



TRISTAN DA CUNHA

REVISED EDITION OF THE LAWS, 2017

EMPLOYMENT AND COMMERCE

EMPLOYEES' COMPENSATION (TRISTAN DA CUNHA) ORDINANCE, 1946¹

Ordinance SH3 of 1946

In force 1 April 1947

Amended by SH Ordinances 2 of 1958, 12 of 1965, 23 of 1965, 2 of 1978, 7 of 1988, 5 of 2009 and L.N. 9/1989

Applied to Tristan da Cunha by Ordinance SH9 of 1959 (See Cap. 121 of the revised laws of St Helena) with modifications which have been incorporated in the text below.

The text also modifies the Tristan da Cunha Ordinance to the circumstances of Tristan da Cunha as required by section 2(2) of the Application of Tristan da Cunha Law (Tristan da Cunha) Ordinance, 1987².

SH subsidiary legislation:

EMPLOYEES' COMPENSATION REGULATIONS, 1947

Legal Notice 19 of 1947

Amended by L.N. 28/2009

EMPLOYEES' COMPENSATION (PRESCRIBED DISEASES) REGULATIONS, 1978

Legal Notice 10 of 1978

EMPLOYEES' COMPENSATION (TRISTAN DA CUNHA) ORDINANCE, 1946

ARRANGEMENT OF SECTIONS

1. Short title and application

PART I PRELIMINARY

2. Interpretation

¹ *This text is not authoritative but was prepared by the Law Revision Commissioner under section 14 of the Revised Edition of the Laws Ordinance, 1999 as stating the law at 1 November 2017.*

² “(2) The said law of St Helena applies to Tristan da Cunha only in so far as it is applicable and suitable to local circumstances, and subject to such modifications, adaptations, qualifications, and exemptions as local circumstances render necessary.”

**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
COMMISSIONER FOR EMPLOYEES' COMPENSATION**

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
- Schedule: Injuries deemed to result in permanent partial disablement

AN ORDINANCE to provide for the payment of compensation to employees for injuries suffered in the course of their employment.

Short title, application

1. This Ordinance may be cited as the Employees' Compensation (Tristan da Cunha) Ordinance, 1946.

**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 18 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 designated by section 19;
- “**compensation**” means compensation as provided for by this Ordinance;
- “**dependant**” means, subject to subsection (1A), any member of an employee’s family that was wholly or in part dependent upon the earnings of the employee at the time of his or her death or would but for the incapacity due to the accident have been so dependent, and if the employee, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon his or her earnings or, being an illegitimate child, leaves a parent or grandparent so dependent upon his or her earnings, includes such an illegitimate child and parent or grandparent respectively;
- “**employee**” means, subject to subsection (1B), 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;
- “**employer**” includes the Government of Tristan da Cunha, 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) if 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 must, 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 must 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, must 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 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 must be deemed to result in a permanent partial disablement;

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

“Registrar” means the Administrator;

“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 must 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.

(1A) For the purpose of the definition of **“dependant”** a person is not deemed to be a partial dependant of an employee unless the person was dependent partially on contributions from the employee for the provision of the ordinary necessities of life suitable for persons in his or her class and position.

(1B) The following are not to 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 employed for the purposes of any game or recreation and engaged or paid through a club;
- (b) outworkers;
- (c) persons in the naval, military, or air forces of the Crown;
- (d) persons in the civil employment of Her Majesty otherwise than in Her Government of Tristan da Cunha, who have been engaged in a place outside Tristan da Cunha;
- (e) members of the employer’s family dwelling in his or her house;
- (f) domestic servants;

(2) Any reference to an employee who has been injured includes, if the employee is dead, a reference to his or her legal personal representative or to his or her 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 is, for the purposes of this Ordinance, unless a contrary intention appears, 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 or her employment, the employer is liable to pay compensation in accordance with this Ordinance.

(1A) The employer is not so liable—

- (a) respect of any injury which does not result in the total or partial disablement of the employee for a period of at least 3 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 of it under the influence of drink or drugs;
 - (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 the employee knew to have been provided for the purpose of securing the safety of employees.

(2) No compensation is 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 employment.

(3) If 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, this Ordinance does not affect any civil liability of the employer. In such a case -

- (a) the employee may, at his or her option, either claim compensation under this Ordinance or take proceedings independently of this Ordinance;
- (b) the employer is not liable to pay compensation for injury to an employee by accident arising out of and in the course of employment both independently of and also under this Ordinance; and
- (c) the employer is not 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 prescribed by or under this Ordinance for taking proceedings -

- (a) an action is brought to recover damages independently of this Ordinance for injury caused by an accident; and
- (b) 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 the employer would have been liable to pay compensation under this Ordinance,

the action must be dismissed.

(5) If an action is dismissed under subsection (4) -

- (a) 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 must, if the plaintiff so chooses, proceed to assess such compensation, but may deduct from it 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;
- (b) in any proceeding under that subsection, when the court or appellate tribunal assesses the compensation, it must give a certificate of the compensation it has awarded and the directions it has given as to the deduction of costs, and such certificate has the force and effect of and must be registered as an agreement under this Ordinance;
- (c) 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 the Commissioner all or part of such cost.

Compensation for disease contracted in employment

4. (1) The term “**personal injury**” as used in this Ordinance includes the effects of a prescribed disease, whether cumulative or not, and any employee who proves disablement due to a prescribed disease which he or she has contracted in the course of and arising out of the nature of his or her 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 it—

- (a) 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) 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.

(3) The compensation payable in respect of disablement caused by a prescribed disease and the conditions for receipt of such benefit, is 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. (1) Subject to this Ordinance, the amount of compensation is as follows—

- (a) if death results from the injury and the employee—
 - (i) leaves a dependant or dependants wholly dependent upon his or her earnings - a sum equal to 36 months’ wages or £8,000 whichever is the less;
 - (ii) does not leave a dependant or dependants wholly dependent upon his or her earnings, but leaves a dependant or dependants in part so dependent - a sum not exceeding the amount of compensation payable under the preceding subparagraph that is agreed upon, or, in default of agreement, that is awarded by the Commissioner as being reasonable and proportionate to the injury to the dependant or dependants;
- (aa) in addition to any sum payable under paragraph (a) (i) and (ii), if death results from the injury the employer must pay the reasonable expenses (not exceeding £200) of the burial of the deceased employee;
- (b) if permanent total disablement results from the injury—
 - (i) in the case of an adult - a sum equal to 48 months’ wages or £9,000,

- whichever is less,
- (ii) in the case of a minor - a sum equal to 96 months' wages or £9,000, whichever is less;
- (ba) if an injury results in total permanent disablement of such a nature that the injured employee needs the constant help of another person, additional compensation must be paid of 1/5 of the amount otherwise payable under paragraph (b) this subparagraph;
 - (c) if permanent partial disablement results from the injury—
 - (i) in the case of an injury specified in the Schedule - the percentage of the compensation which would have been payable in the case of permanent total disablement specified in the Schedule 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 -the 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;
 - (ca) if more injuries than one are caused by the same accident, the amount of the compensation payable under paragraph (c) must 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) if temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the 16th day from the date of the disablement, and thereafter half-monthly during the disablement or during a period of 5 years, whichever period is shorter—
 - (i) in the case of an adult - of a sum equal to 1/4 of his or her monthly wages, and
 - (ii) in the case of a minor - of a sum equal to 1/3 of his or her monthly wages;
 - (da) there must 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 may 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 or she is earning, or is able to earn, in some suitable employment or business after the accident;
 - (e) if the incapacity lasts less than 4 weeks, no compensation is payable in respect of the first 3 days.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there is 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. (1) For the purposes of section 5 the monthly wages of an employee are to be calculated as follows—

- (a) if the employee has, during a continuous period of not less than 12 months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the employee are 1/12 of the total wages which have fallen due for payment to him or her by the employer in the

- last 12 months of that period;
- (b) in other cases, the monthly wages are 30 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;
- (c) if the amount of the monthly wages arrived at by a calculation under paragraph (a) or (b) is more than £160, such monthly wages must be assumed to be £160.

(2) A period of service is, for the purposes of this section, deemed to be continuous if it has not been interrupted by a period of absence from work exceeding 14 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 -

- (a) on the application either of the employer or of the employee accompanied by the certificate of a medical practitioner that there has been a change in the condition of the employee; or
- (b) subject to any regulations made under this Ordinance, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to 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 which the employee is entitled less any amount which he or she 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 6 months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of an amount agreed to by the parties or determined by the Commissioner, as the case may be.

Distribution of compensation

9. (1) Compensation payable where the death or disablement of an employee has resulted from an injury must be deposited with the Registrar and any sum so deposited must, 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 the employee.

(2) 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 must be paid by the Registrar to the person entitled to it.

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

- (5) On the deposit of any money under subsection (1), the Registrar -
- (a) may deduct from it 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
 - (b) must, if the Registrar thinks necessary, cause notice to be published or to be served on each dependant in a manner the Registrar thinks fit, calling upon the dependants to appear before the Commissioner on a date the Commissioner fixes for determining the distribution of the compensation.

(5A) If the Commissioner is satisfied, after any enquiry which he or she considers necessary, that no dependant exists, the Commissioner must direct the Registrar to repay the balance of the money to the employer by whom it was paid. The Registrar must, on application by the employer, furnish a statement showing in detail all disbursements made.

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

(7) If, on application made for the purpose 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 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 the Commissioner thinks just in the circumstances of the case.

- (8) No order under subsection (7) prejudicial to any person may be made -
- (a) unless the person has been given an opportunity of showing cause why the order should not be made;
 - (b) in any case in which it would involve the repayment by a dependant of any sum already paid to him or her.

Compensation not to be assigned, attached, or charged

10. Except as provided by this Ordinance, no compensation payment payable under it is capable of being assigned, charged or attached or passing to any person other than the employee by operation of law, nor must any claim be set off against ~~the same~~ such compensation.

Provision as to case of bankruptcy of employer

11. (1) If 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 creditors, or, if the employer is a company, in the event of the liquidation of the company -

- (a) the rights of the employer against the insurers as respects that liability are, notwithstanding any other law, transferred to and vest in the employee; and
- (b) upon any such transfer the insurers have the same rights and remedies and are subject to the same liabilities as if they were the employer, so however that the insurers are 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 must be paid in priority to other debts in accordance with the provisions of the applicable bankruptcy law.

(4) If the compensation is a half-monthly payment, the amount due in respect of it is, for the purposes of subsection (3), 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 caused by an accident are not maintainable unless -

- (a) notice of the accident has been given as soon as practicable after it happened and before the employee has voluntarily left the employment in which he or she was injured; and
- (b) the claim for compensation has been made within 6 months from the occurrence of the accident or, in case of death, within 6 months from the time of death:

(1A) Subsection (1) is subject to the following provisos—

- (a) the want of or any defect or inaccuracy in a notice under that subsection is not a bar to the maintenance of proceedings if the employer is proved to have had knowledge of the accident from any other source at or about the time of the accident, or if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in the employer's defence by the want, defect or inaccuracy or that such want, defect or inaccuracy was occasioned by a mistake, absence from Tristan da Cunha, or other reasonable cause; and
- (b) the failure to make a claim within the period specified in subsection (1) is not a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from Tristan da Cunha or other reasonable cause.

(2) Notice in respect of an injury under this Ordinance -

- (a) may be given either in writing or orally to the employer (or if there is more than one employer to one of them), 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;
- (b) must give the name and address of the person injured; and
- (c) must state in ordinary language the cause of the injury and the date at which the accident happened.

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

Medical examination

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

(1A) An employee is not required to submit himself or herself for examination by a medical practitioner except in accordance with regulations made under this Ordinance, nor at more frequent intervals than are 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 or herself for examination by a medical practitioner or in any way obstructs the same, his or her right to compensation is suspended during the continuance of such refusal or obstruction, unless, in the case of refusal, the employee was prevented by any sufficient cause from so submitting himself or herself.

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

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

(5) If an injured employee has refused to be attended by a medical practitioner whose services have been offered to the employee by the employer free of charge, or, having accepted such offer, has deliberately disregarded the instructions of the medical practitioner, then, if it is thereafter proved that -

- (a) the employee has not been regularly attended by a medical practitioner;
- (b) the refusal, failure or disregard was unreasonable in the circumstances of the case; and

(c) the injury has been aggravated by the refusal, failure or disregard, the injury and resulting disablement are 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 medical practitioner, and compensation, if any, is payable accordingly.

Medical charges

14. An employer must, 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) If any person (**‘the principal’**) in the course of or for the purpose of trade or business, contracts with any other person (**‘the contractor’**) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal -

- (a) the principal is liable to pay to any employee employed in the execution of the work any compensation under this Ordinance which the principal would have been liable to pay if that employee had been immediately employed by the principal; and
- (b) if compensation is claimed from or proceedings are taken against the principal, then, in the application of this Ordinance, references to the principal are to be substituted for references to the employer, except that the amount of compensation is to be calculated with reference to the earnings of the employee under the employer by whom he or she is immediately employed.

(2) If the principal is liable to pay compensation under this section -

- (a) the principal is entitled to be indemnified by any person who would have been liable to pay compensation to the employee independently of this section; and
- (b) all questions as to the right to and the amount of any such indemnity must, in default of agreement, be settled by the Commissioner.

(3) This section does not prevent an employee recovering compensation under this Ordinance from the contractor instead of the principal.

(4) This section does 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 the control or management of the principal.

Remedies both against employer and stranger

16. If 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 of it—

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

Returns as to compensation

17. (1) The Administrator may, by public notice, direct that every person employing employees, or that any specified class of such persons, must send at a time and in a form and to a person 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 any other particulars as to the compensation the Governor directs.

(2) A person failing to comply with subsection (1) commits an offence.
Penalty: A fine 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 or her employment, is 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 COMMISSIONER FOR EMPLOYEES' COMPENSATION

Administrator as Commissioner

19. (1) The Administrator is the Commissioner for Employees' Compensation.

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

- (2)** No court has jurisdiction -
- (a)** 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
 - (b)** except as provided in this Ordinance or any rule or regulation made under it, to enforce any liability incurred under this Ordinance.

Applications to Commissioner

21. (1) No application for the settlement of any matter by the Commissioner may be made unless and until some question has arisen between the parties in connection with

the matter, which they have been unable to settle by agreement.

(2) If any such question has arisen, the application may be made in a form, and must be accompanied by any fee, as prescribed and must contain, in addition to any prescribed particulars, 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 the 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 provide the required information in writing, the application must, if the applicant so desires, be prepared under the direction of the Registrar.

Powers and procedure of Commissioner

22. The Commissioner has 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, the Commissioner may if, having regard to all the circumstances of the case he or she 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 must record his or her decision and order.

(2) If 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 must direct the Registrar to record a memorandum of the order in a register in the prescribed manner.

Registration of agreements

25. (1) If the amount of compensation under this Ordinance has been settled or varied by agreement, a memorandum of it must be sent by the employer, and may be sent by any party interested, to the Commissioner, who must, on being satisfied as to its genuineness,

direct the Registrar to record the memorandum in the register in the prescribed manner:

- (2) Subsection (1) is subject to the following provisions—
- (a) no such memorandum must be recorded before 7 days after communication by the Registrar of notice to the parties concerned;
 - (b) if an employee seeks to record a memorandum of agreement between his or her employer and the employee 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 or she did before the accident, and objects to the recording of such memorandum, the memorandum must only be recorded, if at all, on terms the Commissioner thinks just in the circumstances;
 - (c) the Commissioner may at any time rectify the register;
 - (d) if it appears to the Commissioner that an agreement as to the payment of any compensation or the amount of it payable to a person under any legal disability, or to dependants, ought not to be registered because of the inadequacy of the sum or amount, or because of the agreement having been obtained by fraud or undue influence, or other improper means, the Commissioner may refuse to record the memorandum of the agreement or may make any order, including an order as to any sum already paid under the agreement, the Commissioner thinks just in the circumstances;
 - (e) the Commissioner may, within 6 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 the Commissioner's satisfaction that the agreement was obtained by fraud or undue influence or other improper means, and may make any order, including an order as to any sum already paid under the agreement, the Commissioner 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 those sections, is thereupon for all purposes enforceable as a Supreme Court judgment.

Effect of failure to register agreement

27. If 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 is liable to pay the full amount of compensation which the employer is liable to pay under this Ordinance, and despite section 5(1)(aa) is not, unless the Commissioner otherwise directs, 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. (1) With the leave of the Supreme Court, or upon the certificate of the Commissioner that it is a fit case for appeal from the Commissioner's order, an appeal lies to the Supreme Court from any order of the Commissioner, but subject to subsections (2) and (3).

(2) No appeal lies against any order unless the amount in dispute in the appeal is at least £200.

(3) No appeal lies 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.

(4) Unless modified by 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 apply, with the necessary modifications, to appeals under this section from orders of the Commissioner.

PART IV REGULATIONS AND RULES

Regulations and rules

- 29.** (1) The Governor 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. The Governor may by Order amend this Ordinance with respect to all amounts of money stated in it in cash terms.

SCHEDULE (Section 2(1))

INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

<u>Injury</u>	<u>% of loss of earning capacity</u>
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

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 is deemed to be the equivalent of the loss of that limb or member.

EMPLOYEES' COMPENSATION ORDINANCE, 1946

EMPLOYEES' COMPENSATION REGULATIONS, 1947
(Section 29)

TABLE OF CONTENTS

1. Citation
2. Interpretation

PART I
REVIEW AND COMMUTATION OF HALF-MONTHLY PAYMENTS

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)
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
24. Statement to be filed by respondent
25. Procedure where indemnity claimed under section 15(2)
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
FEES

52. Fees

PART X
FORMS

53. Forms

Schedule 1: Fees

Schedule 2: Forms

EMPLOYEES' COMPENSATION REGULATIONS, 1947

Citation

1. These Regulations may be cited as the Employees' Compensation Regulations, 1947.

Interpretation

2. In these Regulations, "**form**" means a form in the Schedule to these Regulations.

PART I
REVIEW AND COMMUTATION OF HALF-MONTHLY PAYMENTS

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 or her wages have diminished;
- (c) by the employee, on the ground that the employer, having commenced to pay compensation, has ceased to pay it, even though 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 or she 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, the Commissioner may at any time issue an order withholding the half-monthly payments in whole or in part pending his or her decision on the application.

Procedure on application for commutation

5. (1) If 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 must form an estimate of the probable duration of the disablement, and must award a sum equivalent to the total of the half-monthly payments which would be payable for the period during which the Commissioner estimates that the disablement will continue, less one half per cent of that total for each month comprised in that period.

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

PART II DEPOSIT OF COMPENSATION

Deposit under section 9(1)

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

(2) If in Form B the employer indicates a desire to be made a party to the distribution proceedings, the Commissioner must, before allotting the sum deposited as compensation, afford to the employer an opportunity of establishing that the person to whom the Commissioner 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 must be in Form D.

Publication of lists of deposits

7. The Registrar must cause to be displayed in a prominent position outside the office of the Registrar an accurate list of the deposits received by the Registrar under section 9(1) 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) If 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 section 9(1) of the Ordinance in respect of the death, the dependant may apply to the Commissioner for the issue of an order requiring the employer to deposit compensation in accordance with that subsection; but no such application is to be entertained unless the applicant certifies in it that he or she has requested the employer to deposit compensation and that the employer has refused or omitted to do so.

(2) The Commissioner must dispose of an application under subsection (1) in

accordance with Part V of these Regulations, except that—

- (a) the Commissioner may, at any time, cause notice to be given in a manner the Commissioner 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 in the application, to appear before the Commissioner on a date specified in the notice;
- (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 may not thereafter claim that the employer is liable to deposit compensation, unless the dependant satisfies the Commissioner that he or she 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 section 9(1) of the Ordinance, nothing in sub-regulation (2) above prohibits 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. An employer depositing compensation in accordance with section 9(3) of the Ordinance must furnish with it a statement in Form E, and must 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 Bank of Tristan da Cunha Limited.

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, even if no claim for compensation has been instituted in respect of the accident, present to the Registrar a memorandum, supported by an affidavit made by the employer or by any person subordinate to the employer who has 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 must, subject to the payment of any prescribed fee, 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 or herself for medical examination must do so in accordance with the regulations in this Part and not otherwise.

Doctor attending

13. if the employee is present on the employer's premises, and the employer offers to have the employee examined free of charge by a medical practitioner who is so present, the employee must submit himself or herself for examination forthwith.

Examination in other cases

- 14. (1)** 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 must submit himself or herself 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 or her examined free of charge by a medical practitioner, in which case the employee must submit himself or herself for medical examination at the employer's premises, or at some other place in the vicinity specified in the offer, and at a time so specified.

(2) The time specified under sub-regulation (1)(b) must not, except with the express consent of the employee, be between the hours of 7.00 p.m. and 6.00 a.m..

(3) If the employee's condition renders it impossible or inadvisable that he or she should leave the place where he or she is residing for the time being, the employee must not be required to submit himself or herself for medical examination except at that place.

Restriction on number of examinations

15. An employee who is in receipt of a half-monthly payment must not be required to submit himself or herself for medical examination elsewhere than at the place where he or she 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 or herself for medical examination, the examination must take place on the employer's premises or at some other place in the vicinity 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 or her examination as a witness) may be made or done on behalf of the person by a legal practitioner or, with the leave of the Commissioner, by the son, daughter, father, mother, brother, sister, or spouse of the person, or by any other person in the person's 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, is entitled to any fee or reward for so appearing or acting.

Record of proceedings

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

(2) The Commissioner must make notes of the evidence of every witness as the examination of the witness proceeds. Such notes must be written and signed by the Commissioner, and form part of the record.

(2A) The evidence of any medical witness must be taken down as nearly as may be word for word.

(3) The Commissioner, in making orders, must record concisely his or her findings and the reasons for such findings.

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

(5) Orders must 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 must, unless the Commissioner otherwise directs, be made in Form G, H, or J, as the case may be, and must be signed by the applicant. Every application presented to the Registrar must be forwarded to the Commissioner forthwith.

Examination of applicant

20. (1) On receiving an application under this Part, the Commissioner may examine the applicant on oath.

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

Summary dismissal of application

21. The Commissioner must 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 or she is of opinion that there are not sufficient grounds for proceeding on the application, and the Registrar must 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 or she may dismiss the application with a brief statement of the 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 must cause to be served on the party from whom the applicant claims relief (**‘the respondent’**) a copy of the application, and may, if the Commissioner thinks fit, call upon the respondent to file a written statement dealing with the claims within a time the Registrar fixes.

Statement to be filed by respondent

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

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

25. (1) A respondent who claims that, if compensation is recovered against the respondent on an application, the respondent will be entitled under section 15(2) of the Ordinance to be indemnified by a person who is not a party to the case (**‘the third party’**) may file a notice of the claim with the Registrar.

- (1A)** A claim against a third party under sub-regulation (1) must -
- (a) be filed within 10 days after the respondent is served with the copy of the application; and
 - (b) be accompanied by the prescribed fee.

(2) On receipt of a notice under sub-regulation (1), the Registrar must cause a copy of the claim in Form K to be served on the third party, and may, if the Registrar thinks fit, call upon the third party to file a written statement dealing with the claim raised in the application within a time the Registrar fixes.

Procedure where claim admitted

26. A respondent or third party who admits the claim may at any time before the first hearing—

- (a) if the application is made by an injured employee—
 - (i) file with the Registrar a notice submitting to an order for the payment of a half-monthly sum specified in the notice; or
 - (ii) file with the Registrar a notice submitting to an order for the payment of a lump sum specified in the notice, and pay such sum into Court;
- (b) if 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 admitting liability, and pay into Court a sum of money the respondent or third party considers sufficient to cover liability in the circumstances of the case.

Failure of respondent or third party to file statement

27. A respondent or third party who fails to file a statement dealing with the claim within the time fixed by the Registrar or by the Commissioner on an application to enlarge the time is taken to admit the claim.

Date and place of hearing

28. If it is necessary to proceed to a hearing, the Registrar must fix a date and place for disposing of the application and of the claim for indemnity, if any, and cause notice of the date and place to be served on the different parties in Form L, calling upon them to attend and there to produce any evidence which they 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 must 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 terms as to costs the Commissioner thinks 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 the absence of that party, unless the Commissioner, having received a reasonable excuse for the absence, or for other sufficient reason, thinks fit to adjourn the hearing to some future day upon terms as to costs the Commissioner thinks just.

Right of entry for local inspection

31. (1) The Commissioner may at any time enter the place where the employee was injured, or where the employee ordinarily performed his or her 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.

(2) The Commissioner must not enter any premises of any industrial establishment pursuant to sub-regulation (1) except during the ordinary working hours of that establishment, unless with the permission of the employer or of some person directly responsible to the employer 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 or she must give the parties or their representatives notice of the intention to conduct such inspection,

unless in the opinion of the Commissioner the urgency of the case makes 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. If 2 or more cases pending before the Commissioner arise out of the same accident, and any issue involved is common to 2 or more such cases, the 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 must, 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 or she 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 a manner the Commissioner in an order regarding costs directs.

Filing and service of documents

36. (1) Any document that is to be filed with the Registrar under these Regulations may be filed by delivering it at the office of the Registrar.

(2) If a document is to be filed, there must 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) Any document that is under the Ordinance or these Regulations to be served upon any person 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 or her personally or by leaving it at his or her 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 the 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 the master or person or by leaving the document for the master or person on board the ship with the person who is or appears to be in command or charge of the ship, or if no such person can be found, by affixing a copy of the document to the mast of the ship.

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

Application of Magistrates' Court rules

37. Except 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 apply, with the necessary modifications, to proceedings before the Commissioner.³

Apportionment of compensation among dependants

38. The provision of this Part of these Regulations apply, so far as appropriate, 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 must, unless the Commissioner otherwise directs, be in duplicate, and must 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 must refer it to the Commissioner who, unless he or she considers that there are grounds for refusing to record the memorandum, must direct the Registrar to fix a day for recording it, and the Registrar must 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.

(1A) A notice under sub-regulation (1) may be communicated orally to any parties who are present at the time when notice in writing would otherwise issue.

(2) On the date fixed pursuant to sub-regulation (1) the Commissioner must direct the Registrar to record the memorandum unless, after hearing any of the parties who appear and desire to be heard, he or she considers that it ought not to be recorded.

³ See Order 34 of the Civil Procedure Rules, 1969

(2A) The issue of a notice under sub-regulation (1) does not prevent the Commissioner from refusing to record the memorandum on the date fixed pursuant to sub-regulation (1), even if no objection is made by any party concerned.

(3) If on such date the Commissioner decides that the memorandum ought not to be recorded, he or she must inform the parties present of the decision and of the reasons for it, and, if any party desiring the memorandum to be recorded is not present, the Registrar must 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 memorandum, the Registrar must fix a date for hearing the party or parties desiring the memorandum to be recorded, and the Registrar must 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 must be sent to them in Form T or Form U, as the case may be, and the date fixed in such notice must be not less than 7 days after the date of the issue of it.

(3) If on the date fixed under sub-regulation (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, the Commissioner must proceed in accordance with regulation 40.

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

Procedure on refusal to record memorandum

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

(2) If the Commissioner refuses to record a memorandum of agreement, he or she must 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) If 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 because of the inadequacy of the amount of such sum as fixed in the agreement, the Commissioner must record his or her 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 must cause the same to be entered in a register in Form V, and must cause an endorsement to be made under his or her signature on a copy of the memorandum to be retained 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 must cause such order to be entered in a register in the Form W, and must cause an endorsement to be made under his or her signature on a copy of the order to be retained in the following terms—

“This order bearing Serial No of 20....., in the register of orders
has been recorded in the 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 must bear the date of the filing or issuing of them.

Cause book

46. The Registrar must enter all proceedings in a cause book, the form of which must be approved by the Commissioner; any entry made in it must be examined with the original document the day after the entry is made, and such entry is evidence of the document having been filed.

Keeping of registers

47. The Registrar must also keep the registers prescribed by regulations 43 and 44 and must make the appropriate entries in them in accordance with the requirements of those regulations.

Keeping of indexes

48. Proper indexes of the titles of all applications filed with or delivered to the Registrar must be kept so that they can be conveniently referred to when required; and such

indexes must at all times during office hours be accessible to the public on payment of the prescribed fee.

Searches

49. The Registrar must, 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 or her custody, and issue a certificate of the result of the search.

Inspection of files

50. Any person must 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 incidental to any proceedings before the Commissioner directed to be paid by one party to another must, 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 apply with the necessary modifications.

(2) When proceedings are taken for which no provision is made by these regulations, reasonable costs may be allowed in respect of the 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. The fees set out in Schedule 1 are payable in respect of the matters to which they relate.

PART X FORMS

Forms

53. The forms in Schedule 2 are prescribed for use in connection with the matters to which they relate. If those forms are not applicable, forms of the like character, with such variations as the circumstances may require, may be used in proceedings under the Ordinance.

(Regulation 52)

FEEES

- | | | |
|----|---|--|
| 1. | Applications for compensation— | |
| | (a) if compensation is claimed in the form of recurring payments | 25p |
| | (b) if compensation is claimed in the form of a lump sum | 13p |
| | | when 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— | |
| | (a) if the review claimed is the continuance, increase, decrease or ending of half-monthly payments | 13p |
| | (b) if 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) if 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 Tristan da Cunha 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

SCHEDULE 2
(Regulation 53)

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/her by accident arising out of and in the course of his/her 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/Her monthly wages are estimated at He/She was over/under the age of 18 years at the time of death.

The said employee had, prior to the date of his/her 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:—

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/her 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.*

(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/her employment resulting in his/her 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/her

(3) The monthly wages of the deceased amount to £.....
The deceased was over/under the age of 18 years at the time of his/her 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/her 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/her employment.
- (2) The applicant wishes the right to receive half-monthly payments to 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 respondent and the respondent has claimed that you are liable under section 15(2) of the Employees' Compensation Ordinance to indemnify the respondent against any compensation which the respondent 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 a.m./p.m. 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 the respondent.

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 for Employees' Compensation

FORM L
(Regulation 28)

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

To
of

....., residing at applicant
versus

....., residing at respondent.

Take notice that the Commissioner for Employees' Compensation will proceed with the hearing of the application in this matter at, on the day of, at a.m./p.m..

Dated this day of, 20.....

Registrar

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

To of

....., residing at applicant

versus

....., residing at respondent.

Take notice that the Commissioner for Employees' Compensation 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.....

Registrar

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/her 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/her 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/her 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 the applicant 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/she will be prevented from earning more than of his/her 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/her employment in

The injury has resulted in permanent disablement to the employee of the following nature, namely—

The employee’s monthly wages are estimated at £.....

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

The employee 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 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 legal practitioner 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/her employment in

The injury has resulted in temporary disablement to the said employee, who is at present in receipt of wages amounting to £..... per month/no wages

The employee's 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 employee has agreed to accept half-monthly payments at the rate of for the period of the 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 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)*.

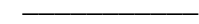
In accordance with the above agreement, I have this day received the sum of £.....

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 agreement will be taken into consideration by the Commissioner at a.m./p.m. 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—

Dated 20.....

Registrar

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 a.m./p.m. 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 a.m./p.m. 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.

Dated 20..... .

Registrar

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

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

(Signature)

Registrar

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

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

(Signature)

Registrar

EMPLOYEES' COMPENSATION ORDINANCE, 1946

EMPLOYEES' COMPENSATION (PRESCRIBED DISEASES) REGULATIONS , 1978
(Section 4(2))

Citation

1. These Regulations may be cited as the Employees' Compensation (Prescribed Diseases) Regulations, 1978

Prescribed diseases

2. (1) For the purposes of section 4 of 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 made by the Secretary of State for Social Services in the United Kingdom and entitled 'The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1975' (as modified by Statutory Instrument 1975/2241 and Statutory Instrument 1976/1628) (in these Regulations referred to as 'S.I.1975/1537').

(2) Employed earners who contract any of the diseases or injuries listed in Part I of Schedule 1 to S.I.1975/1537 when employed in any occupation set against such disease or injury in the second column of Part I of that Schedule may, subject to the Ordinance and regulations made under it, 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 Schedule 1 to S.I.1975/1537, 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 5 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 Schedule 1 to S.I.1975/1537.

(6) If any term which is used in Schedule 1 to S.I. 1975/1537 is defined in regulation 1 of S.I. 1975/1537, that definition applies in these Regulations.

(7) The medical standards laid down in S.I. 1975/ 1537 apply in these Regulations, insofar as they do not conflict with any other Tristan da Cunha law.
