioner may, of his own motion or on application made to him in this behalf, order that the half-monthly payment be paid during the disability to any dependant of the employee or to any other person whom he thinks best fitted to provide for the welfare of the employee.

(7) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent, or on account of the variation of the circumstances of any dependant, or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in

<sup>7</sup> Section 9(1) substituted by Ord. 5 of 2009

<sup>8</sup> Section 9(2) substituted by Ord. 5 of 2009

which any sum payable to any such dependant is to be invested, applied or otherwise dealt with ought to be varied, the Commissioner may make such order for the variation of the former order as he thinks just in the circumstances of the case:

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

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

**10.<sup>9</sup>** Save as provided by this Ordinance, no compensation payment payable under this Ordinance shall be capable of being assigned, charged or attached or shall pass to any person other than the employee by operation of law, nor shall any claim be set off against the same.

### **Provision as to case of bankruptcy of employer**

**11.<sup>10</sup> (1)** Where any employer has entered into a contract with any insurers in respect of any liability under this Ordinance to any employee, then, in the event of the employer becoming bankrupt, or making a composition or arrangement with his creditors, or, if the employer is a company, in the event of the liquidation of the company, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything contained in any other law, be transferred to and vested in the employee and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however that the insurers shall not be under any greater liability to the employee than they would have been under to the employer.

**(2)** If the liability of the insurers to the employee is less than the liability of the employer to the employee, the employee may prove for the balance in the bankruptcy or liquidation, as the case may be.

**(3)** The amount due in respect of any compensation or liability for compensation accrued before the date of the filing of the petition shall be paid in priority to other debts in accordance with the provisions of the Bankruptcy Ordinance.

**(4)** Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of subsection (3), be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if the employer made an application for that purpose under this Ordinance.

### **Notice and claim**

**12. (1)** Proceedings for the recovery under this Ordinance of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof, and before the employee has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death:

Provided that—

*(a)* the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if the employer is proved to have had knowledge of the accident from any other source at or about the time of the

<sup>9</sup> Section 10 substituted by Ord. 5 of 2009

<sup>10</sup> Section 11 amended by Ord. 12 of 1965

accident, or if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect or inaccuracy or that such want, defect or inaccuracy was occasioned by a mistake, absence from St. Helena, or other reasonable cause; and

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

(2) Notice in respect of an injury under this Ordinance may be given either in writing or orally 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 employee is employed, or to any person designated for the purpose by the employer, and 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.

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

### **Medical examination**

13. (1) Where an employee has given notice of an accident, or where an accident has occurred in respect of which the necessity of giving notice under this Ordinance is dispensed with, an employee shall, if the employer offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination, and any employee who is in receipt of a half-monthly payment under this Ordinance shall, if so required, submit himself for such examination from time to time:

Provided that an employee shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with regulations made under this Ordinance, or at more frequent intervals than may be prescribed.

(2) If an employee, on being required to do so by the employer under subsection (1), or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction, unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) Where an employee, whose right to compensation has been suspended under subsection (2), dies without having submitted himself for medical examination as required by that subsection, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased employee.

(4) Where under subsection (2) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension.

(5) Where an injured employee has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge, or, having accepted such offer, has deliberately disregarded the instructions of such medical practitioner, then, if it is thereafter proved that the employee has not been regularly attended by a qualified medical practitioner, and that such refusal, failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the employee had been regularly attended by a qualified medical practitioner, and compensation, if any, shall be payable accordingly.

### Medical charges

14.<sup>11</sup> An employer shall, in addition to the payment of compensation to an injured employee, pay to or on behalf of the employee (whether directly or by way of insurance) the cost of all medical aid and such surgical and pharmaceutical aid as is reasonably necessary in consequence of the accident that gave rise to the injury to the employee.

### Sub-contracting

15. (1) Where any person (in this section referred to as the principal) in the course of or for the purpose of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any employee employed in the execution of the work any compensation under this Ordinance which he would have been liable to pay if that employee had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Ordinance, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the employee under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the employee 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 settled by the Commissioner.

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

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

### Remedies both against employer and stranger

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

- (a) the employee may take proceedings both against that person to recover damages and against any person liable to pay compensation under this Ordinance for such compensation, but shall not be entitled to recover both damages and compensation; and
- (b) if the employee has recovered compensation under this Ordinance, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under section 15 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement be settled by action or, by consent of the parties, by the Commissioner.

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<sup>11</sup> Section 14 substituted by Ord. 5 of 2009

**Returns as to compensation**

17. (1) The Governor may, by public notice, direct that every person employing employees, or that any specified class of such persons, shall send at such time and in such form and to such person, as may be specified in the notice, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the Governor may direct.

(2) Any person failing to comply with the provisions of this section shall be liable on summary conviction to a penalty of £5.

**Contracting out**

18. Any contract or agreement, whereby an employee relinquishes any right of compensation from the employer for personal injury arising out of or in the course of his employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Ordinance.

PART III  
THE COMMISSIONER

**Appointment of Commissioner**

19. (1) The Governor may appoint any person to be the Commissioner for Employees' Compensation.

(2) The Commissioner may, for the purpose of deciding any matter referred to him for decision under this Ordinance, appoint one or more persons possessing special knowledge of any matter relevant to the matter under enquiry to assist him in holding the enquiry.

**Reference to Commissioner**

20. (1) If any question arises in any proceedings under this Ordinance as to the liability of any person to pay compensation, including any question as to whether a person injured is or is not an employee, or as to the amount or duration of compensation, including any question as to the nature or extent of disablement, the question shall, in default of agreement, be settled by the Commissioner.

(2) No court shall have jurisdiction to settle, decide or deal with any question which is by or under this Ordinance required to be settled, decided or dealt with by the Commissioner, or, save as in this Ordinance, of any rule or regulation made thereunder is provided, to enforce any liability incurred under this Ordinance.

**Applications to Commissioner**

21. (1) No application for the settlement of any matter by the Commissioner shall be made unless and until some question has arisen between the parties in connection therewith, which they have been unable to settle by agreement.

(2) Where any such question has arisen, the application may be made in such form, and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars—

- (a) a concise statement of the circumstances in which the application is made, and the relief or order which the applicant claims;
- (b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer, and, if such notice has not been served or has not been served in due time, the reason for such omission;
- (c) the names and addresses of the parties; and
- (d) a concise statement of the matters on which agreement has, and of those on which agreement has not, been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Registrar.

### **Powers and procedure of Commissioner**

22. The Commissioner shall have all the powers of a magistrate for the purpose of enforcing the attendance of witnesses, compelling the production of documents and material objects, administering oaths and taking evidence, amending any defect or error in any proceeding, enlarging the time appointed for taking any proceeding or for doing any act, and punishing for contempt of court.

### **Illegal employment**

23. If, on any proceedings for the recovery of compensation under this Ordinance, it appears to the Commissioner 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, he may if, having regard to all the circumstances of the case he thinks proper so to do, deal with the matter as if the injured person had at the time aforesaid been a person working under a valid contract of service or apprenticeship.

### **Registration of orders**

24. (1) At the conclusion of the hearing of every application for the settlement of a matter by the Commissioner, the Commissioner shall record his decision and order.

(2) Where the order directs the payment of compensation under this Ordinance or the variation of the amount of rate of payment of compensation previously ordered by the Commissioner or settled by agreement, the Commissioner shall direct the Registrar to record a memorandum of his order in a register in the prescribed manner.

### **Registration of agreements**

25. (1) Where the amount of compensation under this Ordinance has been settled or varied by agreement, a memorandum thereof shall be sent by the employer, and may be sent by any party interested, to the Commissioner, who shall, on being satisfied as to its genuineness, direct the Registrar to record the memorandum in the register in the prescribed manner:

Provided that—

- (a) no such memorandum shall be recorded before seven days after communication by the Registrar of notice to the parties concerned;
- (b) where an employee seeks to record a memorandum of agreement between his employer and himself for the payment of compensation, and the employer proves that the employee has, in fact, returned to work and is earning the same

wages as he did before the accident, and objects to the recording of such memorandum, the memorandum shall only be recorded, if at all, on such terms as the Commissioner thinks just in the circumstances;

- (c) the Commissioner may at any time rectify the register;
- (d)<sup>12</sup> where it appears to the Commissioner that an agreement as to the payment of any compensation or the amount thereof payable to a person under any legal disability, or to dependants, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence, or other improper means, he may refuse to record the memorandum of the agreement or may make such order, including an order as to any sum already paid under the agreement, as he thinks just in the circumstances;
- (e) the Commissioner may, within six months after a memorandum of an agreement as to the payment of a lump sum, whether by way of redemption of half-monthly payment or otherwise, or of an agreement as to the amount of compensation payable to a person under legal disability, or to dependants, has been recorded in the register, order that the record be removed from the register, on proof to his satisfaction that the agreement was obtained by fraud or undue influence or other improper means, and may make such order, including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

### **Enforcement of orders and agreements**

**26.** Every memorandum and every amendment to a memorandum registered under section 24 or 25, and every order made under section 24, when recorded as required by the said sections, shall thereupon for all purposes be enforceable as a Supreme Court judgment.

### **Effect of failure to register agreement**

**27.** Where a memorandum of any agreement, the registration of which is required by section 25, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Ordinance, and notwithstanding anything contained in the first proviso to section 5(1) shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the employee by way of compensation whether under the agreement or otherwise.

### **Appeals**

**28.**<sup>13</sup> **(1)** With the leave of the Supreme Court, or upon the certificate of the Commissioner that it is a fit case for appeal from his order, an appeal shall lie to the Supreme Court from any order of the Commissioner.

**(2)** No appeal under this section shall lie against any order unless the amount in dispute in the appeal is not less than £200.

**(3)** Notwithstanding anything herein contained, no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.

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<sup>12</sup> Paragraph (d) substituted by Ord. 5 of 2009

<sup>13</sup> Section 28 amended by Ord. 2 of 1978

(4) Save in so far as the same may be modified by any rules made under this Ordinance, the rules of the Supreme Court for the time being in force as to appeals to that Court in civil matters shall, with the necessary modifications, apply to appeals under this section from orders of the Commissioner.

PART IV  
REGULATIONS AND RULES

**Regulations and rules**

- 29. (1)** The Governor in Council may make regulations for—
- (a) prescribing the procedure and forms in respect of matters to be done under this Ordinance;
  - (b) matters which are specially mentioned in this Ordinance as being matters which may be prescribed by regulations; and
  - (c) generally for carrying out the objects and provisions of this Ordinance.
- (2)** The Chief Justice may make rules of court for regulating the procedure and practice in respect of appeals under section 28.

**Money amounts may be amended by Order**

**30.**<sup>14</sup> The Governor in Council may by Order amend this Ordinance with respect to all amounts of money stated herein in cash terms.

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**SCHEDULE**

*(Section 2(1))*

**LIST OF INJURIES DEEMED TO RESULT IN  
PERMANENT PARTIAL DISABLEMENT**

<i>Injury</i>	<i>Percentage of loss of earning capacity</i>
Loss of either arm above or at the elbow.....	70
Loss of either arm below the elbow.....	60
Loss of leg at or above the knee .....	60
Loss of leg below the knee .....	50
Permanent total loss of hearing.....	50
Loss of one eye .....	30
Loss of thumb .....	25
Loss of all toes of one foot .....	20
Loss of one phalanx of thumb .....	10
Loss of index finger.....	10

<sup>14</sup> Section 30 inserted by Ord. 2 of 1978



Loss of great toe.....	10
Loss of any finger other than index finger.....	5

Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

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**EMPLOYEES' COMPENSATION REGULATIONS**

## ARRANGEMENT OF REGULATIONS

## REGULATION

1. Short title
2. Interpretation

## PART I

REVIEW OF HALF-MONTHLY PAYMENTS  
AND COMMUTATION THEREOF

3. Application for review without medical certificate
4. Procedure on application for review
5. Procedure on application for commutation

## PART II

## DEPOSIT OF COMPENSATION

6. Deposit under section 9(1) of the Ordinance
7. Publication of lists of deposits
8. Procedure where no compensation deposited
9. Deposit
10. Investment of compensation

## PART III

## ENQUIRY BY EMPLOYER

11. Right of employer to present memorandum when notice given

## PART IV

## MEDICAL EXAMINATION

12. Medical Examination
13. Doctor attending
14. Examination in other cases
15. Restriction on number of examinations
16. Examination after suspension of right to compensation

## PART V

## PROCEDURE

17. Appearance of parties
18. Record of proceedings
19. Applications
20. Examination of applicant
21. Summary dismissal of application
22. Preliminary enquiry into application
23. Notice to opposite party

This e-version of the text is not authoritative for use in court.

24. Statement to be filed by respondent
25. Procedure where indemnity claimed under section 15(2) of the Ordinance
26. Procedure where claim admitted
27. Failure of respondent or third party to file statement
28. Date and place of hearing
29. Non-appearance of applicant
30. Absence of respondent or third party
31. Right of entry for local inspection
32. Procedure in connection with local inspection
33. Procedure in connected cases
34. Summoning of witnesses
35. Exemption from payment of costs
36. Filing and service of documents
37. Application of Magistrates' Court rules
38. Apportionment of compensation among dependants

PART VI

RECORD OF MEMORANDA OF AGREEMENT

39. Form of memorandum
40. Procedure to record memorandum
41. Procedure to refuse to record memorandum
42. Procedure on refusal to record memorandum
43. Registration of memorandum accepted for record
44. Registration of orders

PART VII

FURTHER DUTIES OF REGISTRAR

45. Proceedings to bear date
46. Cause book
47. Keeping of registers
48. Keeping of indexes
49. Searches
50. Inspection of files

PART VIII

COSTS

51. Costs

PART IX

FEEES

52. Fees

PART X

FORMS

53. Forms

**EMPLOYEES' COMPENSATION REGULATIONS – SECTION 29**

*(Legal Notice 19 of 1947 and 28 of 2009)*

**Short title**

1. These regulations may be cited as the Employees' Compensation Regulations.

**Interpretation**

2. In these regulations, unless the context otherwise requires—  
“**form**” means a form in the Schedule to these regulations;  
“**the Ordinance**” means the Employees' Compensation Ordinance.

**PART I****REVIEW OF HALF-MONTHLY PAYMENTS  
AND COMMUTATION THEREOF****Application for review without medical certificate**

3. Application in Form A for review of a half-monthly payment under section 7 of the Ordinance may be made without being accompanied by a medical certificate—
  - (a) by the employer, on the ground that since the right to compensation was determined the employee's wages have increased;
  - (b) by the employee, on the ground that since the right to compensation was determined his wages have diminished;
  - (c) by the employee, on the ground that the employer, having commenced to pay compensation, has ceased to pay the same, notwithstanding the fact that there has been no change in the employee's conditions such as to warrant such cessation;
  - (d) by the employee, on the ground that he has ceased, since the right to compensation was determined, to be a minor;
  - (e) either by the employer or by the employee, on the ground that the determination of the rate of compensation for the time being in force was obtained by fraud or undue influence or other improper means.

**Procedure on application for review**

4. If, on examining an application for review by an employer in which the reduction or discontinuance of half-monthly payments is sought, it appears to the Commissioner that there is reasonable ground for believing that the employer has a right to such reduction or discontinuance, he may at any time issue an order withholding the half-monthly payments in whole or in part pending his decision on the application.

**Procedure on application for commutation**

5. (1)<sup>15</sup> Where application is made to the Commissioner under section 8 of the Ordinance for the redemption of a right to receive half-monthly payments by the payment of a lump sum, the Commissioner shall form an estimate of the probable duration of the

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<sup>15</sup> Regulation 5(1) amended by Legal Notice 28 of 2009

disablement, and shall award a sum equivalent to the total of the half-monthly payments which would be payable for the period during which he estimates that the disablement will continue, less one half per cent. of that total for each month comprised in that period.

(2) When, in any case to which subsection (1) applies, the Commissioner is unable to form an approximate estimate of the probable duration of the disablement he may from time to time postpone a decision on the application for a period not exceeding two months at any one time.

## PART II DEPOSIT OF COMPENSATION

### **Deposit under section 9(1) of the Ordinance**

6. (1) An employer depositing compensation under section 9(1) of the Ordinance shall furnish therewith a statement in Form B, and shall be given a receipt in Form C.

(2) If, in the statement above referred to, the employer indicates that he desires to be made a party to the distribution proceedings, the Commissioner shall, before allotting the sum deposited as compensation, afford to the employer an opportunity of establishing that the person to whom he proposes to allot such sum is not a dependant of the deceased employee, or as the case may be, that no one of such persons is a dependant.

(3) The statement of disbursements to be furnished on application by the employer under section 9(5) of the Ordinance shall be in Form D.

### **Publication of lists of deposits**

7. The Registrar shall cause to be displayed in a prominent position outside his office an accurate list of the deposits received by him under subsection (1) of section 9 of the Ordinance, of the depositors and of the employees in respect of whose death the deposits have been made.

### **Procedure where no compensation deposited**

8. (1) Where a dependant of a deceased employee claims that compensation is payable in respect of the death of the employee, and no compensation has been deposited in accordance with subsection (1) of section 9 of the Ordinance in respect thereof, the dependant may apply to the Commissioner for the issue of an order requiring the employer to deposit compensation in accordance with the said subsection:

Provided that no such application shall be entertained unless the applicant certifies therein that he has requested the employer to deposit compensation and that the employer has refused or omitted to do so.

(2) The Commissioner shall dispose of such application in accordance with the provisions of Part V of these Regulations:

Provided that—

- (a) the Commissioner may, at any time, cause notice to be given in such manner as he thinks fit to all or any of the dependants of the deceased employee who have not joined in the application, requiring them, if they desire to join therein, to appear before him on a date specified in this behalf;
- (b) any dependant to whom such notice has been given and who fails to appear and to join in the application on the date specified in the notice shall not be permitted thereafter to claim that the employer is liable to deposit compensation, unless he

satisfies the Commissioner that he was prevented by any sufficient cause from appearing when the cause was called on for hearing.

(3) If, after completing the enquiry into the application, the Commissioner issues an order requiring the employer to deposit compensation in accordance with subsection (1) of section 9 of the Ordinance, nothing in sub-regulation (2) of this Regulation shall be deemed to prohibit the allotment of any part of the sum deposited as compensation to a dependant of the deceased employee who failed to join in the application.

### **Deposit**

9.<sup>16</sup> An employer depositing compensation in accordance with section 9(3) of the Ordinance shall furnish therewith a statement in Form E, and shall be given a receipt in Form F.

### **Investment of compensation**

10. Money invested under section 9 of the Ordinance may be deposited in the name of the Registrar in the Government Savings Bank.

## PART III ENQUIRY BY EMPLOYER

### **Right of employer to present memorandum when notice given**

11. (1) Any employer to whom notice of an accident has been given may at any time, notwithstanding the fact that no claim for compensation has been instituted in respect of such accident, present to the Registrar a memorandum, supported by an affidavit made by himself or by any person subordinate to him having knowledge of the facts stated in the memorandum, embodying the results of any investigation or enquiry which has been made into the circumstances or cause of the accident.

(2) A memorandum presented under this regulation shall, subject to the payment of such fee as may be prescribed, be recorded by the Registrar.

## PART IV MEDICAL EXAMINATION

### **Medical Examination**

12. An employee who is required by section 13(1) of the Ordinance to submit himself for medical examination shall be bound to do so in accordance with the regulations contained in this Part and not otherwise.

### **Doctor attending**

13. When such employee is present on the employer's premises, and the employer offers to have him examined free of charge by a qualified medical practitioner who is so present, the employee shall submit himself for examination forthwith.

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<sup>16</sup> Regulation 9 substituted by LN 28 of 2009

**Examination in other cases**

- 14.** In cases to which regulation 13 does not apply, the employer may—
- (a) send the medical practitioner to the place where the employee is residing for the time being, in which case the employee shall submit himself for medical examination on being requested to do so by the medical practitioner; or
  - (b) send to the employee an offer in writing to have him examined free of charge by a qualified medical practitioner, in which case the employee shall submit himself for medical examination at the employer's premises, or at such other place in the vicinity as is specified in such offer, and at such time as is so specified:

Provided that—

- (i) the time so specified shall not, save with the express consent of the employee, be between the hours of 7 p.m. and 6 a.m.; and
- (ii) in cases where the employee's condition renders it impossible or inadvisable that he should leave the place where he is residing for the time being, he shall not be required to submit himself for medical examination save at such place.

**Restriction on number of examinations**

**15.** An employee who is in receipt of a half-monthly payment shall not be required to submit himself for medical examination elsewhere than at the place where he is residing for the time being more than twice in the first month following the accident or more than once in any subsequent month.

**Examination after suspension of right to compensation**

**16.** If an employee whose right to compensation has been suspended under section 13(2) or (3) of the Ordinance subsequently offers himself for medical examination, his examination shall take place on the employer's premises or at such other place in the vicinity as may be fixed by the employer.

PART V  
PROCEDURE

**Appearance of parties**

**17. (1)** Any appearance, application, or act, required to be made or done by any person before or to the Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness), may be made or done on behalf of such person by a legal practitioner or, with the leave of the Commissioner, by the son, daughter, father, mother, brother, sister, or wife of the party, or by any person in his permanent employment.

**(2)** No person, other than a legal practitioner, who appears or acts on behalf of any party in connection with proceedings before the Commissioner under the Ordinance, shall be entitled to any fee or reward for so appearing or acting.

### **Record of proceedings**

**18. (1)** There shall be recorded in every proceeding a note of the steps taken on the application.

**(2)** The Commissioner shall make notes of the evidence of every witness as the examination of the witness proceeds, and such notes shall be written and signed by the Commissioner with his own hand, and shall form part of the record:

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

**(3)** The Commissioner, in making orders, shall record concisely his findings and his reasons for such findings.

**(4)** The Commissioner, at the time of signing and dating his order, shall pronounce his decision, and thereafter no addition or alteration shall be made to the order other than the correction of a clerical or arithmetical mistake arising from any accidental slip or omission.

**(5)** Orders shall be in one of the forms in Form M, with any necessary variations.

### **Applications**

**19.** Any application of the nature referred to in section 21 of the Ordinance may be presented to the Registrar, and, if so presented shall, unless the Commissioner otherwise directs, be made in Forms G, H, or J, as the case may be, and shall be signed by the applicant. Every application presented to the Registrar shall be forwarded to the Commissioner forthwith.

### **Examination of applicant**

**20. (1)** On receiving such application, the Commissioner may examine the applicant on oath.

**(2)** The substance of any examination made under this regulation shall be recorded in the manner provided for the recording of evidence in regulation 17.

### **Summary dismissal of application**

**21.** The Commissioner shall consider the application and the record of the substance of any examination of the applicant, and may summarily dismiss the application, if, for reasons to be recorded, he is of opinion that there are not sufficient grounds for proceeding thereon, and the Registrar shall forthwith notify the applicant or the legal practitioner or other person acting on behalf of the applicant of such summary dismissal of the application.

### **Preliminary enquiry into application**

**22.** If the application is not dismissed under regulation 21 the Commissioner may direct the Registrar to call upon the applicant to produce to the Registrar evidence in support of the application before calling upon any other party, and, if upon considering such evidence, the Commissioner is of opinion that there is no case for the relief claimed, he may dismiss the application with a brief statement of his reasons for so doing.



**Notice to opposite party**

23. If the Commissioner does not dismiss the application under regulation 21 or regulation 22, the Registrar shall cause to be served on the party from whom the applicant claims relief (hereinafter referred to as the respondent) a copy of the application, and may, if he thinks fit, call upon the respondent to file a written statement dealing with the claims within such time as the Registrar may fix.

**Statement to be filed by respondent**

24. The respondent may, and if so required by the Registrar shall, within such time as the Registrar may fix, file a written statement dealing with the claims raised in the application, and any such written statement shall form part of the record.

**Procedure where indemnity claimed under section 15(2) of the Ordinance**

25. Where the respondent claims that if compensation is recovered against him he will be entitled under section 15(2) of the Ordinance to be indemnified by a person not being a party to the case (hereinafter referred to as the third party), he shall, within ten days after being served with the copy of the application, file a notice of such claim with the Registrar accompanied by the prescribed fee, and the Registrar shall thereupon cause a copy of the notice of such claim in Form K to be served on the third party, and may, if he thinks fit, call upon him to file a written statement dealing with the claim raised in the application within such time as the Registrar may fix.

**Procedure where claim admitted**

26. If the respondent or the third party admits the claim, he may at any time before the first hearing—

- (a) where the application is made by an injured employee—
  - (i) file with the Registrar a notice that he submits to an order for the payment of a half-monthly sum, to be specified in such notice; or
  - (ii) file with the Registrar a notice that he submits to an order for the payment of a lump sum, to be specified in the notice, and pay such sum into Court;
- (b) where the application is made on behalf of the dependants of a deceased employee, or for the settlement of the sum payable in respect of medical attendance and the burial of a deceased employee who leaves no dependants, file with the Registrar a notice that he admits liability, and pay into Court such sum of money as he considers sufficient to cover his liability in the circumstances of the case.

**Failure of respondent or third party to file statement**

27. If the respondent or the third party fails to file a statement dealing with the claim within the time fixed by the a Registrar or by the Commissioner on an application to enlarge the time, he shall be taken to admit the claim.

**Date and place of hearing**

28. Where it is necessary to proceed to a hearing, the Registrar shall fix a date and place for disposing of the application and of the claim for indemnity, if any, and cause notice thereof to be served on the different parties in Form L, calling upon them to attend and there to produce any evidence which they may wish to tender.

**Non-appearance of applicant**

29. If, on the day of hearing or at any adjournment of the case, the applicant does not appear, the case shall be dismissed, unless the Commissioner having received a reasonable excuse for the non-appearance of the applicant, or for other sufficient reason, thinks fit to adjourn the hearing to some future day upon such terms as to costs as the Commissioner may think just.

**Absence of respondent or third party**

30. If on the day of hearing or at the adjournment of the case, the respondent or third party does not appear, the Commissioner may proceed to hear the case in his absence, unless the Commissioner, having received a reasonable excuse for his absence, or for other sufficient reason, thinks fit to adjourn the hearing to some future day upon such terms as to costs as he may think fit.

**Right of entry for local inspection**

31. The Commissioner may at any time enter the place where the employee was injured, or where the employee ordinarily performed his work, for the purpose of making a local inspection or of examining any persons likely to be able to give information relevant to the proceedings:

Provided that the Commissioner shall not enter any premises of any industrial establishment except during the ordinary working hours of that establishment, save with the permission of the employer or of some person directly responsible to him for the management of the establishment.

**Procedure in connection with local inspection**

32. (1) If the Commissioner proposes to conduct a local inspection with a view to examining on the spot the circumstances in which an accident took place, he shall give the parties or their representatives notice of his intention to conduct such inspection, unless in his opinion the urgency of the case renders the giving of such notice impracticable.

(2) Such notice may be given orally or in writing, and, in the case of an employer, may be given to any person upon whom notice of a claim can be served under section 12(2) of the Ordinance, or to the representative of any such person.

(3) Any party, or the representative of any party, may accompany the Commissioner at a local inspection.

### Procedure in connected cases

33. Where two or more cases pending before the Commissioner arise out of the same accident, and any issue involved is common to two or more such cases, such cases may, so far as the evidence bearing on such issue is concerned, be taken together.

### Summoning of witnesses

34. If an application is presented by any party to the proceedings for the citation of witnesses, the Registrar shall, on payment of the prescribed expenses and fees, issue summonses for the appearance of such witnesses, unless the Commissioner considers that their appearance is not necessary for the just decision of the case.

### Exemption from payment of costs

35. If the Commissioner is satisfied that the applicant is unable by reason of poverty, to pay the prescribed fees, he may remit any or all of such fees. If the case is decided in favour of the applicant, the prescribed fees which, had they not been remitted, would have been due to be paid may be added to the costs of the case and recovered in such manner as the Commissioner in his order regarding costs may direct.

### Filing and service of documents

36. (1) Where any document is to be filed with the Registrar under these regulations, that document may be so filed by delivering it at the office of the Registrar.

(2) Where any document is to be filed, there shall be filed with the original document as many copies of the document as there are persons on whom copies of the document are to be served, and in addition a copy for the use of the Commissioner.

(3) Where any document is under the Ordinance or these regulations to be served upon any person, such document may be served upon —

- (a) the Crown, by service upon the Head of the Government Department in which the applicant was employed at the time of the accident, or by leaving it at the office of such Head of Department;
- (b) an individual, by service upon him personally or by leaving it at his last known place of abode or business;
- (c) a corporate body by service on the secretary or by leaving it at the registered office of such corporate body;
- (d) a club, by service on the secretary or any member of the managing committee;
- (e) the master of a ship or a person belonging to a ship, by service on such master or person or by leaving the document for such master or person on board the ship with the person being or appearing to be in command or charge of the ship, or where no such person can be found, by affixing a copy of the document to the mast of the ship.

(4) All service shall be effected by a member of the Police Force, who shall make a return of the service within two days in Form N, sworn to before the Magistrate or a Justice of the Peace.

### **Application of Magistrates' Court rules**

37. Save as otherwise expressly provided in the Ordinance or these Regulations, the Rules of the Magistrates' Court as to enforcing the attendance of witnesses, compelling the production of documents and material objects, administering oaths, taking evidence, amending any defect or error in any proceeding, enlarging the time appointed for taking any proceeding or doing any act, and the representation of persons under disability shall, with the necessary modifications, apply to proceedings before the Commissioner.

### **Apportionment of compensation among dependants**

38. The provision of this Part of these regulations shall, as far as may be, apply in the case of any proceedings relating to the apportionment of compensation among dependants of a deceased employee.

## **PART VI**

### **RECORD OF MEMORANDA OF AGREEMENT**

#### **Form of memoranda**

39. Memoranda of agreement sent to the Registrar under section 25(1) of the Ordinance shall, unless the Commissioner otherwise directs, be in duplicate, and shall be in as close conformity as the circumstances of the case admit with Form O or Form P or Form Q as the case may be.

#### **Procedure to record memorandum**

40. (1) On receiving a memorandum of agreement the Registrar shall refer the same to the Commissioner who, unless he considers that there are grounds for refusing to record the same, shall direct the Registrar to fix a day for recording the same, and the Registrar shall accordingly issue a notice in writing in Form R to the parties concerned that in default of objections the Commissioner proposes to record the memorandum on the day so fixed:

Provided that the notice may be communicated orally to any parties who are present at the time when notice in writing would otherwise issue.

(2) On the date so fixed the Commissioner shall direct the Registrar to record the memorandum unless, after hearing any of the parties who appear and desire to be heard, he considers that it ought not to be recorded:

Provided that the issue of a notice under subregulation (1) shall not be deemed to prevent the Commissioner from refusing to record the memorandum on the date so fixed, even if no objection be made by any party concerned.

(3) If on such date the Commissioner decides that the memorandum ought not to be recorded, he shall inform the parties present of his decision and of the reasons therefor, and, if any party desiring the memorandum to be recorded is not present, the Registrar shall send information to that party in Form S.

#### **Procedure to refuse to record memorandum**

41. (1) If on the reference of a memorandum of agreement by the Registrar to the Commissioner, the Commissioner considers that there are grounds for refusing to record the

same, the Registrar shall fix a date for hearing the party or parties desiring the memorandum to be recorded, and the Registrar shall inform such party or parties and, if the Commissioner thinks fit, any other party concerned, of the date so fixed and of the grounds on which the Commissioner considers that the memorandum should not be recorded.

(2) If the parties to be informed are not present, a written notice shall be sent to them in Form T or Form U, as the case may be, and the date fixed in such notice shall be not less than seven days after the date of the issue of the same.

(3) If on the date fixed under subregulation (1) the party or parties desiring the memorandum to be recorded show adequate cause for proceeding to the record of the same, the Commissioner may, if information has already been given to all the parties concerned, direct the Registrar to record the agreement. If information has not been given to all such parties, he shall proceed in accordance with regulation 40.

(4) If, on the date so fixed, the Commissioner refuses to record the memorandum, the Registrar shall send notice in Form S to any party who did not receive information under subregulation (1).

**Procedure on refusal to record memorandum**

42. (1) If in any case the Commissioner refuses to record a memorandum of agreement, he shall briefly record his reasons for such refusal.

(2) If the Commissioner refuses to record a memorandum of agreement, he shall not make any order directing the payment of any sum or amount over and above the sum specified in the agreement, unless opportunity has been given to the party liable to pay such sum to show cause why it should not be paid.

(3) Where the agreement is for the redemption of half-monthly payments by the payment of a lump sum, and the Commissioner considers that the memorandum of agreement should not be recorded by reason of the inadequacy of the amount of such sum as fixed in the agreement, he shall record his estimate of the probable duration of the disablement of the employee.

**Registration of memorandum accepted for record**

43. In recording a memorandum of agreement, the Registrar shall cause the same to be entered in a register in Form V, and shall cause an endorsement to be made under his signature on a copy of the memorandum to be retained by him in the following terms—

“This memorandum of agreement bearing Serial No. ....  
of 20....., in the register of agreements has been recorded this  
..... day of ....., 20.....

(Signature),

Registrar.”

**Registration of orders**

44. In recording an order of the Commissioner under section 24(2) of the Ordinance, directing the payment of compensation or the variation of the amount or rate of compensation previously ordered or settled by agreement, the Registrar shall cause such order to be entered in

a register in the Form W, and shall cause an endorsement to be made under his signature on a copy of the order to be retained by him in the following terms—

“This order bearing Serial No ..... of 20....., in the register of orders has been recorded in such register this ..... day of ....., 20.....

(Signature),

Registrar.”

## PART VII FURTHER DUTIES OF REGISTRAR

### Proceedings to bear date

**45.** All proceedings filed with or delivered to the Registrar shall bear the date of the filing or issuing thereof.

### Cause book

**46.** The Registrar shall enter all proceedings hereafter to be commenced in a cause book, the form of which shall be prescribed by the Commissioner; any entry made therein shall be examined with the original document the day after such entry is made, and such entry shall be evidence of the document having been filed.

### Keeping of registers

**47.** The Registrar shall also keep the registers prescribed by regulations 43 and 44 and shall make the appropriate entries therein in accordance with the requirements of the said regulations.

### Keeping of indexes

**48.** Proper indexes of the titles of all applications filed with or delivered to the Registrar shall be kept so that the same may be conveniently referred to when required; and such indexes shall at all times during office hours be accessible to the public on payment of the prescribed fee.

### Searches

**49.** The Registrar shall, on a request in writing giving sufficient particulars and on payment of the prescribed fee, cause a search to be made in the cause books or registers under his custody, and issue a certificate of the result of the search.

### Inspection of files

**50.** Any person shall on payment of the prescribed fee be allowed to inspect the file of documents or proceedings in any matter.

PART VIII  
COSTS**Costs**

**51. (1)** Any costs of and incident to any proceedings before the Commissioner directed to be paid by one party to another shall, in default of agreement between the parties as to the amount of such costs, be taxed according to the scale of costs applicable to actions in the Magistrates' Court; and the statutory provisions and rules for the time being in force as to the allowance and taxation of costs in such actions, shall with the necessary modifications apply accordingly.

**(2)** When proceedings are taken for which no provision is made by these regulations, reasonable costs may be allowed in respect of such proceedings, not exceeding those which may under the scales of costs be allowed in respect of proceedings of a like nature.

**(3)** The Commissioner, in dealing with the question of costs, may take into consideration any offer of compensation proved to have been made on behalf of the employer.

PART IX  
FEES**Fees**

**52.<sup>17</sup>** The following fees are hereby prescribed and shall be collected by means of stamps; and all statutory provisions and all rules for the time being in force in relation to the collection of revenue by stamps shall apply thereto—

1. Applications for compensation—	s.	d.
(a) where compensation is claimed in the form of recurring payments .....	25p	
(b) where compensation is claimed in the form of a lump sum 13p where the sum does not exceed £50, plus 13p for each additional sum of £50, or fraction thereof up to 50p.		
2. Application for commutation—		
(a) by agreement between the parties .....	13p	
(b) in all other cases.....	25p	
3. Applications for the deposit of compensation—		
(a) under section 9(1) of the Ordinance as a result of death of employee .....	Nil	
(b) in all other cases, in respect of each person to whom compensation is payable .....	13p	
4. Applications for distributing by dependants, for each dependant.....	13p	
		up to 75p
5. Applications for review—		

<sup>17</sup> Regulation 52 amended by LN 28 of 2009

(a) where the review claimed is the continuance, increase, decrease or ending of half-monthly payments.....	13p
(b) where the half-monthly payments are sought to be converted into a lump sum.....	25p
(c) in all other cases.....	25p
6. Applications for the registration of agreement—	
(a) where the application or the memorandum of agreement is signed by both parties.....	Nil.
(b) in all other cases .....	25p
7. Applications to summon witnesses—	
for every witness.....	5p
8. Applications for indemnification.....	50p
9. Applications for the recovery of compensation—	
(a) under an order already made by the Commissioner .....	13p
(b) in all other cases— the same fee as is payable on a similar application for compensation.	
10. All applications not otherwise provided for .....	13p
11. For service of any notice or process—	
(a) in Jamestown .....	13p
(b) in other parts of St. Helena .....	15p
12. For search in indexes of titles of application filed.....	13p
13. For search in cause books or registers and issuing certificate of result of search under the hand of the Registrar .....	13p
14. For inspecting file of documents or proceedings.....	13p

PART X  
FORMS

### Forms

**53.** Where the forms in the Schedule to these regulations are not applicable, forms of the like character, with such variations as the circumstances may require, may be used in proceedings under the Ordinance.



**SCHEDULE**

**FORM A**

*(Regulation 3)*

**APPLICATION FOR REVIEW OF HALF-MONTHLY PAYMENT**

To the Registrar,

....., residing at  
..... applicant

*versus*

....., residing at  
....., respondent.

Application is hereby made for the review (termination, diminution, increase, or redemption, as the case may be) of the half-monthly payment payable to the said ..... in respect of personal injury caused to him by accident arising out of and in the course of his employment.

Particulars are hereto appended.

**PARTICULARS**

1. Name and address of injured employee.
2. Name and place of business of employer by whom compensation is payable.
3. Date and nature of accident.
4. Amount of half-monthly payment and date from which it commenced.
5. Relief sought by applicant (whether termination, diminution, increase, or redemption).
6. Grounds of application.

Dated this ..... day of ....., 20.....

*(Signed)*

*Applicant.*

\_\_\_\_\_

## FORM B

*(Regulation 6)***DEPOSIT OF COMPENSATION FOR FATAL ACCIDENT**

Compensation amounting to £..... is hereby presented for deposit in respect of injuries resulting in the death of ....., residing at ....., which occurred on ....., 20..... . His monthly wages are estimated at ..... He was over/under the age of 18 years at the time of his death.

The said employee had, prior to the date of his death, received the following payments, namely—

..... amounting in all to .....

*Employer.*

Dated ....., 20.....

[*To be added if desired.*]

I desire to be made a party to the proceedings for distribution of the aforesaid compensation.

*Employer.*

## FORM C

*(Regulation 6)***RECEIPT FOR COMPENSATION**

Book ..... Receipt No. .... Register No. ....  
 Depositor .....  
 Deceased employee .....  
 Date of deposit ..... 20.....  
 Sum deposited £.....

*Registrar.*

FORM D

(Regulation 6)

**STATEMENT OF DISBURSEMENTS**

Serial No. ....

Depositor .....

Amount deposited £.....

Date.		£	s.	d.				
	Funeral expenses paid .....							
	Compensation paid to the following dependants:—							
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;">Name.</th> <th style="width: 60%;">Relationship.</th> </tr> </thead> <tbody> <tr> <td style="height: 100px;"></td> <td></td> </tr> </tbody> </table>	Name.	Relationship.					
Name.	Relationship.							
	Total.....							

Dated ..... 20 .....

*Registrar.*

\_\_\_\_\_

## FORM E

*(Regulation 9)***DEPOSIT OF COMPENSATION FOR NON-FATAL ACCIDENTS**

Compensation amounting to £..... is hereby presented for deposit  
in respect of permanent/temporary injuries sustained by .....  
residing at ....., which occurred on .....,  
20.....

*Employer.*

Dated ....., 20.....

## FORM F

*(Regulation 9)***RECEIPT FOR COMPENSATION**

Book No. .... Receipt No. .... Register No. ....  
Depositor .....  
In favour of .....  
Date of deposit ....., 20.....  
Sum deposited £.....

*Registrar.*

FORM G

(Regulation 19)

APPLICATION FOR COMPENSATION BY EMPLOYEE

To the Commissioner for Employees' Compensation—

....., residing at  
....., applicant

versus

....., residing at  
....., respondent.

It is hereby submitted that—

(1) The applicant, an employee employed by a contractor with the respondent on the day of ....., 20....., received personal injury by accident arising out of and in the course of his employment.

The cause of the injury was [*here insert briefly in ordinary language the cause of the injury*].

(2) The applicant sustained the following injuries, namely—

(3) The monthly wages of the applicant amount to £..... The applicant is over/under the age of 18 years.

\* (4) (a) Notice of the accident was served on the ..... day of .....

(b) Notice was served as soon as practicable.

(c) Notice of the accident was not served (in due time) by reason of .....

\* (5) The applicant is accordingly entitled to receive—

(a) half-monthly payments of £..... from the ..... day of ....., 20....., to .....

(b) a lump sum payment of £.....

(6) The applicant has taken the following steps to secure a settlement by agreement, namely—

but it has proved impossible to settle the questions in dispute because—

\* You are therefore requested to determine the following questions in dispute, namely—

(a) Whether the applicant is an employee within the meaning of the

Ordinance;

- (b) Whether the accident arose out of and in the course of the applicant's employment;
- (c) Whether the amount of compensation claimed is due, or any part of that amount;
- (d) Whether the respondent is liable to pay such compensation as is due;
- (e) etc. (as required)

Dated the .....

*Applicant.*

To .....  
of .....

I do hereby require you to file with me the undersigned Registrar a written statement dealing with the claim against you in the above application within ..... days after service thereof on you.

And further take notice that if you fail to forward the statement in writing an order may be made against you in default.

Dated this ..... day of ....., 20.....

*Registrar.*

\* Strike out the clauses which are not applicable.

\_\_\_\_\_

FORM H

(Regulation 19)

APPLICATION FOR COMPENSATION BY DEPENDANTS

To the Commissioner for Employees' Compensation—

....., residing at
..... applicant

versus

....., residing at
....., respondent.

It is hereby submitted that—

(1) ..... an employee employed by (a contractor with) the respondent on the day of ....., 20....., received personal injury by accident arising out of and in the course of his employment resulting in his death on the day of ....., 20..... . The cause of the injury was [here insert briefly in ordinary language the cause of the injury].

(2) The applicant(s) is a/are dependant(s) of the deceased employee, being his .....

(3) The monthly wages of the deceased amount to £..... The deceased was over/under the age of 18 years at the time of his death.

\*(4) (a) Notice of the accident was served on the ..... day of .....

(b) Notice was served as soon as practicable.

(c) Notice of the accident was not served (in due time) by reason of

(5) The deceased before his death received as compensation the total sum of £.....

(6) The applicant(s) is/are accordingly entitled to receive a lump sum payment of £.....

(7) The applicant(s) has/have requested the respondent to deposit compensation and the latter has refused/omitted to do so.

\*You are therefore requested to determine the following questions in dispute, namely—

(a) Whether the deceased was an employee within the meaning of the

Ordinance;

- (b) Whether the accident arose out of and in the course of the deceased's employment;
- (c) Whether the amount of compensation claimed is due, or any part of that amount;
- (d) Whether the respondent is liable to pay such compensation as is due;
- (e) Whether the applicant(s) is a/are dependant(s) of the deceased;
- (f) How the compensation, when deposited, should be distributed;
- (g) etc. (as required)

Dated the ..... the day ....., 20.....

*Applicant.*

To .....  
of .....

I do hereby require you to file with me the undersigned Registrar a written statement dealing with the claim against you in the above application within ..... days after service thereof on you.

And further take notice that if you fail to forward the statement in writing an order may be made against you in default.

Dated this ..... day of ....., 20.....

*Registrar.*

\* Strike out the clauses which are not applicable.

\_\_\_\_\_



FORM J

(Regulation 19)

APPLICATION FOR COMMUTATION

To the Commissioner for Employees' Compensation—

....., residing at
..... applicant

versus

....., residing at
....., respondent.

It is hereby submitted that—

- (1) The applicant/respondent has been in receipt of half-monthly payments from ..... to ..... in respect of temporary disablement by accident arising out of and in the course of his employment.
(2) The applicant is desirous that the right to receive half-monthly payments should be redeemed.
(3) (a) The respondent is unwilling to agree to the redemption of the right to receive half-monthly payments.
(b) The parties have been unable to agree regarding the sum for which the right to receive half-monthly payments should be redeemed.

You are therefore requested to make an order—

- (a) directing that the right to receive half-monthly payments should be redeemed.
(b) fixing a sum for the redemption of the right to receive half-monthly payments.

Dated .....

Applicant.

\_\_\_\_\_

FORM K  
(Regulation 25)

NOTICE

Whereas a claim for compensation has been made to the Commissioner for Employees' Compensation by ..... applicant, against ..... and the said ..... has claimed that you are liable under section 15(2) of the Employees' Compensation Ordinance to indemnify him against any compensation which he may be liable to pay in respect of the aforesaid claim, you are hereby informed that you may appear before the Commissioner for Employees' Compensation at ..... o'clock on the ..... day of ....., 20 ....., at ..... and contest the claim for compensation made by the said applicant or the claim for indemnity made by the respondent. In default of your appearance you will be deemed to admit the validity of any award made against the respondent and your liability to indemnify the respondent for any compensation recovered from him.

Dated ....., 20.....

Registrar.

To .....  
of .....

I do hereby require you to file with me the undersigned Commissioner a written statement dealing with the claim against you in the above application within ..... days after service thereof on you.

And further take notice that if you fail to forward the statement in writing an order may be made against you in default.

Dated this ..... day of ....., 20.....

Commissioner.

\_\_\_\_\_

FORM L AND NOTICE

(Regulation 28)

NOTICE TO APPLICANT OF DAY UPON WHICH HEARING WILL BE PROCEEDED WITH

....., residing at ..... applicant

versus

....., residing at ..... respondent.

Take notice that the Commissioner will proceed with the hearing of the application in this matter at ....., on ..... the ..... day of ....., at the hour of ..... o'clock in the ..... noon.

Dated this ..... day of ....., 20.....

NOTICE TO RESPONDENT OF DAY UPON WHICH HEARING WILL BE PROCEEDED WITH

....., residing at ..... applicant

versus

....., residing at ..... respondent.

Take notice that the Commissioner will proceed with the hearing of the application in the matter at ....., on ..... the ..... day of ....., at the hour of ..... o'clock in the ..... noon, and that if you do not attend at the time and place above-mentioned such order will be made and proceedings taken as the Commissioner may think just and expedient.

Dated this ..... day of ....., 20.....

To ..... of .....

FORM M  
(Regulation 18)

ORDER

(NOTE.—These forms are intended for use in ordinary cases only.)

**(I) In case of application for half-monthly payment of compensation.**

Having duly considered the matters submitted to me, I do hereby order as follows:

[Here insert any introductory recitals of findings on which the order is made which the Commissioner may think fit.]

1. I order that the respondent C.D. do pay to the applicant A.B. the half-monthly sum of ..... as compensation for personal injuries caused to the said A.B. on the ..... day of ....., by injury arising out of and in the course of his employment as an employee employed by the said respondent, such half-monthly payment to commence as from the ..... day of ....., and to continue during the total or partial incapacity of the said A.B. for work, or until the same shall be ended, diminished, increased or redeemed in accordance with the provisions of the Employees' Compensation Ordinance.

2. And I order that the said C.D. do forthwith pay to the said A.B. the sum of £..... being the amount of such half-monthly payments calculated from the ..... day of ....., until the ..... day of ....., and do thereafter pay ..... the said sum of ..... to the said A.B. on the ..... and ..... days of each month.

3. And I order that the said C.D. do pay to the applicant his costs of and incidental to the proceedings, such costs, in default of agreement between the parties as to the amount thereof, to be taxed under the scale of costs applicable to actions in the Magistrates' Court, and to be paid by the said C.D. within 14 days of the date of the certificate of the result of such taxation.

Dated this ..... day of ....., 20.....

*Commissioner for Employees' Compensation.*

**(II) In case of application by Dependants.**

Having duly considered the matters submitted to me, I do hereby order as follows:—

*[Here insert any introductory recitals of findings on which the order is made which the Commissioner may think fit.]*

1. I order that the respondent C.D. do pay the sum of £..... to the dependants of A.B., late of ....., deceased, as compensation for the injury resulting to such dependants from the death of the said A.B. which took place on the ..... day of ....., from injury caused to the said A.B. on the ..... day of ....., by accident arising out of and in the course of his employment as an employee employed by the said respondent.

2. And I declare that the persons hereinafter named are entitled to share in such compensation as dependants of the said A.B., that is to say J.B. the widow of the said A.B. and [name the other persons].

3. *[Add if so found]* And I declare that G.H. the ..... of the said A.B. is not entitled to share in such compensation as a dependant of the said A.B.

4. And I order that the said sum of £..... be apportioned between the said J.B. and ..... in the proportions following, that is to say:—

I apportion the sum of £..... to and for the benefit of the said J.B. and the sum of £..... to and for the benefit of the said .....

5. And I order that the said C.D. do pay the said sum of £..... within 14 days from the date of this order.

6. And I order that the said J.B. and the said ..... or any of them, be at liberty to apply to me from time to time for any further or other order as to the application of any of the said sums which may be ordered to be invested and the accruing interest thereof.

7. And I order that the said C.D. do pay to the applicants their costs of and incident to these proceedings, etc.

Dated this ..... day of ....., 20.....

*Commissioner for Employees' Compensation.*

**(III) In case of application by person to whom expenses  
of medical attendance or burial are due.**

Having duly considered the matters submitted to me, I do hereby order as follows:—

*[Here insert any introductory recitals of findings on which the order is made which the Commissioner may think fit.]*

1. I order that the respondent C.D. do pay the sum of £.....  
for or towards the expenses of medical attendance on and the burial of A.B., late  
of ....., deceased, who died on the ..... day  
of ....., from injury caused on the ..... day  
of ....., by accident arising out of and in the course of the  
employment of the said A.B. as an employee employed by the said C.D.

2. And I declare that the persons hereinafter named are entitled to share in such  
compensation, that is to say:—

The applicant E.F. in respect of charges amounting to £.....  
due to (or payable by) him for medical attendance on the said A.B., and the  
applicant G.H. in respect of charges amounting to £..... due  
to him for the burial of the said A.B.

Dated this ..... day of ....., 20.....

*Commissioner for Employees' Compensation.*

(NOTE.—The above forms will serve as guides for framing orders in other cases.)

FORM N

*(Regulation 36)*

**RETURN OF SERVICE OF PROCESS FROM THE COMMISSIONER  
FOR EMPLOYEES' COMPENSATION**

Name of Applicant.	Name of Respondent.	Document Served.	Date of Service.	Place of Service.	Mode of Service.

I do swear that the above return of service is true and in accordance with the facts of such service.

(Signed)

*Deponent.*

Sworn before me by the above-named deponent this ..... day  
of ....., 20.....

(Signed)

*Magistrate.  
Justice of the Peace.*

\_\_\_\_\_

## FORM O

(Regulation 39)

**MEMORANDUM OF AGREEMENT**

It is hereby submitted that on the ..... day of .....,  
 20....., personal injury was caused to ....., residing  
 at ....., by accident arising out of and in the course of  
 employment in ..... The said injury has resulted  
 in temporary disablement to the said employee whereby it is estimated that he will  
 be prevented from earning more than ..... of his  
 previous ..... [any] wages for a period of .....  
 months. The said employee has been in receipt of half-monthly payments which  
 have continued from the ..... day of ....., amounting  
 to £..... in all. The said employee's monthly wages are estimated at  
 £..... The employee is over the age of 18 years  
will reach the age of 18 years on .....

It is further submitted that ....., the employer of the said  
 employee has agreed to pay, and the said employee has agreed to accept, the sum  
 of £..... in full settlement of all and every claim under the  
 Employees' Compensation Ordinance, in respect of all disablement of a temporary  
 nature arising out of the said accident, whether now or hereafter to become  
 manifest. It is therefore requested that this memorandum be duly recorded.

It is further submitted that the employer has paid and/or agreed to pay the sum  
 of £..... only in respect of this agreement (including all  
 negotiations and proceedings preliminary thereto) to the solicitor and/or counsel  
 for the employee, as costs.



Dated .....

Signature of employer .....

Witness .....

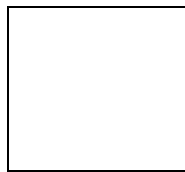
Signature of employee .....

Witness .....

(NOTE.—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.)

Receipt (to be filled when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of £.....



Employee.

Dated ....., 20.....

The money has been paid and this receipt signed in my presence.

Witness.

FORM P

(Regulation 39)

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the ..... day of ....., 20....., personal injury was caused to ....., residing at ....., by accident arising out of and in the course of his employment in ..... The said injury has resulted in permanent disablement to the said employee of the following nature, namely—

The said employee's monthly wages are estimated at £.....

The employee is over the age of 18 years. The said employee will reach the age of 18 years on .....

has, prior to the date of this agreement, received the following payments, namely—

It is further submitted that ....., the employer of the said employee, has agreed to pay, and the said employee has agreed to accept the sum of £..... in full settlement of all and every claim under the Employees' Compensation Ordinance, in respect of the disablement stated above and all disablement now manifest. It is therefore requested that this memorandum be duly recorded.

It is further submitted that the employer has paid and/or agreed to pay the sum of £..... only in respect of this agreement (including all negotiations and proceedings preliminary thereto), to the solicitor and/or counsel for the employee, as costs.

Dated .....

Signature of employer .....

Witness .....

Signature of employee .....

Witness .....

(NOTE.—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.)

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of £.....



Employee.

Dated ....., 20.....

The money has been paid and this receipt signed in my presence.

Witness.

\_\_\_\_\_

## FORM Q

*(Regulation 39)***MEMORANDUM OF AGREEMENT**

It is hereby submitted that on the ..... day of .....,  
20....., personal injury was caused to ....., residing  
at ....., by accident arising out of and in the course  
of his employment in ..... . The said injury  
has resulted in temporary disablement to the said employee, who is at present in  
receipt of wages amount to £..... per month. The said employee's  
no wages

monthly wages prior to the accident are estimated at £..... . The  
employee is subject to a legal disability by reason of .....

It is further submitted that ....., the employer of the  
employee has agreed to pay ....., and .....  
on behalf of the said employee has agreed to accept half-monthly payments at the  
rate of ..... for the period of the said temporary disablement. This  
agreement is subject to the condition that the amount of the half-monthly payments  
may be varied in accordance with the provisions of the Employees' Compensation  
Ordinance, on account of an alteration in the earnings of the said employee during  
disablement. It is further stipulated that all rights of commutation under section 8  
of the said Ordinance are unaffected by this agreement. It is therefore requested  
that this memorandum be duly recorded.

It is further submitted that the employer has paid and/or agreed to pay the sum  
of £..... only in respect of this agreement (including all  
negotiations and proceedings preliminary thereto), to the solicitor and/or counsel  
for the employee, as costs.

Dated.....

Signature of employer .....  
Witness .....

Signature of employee .....  
Witness .....

(NOTE.—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.)

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of £.....



Employee.

Dated ....., 20.....

The money has been paid and the receipt signed in my presence.

Witness.

FORM R  
(Regulation 40)

Whereas an agreement to pay compensation is said to have been reached between ..... and ..... And whereas ..... has/have applied to the Commissioner for Employees' Compensation for registration of the agreement under section 25 of the Employees' Compensation Ordinance, notice is hereby given that the said agreement will be taken into consideration by the Commissioner at ..... o'clock on the ..... day of ....., 20....., at ....., and that any objections to the registration of the said agreement should be made on the date and at the place aforesaid. In the absence of valid objections, it is the Commissioner's intention to proceed to the registration of the agreement.

Registrar.

Dated ....., 20.....

FORM S

(Regulations 40 and 41)

Take notice that registration of the agreement to pay compensation said to have been reached between you ..... and ..... on the ....., 20....., has been refused by the Commissioner for Employees' Compensation for the following reasons, namely—

*Registrar.*

Dated ....., 20.....

Form T

(Regulation 41(2))

Whereas an agreement to pay compensation is said to have been reached between ..... and ..... And whereas ..... has/have applied to the Commissioner for Employees' Compensation for registration of the agreement under the Employees' Compensation Ordinance, and whereas it appears to the Commissioner that the said agreement ought not to be registered for the following reasons, namely—

an opportunity will be afforded to you of showing cause at ..... o'clock on the ..... day of ....., 20 ..... at ..... why the said agreement should be registered. If no adequate cause is shown on that date, registration of the agreement will be refused.

*Registrar.*

Dated ....., 20.....

FORM U

(Regulation 41(2))

Whereas an agreement to pay compensation is said to have been reached between ..... and ..... And whereas ..... has/have applied to the Commissioner for Employees' Compensation for registration of the agreement under the Employees' Compensation Ordinance. And whereas it appears to the Commissioner that the said agreement ought not to be registered for the following reasons, namely—

an opportunity will be afforded to the said ..... of showing cause at ..... o'clock on the ..... day of ....., 20....., why the said agreement should be registered. Any representation which you have to make with regard to the said agreement should be made on that date. If adequate cause is then shown, the agreement may be registered.

*Registrar.*

Dated ....., 20.....

FORM V

(Regulation 43)

**REGISTER OF AGREEMENTS FOR THE YEAR 20.....**

Serial No.	Date of Agreement.	Date of registration.	Employer.	Employee.	Initials of Registrar.	Reference to orders rectifying the register.	Address of person against whom order made.	Amount and particulars.

FORM W

*(Regulation 44)*

**REGISTER OF ORDERS FOR THE YEAR 20.....**

Serial No.	Date of Order.	Date of registration.	Employer.	Employee.	Initials of Registrar.	Reference to orders rectifying the register.	Address of person against whom order made.	Amount and particulars.

**THE EMPLOYEES' COMPENSATION  
(PRESCRIBED DISEASES) REGULATIONS – SECTION 4**

*(Legal Notice 10 of 1978)*

**Short title**

1. These regulations may be cited as the Employees' Compensation (Prescribed Diseases) Regulations.

**Prescribed diseases**

2. (1) For the purposes of section 4 of the Employees' Compensation Ordinance (hereinafter referred to as "the Ordinance"), the list of diseases or injuries prescribed, is the list which appears in Part I of Schedule 1 to Statutory Instrument 1975/1537 (being a statutory instrument made by the Secretary of State for Social Services in the United Kingdom, in a document entitled 'The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1975', (as modified by Statutory Instrument 1975/2241 and Statutory Instrument 1976/1628.) thereinafter referred to as "the said regulations").

(2) Employed earners who contract any of the diseases or injuries prescribed in the said list when employed in any occupation set against such disease or injury in the second column of the said Part I of Schedule 1 may, subject to the provisions of the Ordinance and regulations made thereunder, claim Employees' compensation.

(3) Pneumoconiosis is prescribed in relation to all persons who have been employed in any occupation set out in Part II of the said Schedule, and in relation to all other persons who have been employed in any occupation involving exposure to dust.

(4) Byssinosis is prescribed in relation to all persons who have been employed for a period of not less than five years in any occupation in any room where any process up to and including the winding or beaming process is performed in factories in which the spinning or manipulation of raw or waste cotton or of flax is carried out.

(5) Occupational deafness is prescribed in relation to all persons who have been employed in one or more of the occupations set out in the second column of paragraph 48 of Part I of the said Schedule 1.

(6) Wherever any term which is used in the said Schedule is defined in regulation 1 of the said regulations (S.I. 1975/1537), such definition shall apply in these regulations.

(7) The medical standards laid down in the said regulations (S.I. 1975/ 1537) shall apply in these regulations, insofar as they do not conflict with specified St. Helena law.