

# **LAWS OF SOLOMON ISLANDS**

[1996 Edition]

## **CHAPTER 78**

### **WORKMEN'S COMPENSATION**

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## CHAPTER 78

### WORKMEN'S COMPENSATION

AN ACT TO MAKE PROVISION FOR COMPENSATION TO INJURED WORKMEN

*5 of 1952*  
*2 of 1964*  
*4 of 1968*  
*7 of 1969*  
*LN 46A of 1978*  
*LN 88 of 1978*  
*3 of 1979*  
*1 of 1981*  
*3 of 1982*

[*1st October 1952*]

#### Short title

1. This Act may be cited as the Workmen's Compensation Act.

#### Meaning of "workman"

*3 of 1979, s. 2*

2.-(1) In this Act, unless the context otherwise requires and subject to section 4 and the proviso to this subsection, the expression "workman" means any person who has, either before or after the commencement of this Act, entered into a contract of service or apprenticeship (whether express or implied, oral or in writing) with an employer to work in any capacity, including that of a casual employee or worker:

Provided that the following persons are excepted from the definition of "workman" -

(a) any person who is not employed as a manual labourer and whose earnings exceed such sum as the Minister may by Order prescribe; or

(b) an outworker; or

(c) a tributer; or

(d) a member of the employer's family living in his house; or

(e) any class of persons whom the Minister may by Order declare not to be workmen for the purposes of this Act.

(2) If in any proceedings for the recovery of compensation under this Act it appears to the court that the contract of service or apprenticeship under which the injured person was working at the time when the accident causing the injury happened was illegal, the court may, if having regard to all the circumstances of the case it thinks proper to do so, 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.

(3) Except for the purposes of section 17 any reference to a workman who has been injured shall, unless the context otherwise requires, where the workman is dead, include a reference to his legal personal representative or to his dependants or any of them or the Minister or such other officer as the Minister may appoint to act on behalf of the dependants of the workman.

*LN 46A of 1978*

### **Interpretation**

*3 of 1979, s. 3*

**3.-(1)** In this Act unless the context otherwise requires-

"casual employee or worker" means an employee or worker employed on a temporary or irregular basis at an hourly or daily rate of wages payable at the end of each day or on completion of a task or piece of work specified at the time of engagement which said task or piece of work is capable of being completed in a shorter period than the normal working week or the statutory working week (as defined in the Labour Act) whichever is the lesser;

"child" includes adopted child, grandchild, adopted grand-child, stepson and stepdaughter;

*2 of 1964, s. 3*

"Commissioner of Labour" means the Commissioner of Labour appointed pursuant to the Labour Act and includes a Deputy Commissioner of Labour and an Assistant Commissioner of Labour;

*LN 46A/1978*

"court" means a Magistrate's Court;

"compensation" means compensation as provided by this Act;

"dependants" means those members of the family of a workman who are wholly or in part dependent upon his earnings at the time of his death, or would but for the incapacity due to the accident have been so dependent, and, where the workman, being the parent or

grandparent of an illegitimate child, leaves such child so dependent on his earnings or, being an illegitimate child, leaves a parent or grandparent so dependent on his earnings shall include such an illegitimate child or parent or grandparent respectively:

Provided that a person shall not be deemed to be a partial dependant of another person unless he was dependent partially on contributions from or made on behalf of that other person for the provision of the ordinary necessities of life suitable for persons in his class and position;

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

*7 of 1969, s. 2*

"employer" includes the Government of Solomon Islands and any body of persons corporate or unincorporate and the legal representative of a deceased employer, and, where the services of a workman are temporarily let or lent on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall for the purposes of this Act, be deemed to continue to be the employer of the workman whilst he is working for that other person; and in relation to a person employed for the purposes of any game or recreation and engaged or paid through a club, the manager, or members of the managing committee of the club shall, for the purposes of this Act, be deemed to be the employer;

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

"medical practitioner" means a medical practitioner registered as such under the provisions of the Medical and Dental Practitioners Act;

*Cap. 102*

"member of a family" means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister, niece or nephew and shall include any child or children, not specifically mentioned, living with the deceased at the time of his death and wholly or mainly dependent upon his earnings and such other person as was at the time of the injury living in the household of the worker and was wholly or mainly dependent upon his earnings;

"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;

"parent" includes adoptive parent, grandparent, adoptive grandparent, stepfather and stepmother;

"partial incapacity" means where the incapacity is of a temporary nature, such incapacity as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the incapacity, and, where the incapacity is of a permanent nature, such incapacity as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in the First Schedule, except such injury or combination of injuries in respect of which the percentage or aggregate percentage of the loss of earning capacity as specified in that Schedule against such injury or injuries amounts to one hundred *per centum* or more, shall be deemed to result in permanent partial incapacity;

*First Schedule*

"seaman" means any workman, employed as master, officer, pilot, seaman, engineman, apprentice, stevedoring labourer, or in any other capacity whatsoever on board a ship by the owner or charterer thereof;

"Solomon Islands ship" means-

(a) any ship which is registered in Solomon Islands under the Merchant Shipping Act, 1894;

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

(c) any ship which is owned by any person whose chief office or place of business in respect of the management of that ship is in Solomon Islands or any ship which is in the possession of any such person by virtue of a charter;

*57 & 58 Vict. c. 60*

"territorial waters" means that part of the sea adjacent to any island of Solomon Islands which is within three geographical miles measured from low water mark of the seaward side of the reef fronting such coast, or, where a reef is not present, from the low water mark of the coast itself;

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

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

*First Schedule*

"tributer" means a person who is granted permission to win minerals, receiving a proportion of the minerals won by him or the value thereof.

(2) The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this Act, be deemed to be the trade or business of such local or other public authority.

#### **Application to workmen employed under the Crown**

4. This Act shall apply to workmen employed by or under the Crown in the same way and to the same extent as if the employer were a private person.

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

*2 of 1964, s.4*

*3 of 1979, s.4*

5.-(1) If in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, subject as hereinafter provided, be liable to pay compensation in accordance with the provisions of this Act. For the purposes of this Act, an accident arising out of the employment shall be deemed, in the absence of evidence to the contrary, to have arisen in the course of the employment and an accident arising in the course of the employment shall be deemed, in the absence of evidence to the contrary, to have arisen out of the employment:

Provided that -

(a) the employer shall not be liable under this Act in respect of any injury, other than an injury which results in partial incapacity of a permanent nature, which does not incapacitate the workman for a period exceeding three days from attending at the work at which he was employed; and

(b) if it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent incapacity, be disallowed.

(2) For the purposes of this Act, an accident resulting in the death or serious and permanent incapacity of a workman shall be deemed to arise out of and in the course of his employment, notwithstanding that the workman was at the time when the accident happened acting in contravention of any statutory or other regulation applicable to his employment, or of any orders given by or on behalf of his employer, or that he was acting without instructions from his employer, if such act was done by the workman for the purposes of and in connection with his employer's trade or business.

(3) No compensation shall be payable under this Act in respect of any incapacity or death resulting from a deliberate self-injury.

(4) No compensation shall be payable under this Act in respect of any incapacity or death resulting from personal injury, if the workman has at any time represented to the employer that he was not suffering or had not previously suffered from that or a similar injury, knowing that the representation was false.

(5) An accident happening to a workman in or about any premises at which he is for the time being employed for the purposes of his employer's trade or business shall be deemed to arise out of and in the course of his employment and the employer shall be liable to pay compensation if the accident happens while he is taking steps on an actual or supposed emergency at those premises to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

(6) An accident happening to a workman while he is travelling to or from his place of work as a passenger by any vehicle, ship, vessel or aircraft provided by his employer or operated in the ordinary course of public transport service shall be deemed to arise out of and in the course of his employment. An accident happening to a workman travelling to or from his place of work as a passenger by any other vehicle, ship, vessel or aircraft shall not be deemed to arise out of and in the course of his employment unless the employer has given express or implied permission to use such other transport.

### **Compensation in fatal cases**

*2 of 1964, s. 5*

*3 of 1979, s. 5*

### **6. Where death results from the injury -**

(a) if the workman leaves any dependants wholly dependent on his earnings, the amount of compensation shall be a sum equal to thirty-six months' earnings or such sum as the Minister may prescribe by order whichever is less:

Provided that in no case shall the amount of compensation under this paragraph be less than such sum as the Minister may prescribe by order:

Provided further that where in respect of the same accident compensation has been paid under the provisions of section 7 or section 8 there shall be deducted from the sum payable under this paragraph any sums so paid as compensation:

(b) if the workman does not leave any dependants wholly dependent on his earnings, but leaves any dependants in part so dependent, the amount of compensation shall be such sum, not exceeding in any case the amount payable under paragraph (a) of this section, as may be agreed upon or, in default of agreement, as may be determined by the court to be reasonable and proportionate to the injury to the said dependants;

(c) if the workman leaves no dependants, the reasonable expenses of the burial of the deceased workman and the reasonable expenses of medical attendance on the deceased workman, not exceeding such sum as the Minister may prescribe by Order, shall be paid by the employer.

### **Compensation in the case of permanent total incapacity**

*2 of 1964, s. 6*

*3 of 1979, s. 6*

**7.-** (1) Where permanent total incapacity results from the injury the amount of compensation shall be a sum equal to forty-eight months' earnings or such sum as the Minister may prescribe by Order whichever is less:

Provided that in no case shall the amount of compensation in respect of permanent total incapacity be less than such sum as the Minister may prescribe by Order.

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

### **Compensation in the case of permanent partial incapacity**

**8.-**(1) Where permanent partial incapacity results from the injury the amount of compensation shall be -

(a) in the case of an injury specified in the First Schedule, such percentage of the compensation which would have been payable in the case of permanent total incapacity as is specified therein as being the percentage of the loss of earning capacity caused by that injury; and

(b) in the case of an injury not specified in the First Schedule, such percentage of the compensation which would have been payable in the case of permanent total incapacity as is proportionate to the loss of earning capacity permanently caused by the injury.

*First Schedule*



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

(3) The Minister may, from time to time, by notice, amend the First Schedule.

*7 of 1969, s. 3  
LN 46A of 1978*

### **Compensation in the case of temporary incapacity**

*2 of 1964, s. 7*

*3 of 1979, s. 7*

**9.**-(1) Where temporary incapacity, whether total or partial, results from the injury, the compensation shall be the periodical payments hereinafter mentioned payable at such intervals as may be agreed upon or as the court may order, or a lump sum calculated accordingly, having regard to the probable duration and probable changes in degree of the incapacity. Such periodical payments shall be either-

(a) such monthly payment as the Minister may prescribe by Order; or

(b) where the monthly earnings of the workman are less than the amount prescribed by the Minister, the amount of such monthly earnings; or

(c) where the monthly earnings of the workman exceed one and one-half times the sum prescribed by the Minister, two-thirds of the workman's earnings:

Provided that -

(i) no periodical payment shall in any case exceed the difference between the amount of the monthly earnings which the workman was earning at the time of the accident and the amount of the monthly earnings which he is earning or is capable of earning during the period of incapacity in some suitable employment or business after the accident;

(ii) no periodical payment under the provisions of this section shall be at a higher rate than such sum as the Minister may prescribe by Order;

(iii) if the period of incapacity exceeds three days, compensation shall be payable in respect of the total period of incapacity;

(iv) neither the aggregate of the periodical payments nor the lump sum payable under this subsection shall exceed the lump sum which would be payable in respect of the same degree of incapacity under the provisions of section 7 or section 8, as the case may be, if the incapacity were permanent;

(v) where a medical practitioner certifies as necessary on account of the injury any period spent by the workman in hospital or absent from his work, such period shall be regarded as a period of total temporary incapacity irrespective of the outcome of the injury.

(2) In fixing the periodical payments or lump sum payable under the last preceding subsection, a deduction shall be made of the value of any payment, allowance or benefit, including the value of any food, fuel or quarters, which the workman may receive from the employer during the period of incapacity.

*7 of 1969, s. 4*

(3) In the event of death or permanent incapacity following after temporary incapacity, no deductions shall be made from any lump sum payment under the provisions of section 6, section 7 or section 8 by reason of periodical payments or a lump sum payment having been made under the provisions of this section.

(4) On the ceasing of the incapacity before the date on which any periodical payment falls due, there shall be payable in respect of that period a sum proportionate to the duration of the incapacity in that period.

(5) Where a workman in receipt of periodical payments under the provisions of this section intends to leave the neighbourhood in which he was employed for the purpose of residing elsewhere, he shall give notice of such intention to the employer who may agree with the workman for the redemption of such periodical payments by a lump sum, or for the continuance of such periodical payments. If the employer and the workman are unable to agree, either party may apply to the court, which shall have jurisdiction to order such redemption and to determine the amount to be paid or to order the continuance of the periodical payments:

Provided that any lump sum so ordered to be paid together with the periodical payments already made to the workman shall not exceed the lump sum which would be payable in respect of the same degree of incapacity under subsection (1) of section 7, or section 8, as the case may be, if the incapacity were permanent.

(6) If a workman in receipt of periodical payments under the provisions of this section leaves the neighbourhood in which he was employed for the purpose of residing elsewhere without giving notice as provided in subsection (5) of this section or having given such notice leaves the neighbourhood as aforesaid without having come to an agreement with his employer for the redemption or continuance of such periodical payments, or without having made an application to the court under subsection (5) of this section, he shall not be entitled to any benefits under this Act during or in respect of the period of his absence. If the period of such absence exceeds six months, the workman shall cease to be entitled to any benefits under this Act.

## **Artificial limbs and apparatus**

*2 of 1964, s. 8*

**10.-** (1) Where an accident arising out of and in the course of his employment has caused loss of a limb or other mutilation and the supply of an artificial member or members or apparatus (including dental appliances and artificial eyes) will improve the earning capacity of an injured workman, such artificial member or members or apparatus shall be provided at the expense of the employer and the rate of compensation payable shall be reduced in proportion to the improvement in earning capacity resulting from the use of the artificial member or members or apparatus.

(2) The court may order an employer to pay for the replacement or repair of any artificial member or members or apparatus damaged as a result of an accident arising out of and in the course of a workman's employment by that employer.

## **Compensation for occupational diseases**

*7 of 1969, s. 5*

*Second Schedule*

**11.-**(1) If a workman, within the twelve months previous to the date of the disablement, contracts any disease specified in the Second Schedule and the disease is due to the nature of the employment, and the incapacity or death of the workman results from that disease, compensation shall be payable as if the disease was a personal injury by accident arising out of and in the course of that employment, and all the provisions of this Act shall apply accordingly, subject however to the provisions of this section.

(2) No compensation shall be payable under this section in respect of the incapacity or death of a workman if that incapacity begins or that death happens as the case may be, more than twelve months after the workman has ceased to be employed, in any employment to the nature of which the disease is due, by the employer from whom the compensation is claimed:

Provided that this subsection shall not apply to the death of a workman when his death has been preceded, whether immediately or not, by any period of incapacity in respect of which the employer is liable under this section.

(3) For the purposes of calculating the earnings of the workman in a claim for compensation under this section, the commencement of the incapacity of the workman, or the date of his death if there has been no previous period of incapacity, shall be treated as the date of the happening of the accident, if he is then employed in any employment to the nature of which the disease is due by the employer from whom the compensation is claimed, and, if he is not then so employed, the last day on which he was so employed shall for this purpose be treated as the date of the happening of the accident.

(4) For all the other purposes of this Act the commencement of the incapacity of the workman, or the date of his death if there has been no previous period of incapacity, shall be treated as the date of the happening of the accident.

(5) If the disease has been contracted by a gradual process, so that two or more employers are severally liable to pay compensation in respect thereof under this section, the aggregate amount of compensation recoverable shall not exceed the amount that would have been recoverable if those employers had been a single employer, and in any such case those employers shall, in default of agreement, be entitled as between themselves to such rights of contribution as the court thinks just, having regard to the circumstances of the case, in any action brought or application made by any of them for this purpose.

(6) (a) If a workman who suffers incapacity or dies as a result of any disease specified in the first column of the Second Schedule was, within the period of twelve months immediately preceding such incapacity or death, employed in any occupation specified in the second column of the Second Schedule opposite such disease, it shall be presumed, unless or until the contrary is proved, that the disease was due to the nature of such employment.

*7 of 1969, s. 5  
LN 46A of 1978  
LN 88 of 1978  
Second Schedule*

(b) The Minister may, from time to time, by notice, amend the Second Schedule:

Provided that the intention to issue any such notice shall be published in the Gazette by the Minister at least one month before the issue thereof, and any person wishing to do so may make his objections thereto in writing to the Commissioner of Labour who shall notify the Minister of any such objections before any such notice is issued.

(7) Nothing in this section shall affect the right of any person to recover compensation in respect of a disease to which this section does not apply if the disease is a personal injury by accident within the meaning of this Act.

### **Method of calculating earnings**

*3 of 1979, s.9*

**12.**-(1) For the purposes of this Act the monthly earnings of a workman shall be computed in such manner as is best calculated to give the rate per month at which the workman was being remunerated during the previous twelve months if he has been so long employed by the same employer, but, if not, then for any less period during which he has been in the employment of the same employer:

Provided that where by reason of the shortness of the time during which the workman has been in the employment of his employer or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average monthly amount which, during the twelve months previous to the accident, was being earned by a person of similar earning capacity in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a

person of similar earning capacity in the same grade employed in the same class of employment and in the same province.

(2) For the purposes of the preceding subsection, employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

(3) Where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his monthly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident:

Provided that the earnings of the workman under the concurrent contract shall be taken into account only so far as the workman is incapacitated from performing the concurrent contract.

(4) Upon request of the workman to the employer liable to pay compensation, that employer shall furnish in writing a list of the earnings which have been earned by that workman upon which the amount of the monthly earnings may be calculated for the purposes of this section, or, if owing to the casual nature or the terms of the employment it is impracticable to furnish a list of the earnings of that particular workman, the employer shall furnish in writing the average monthly amount, which, during the twelve months previous to the accident, was being earned by a person of similar earning capacity in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person of similar earning capacity in the same grade employed in the same class of employment and in the same province.

(5) When a workman is at the time of the accident under the age of twenty-one years, or is an apprentice or learner, and his incapacity, whether total or partial, is permanent, his monthly earnings at the time of the accident shall be deemed to be the monthly sum which he would probably have been able to earn if he had then attained the age of twenty-one years or had completed his apprenticeship, or had ceased to be a learner, as the case may be, being in no case less than such sum as the Minister may prescribe by Order:

Provided that nothing in this subsection shall extend to the compensation payable on the death of a workman.

### **Persons entitled to compensation**

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

(2) Where there are both total and partial dependants nothing in this Act shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

(3) Where a dependant dies before a claim in respect of death is made under this Act, or, if a claim has been made, before an order for the payment of compensation has been made, the legal personal representative of the dependant shall have no right to payment of compensation, and the claim for compensation shall be dealt with as if that dependant had died before the workman.

### **Distribution of compensation**

**14.**-(1) Compensation payable where the death of a work-man has resulted from an injury shall be paid to the court, and the court may order any sum so paid in to be apportioned among the dependants of the deceased workman or any of them in such proportion as the court thinks fit, or, in the discretion of the court, to be allotted to any one such dependant, and the sum so allotted to any dependant shall be paid to him or be invested, applied, or otherwise dealt with for his benefit in such manner as the court thinks fit. Where, on application being made in accordance with the rules made under this Act, it appears to the court that, on account of the variation of the circumstances of the various dependants, or of any other sufficient cause, an order made under this subsection ought to be varied, the court may make such order as to the apportionment for the variation of the former order as in the circumstances of the case the court may think just.

(2) Compensation payable under the provisions of section 7 or section 8 and lump sums payable under the provisions of section 9 shall be paid to the court, and any sum so paid shall be paid to the person entitled thereto or be invested, applied or otherwise dealt with for his benefit in such manner as the court thinks fit.

(3) Nothing in this section shall prevent an employer from making any payment to a workman pending the settlement or determination of the claim and the court may order that the whole or any part of such payment shall be deducted from the amount of compensation payable to him under the provisions of this section.

(4) Any other compensation payable under this Act may be paid to the workman or to the court and when paid to the court shall be paid by the court to the person entitled thereto.

(5) The receipt of the clerk of the court shall be a sufficient discharge in respect of any amount paid to the court under the provisions of this Act.

(6) Any order or directions of the court under this section shall be final and shall not be questioned in, nor shall any appeal lie therefrom to, the High Court or any other court whatsoever.

*2 of 1964, s. 9*

### **Requirements as to notice of accident and application for compensation**

**15.**-(1) Proceedings for the recovery under this Act of compensation for an injury shall not be maintainable unless notice of the accident has been given by or on behalf of the workman as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the application for compensation with respect to

such accident has been made within six months from the occurrence of the accident causing the injury or, in the case of death, within six months from the time of death:

Provided that -

(a) the want of, or any defect or inaccuracy in, such notice shall not be a bar to the maintenance of such proceedings if the employer is proved to have had knowledge of the accident from any other source at or about the time of the accident, or if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect or inaccuracy, or that such want, defect or inaccuracy was occasioned by mistake or other reasonable cause;

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

(2) Notice in respect of an injury under this Act may be given orally or in writing.

(3) Notice in respect of an injury under this Act may be given to the employer (or if there is more than one employer to one of such employers) or to any foreman or other official under whose supervision the workman is employed, or to any person designated for the purpose by the employer, and shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened.

(4) The notice, if in writing, may be given by delivering the same or sending it by post in a registered letter addressed to the residence or place of business of the person to whom it is to be given.

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

(6) The workman, shall, if so required by his employer, supply to him such further particulars of the accident and of the injury, as the employer may reasonably require.

*2 of 1969, s.10*

### **Medical examination and treatment**

**16.**-(1) Where a workman has given notice of an accident he shall, if the employer, before the expiry of seven days from the time at which notice has been given, offers to have him examined free of charge by a medical practitioner named by the employer, submit himself for such examination, and any workman who is in receipt of a periodical payment under section 9 shall, if so required, submit himself for such examination from time to time.

(2) The workman shall, when required, attend upon that medical practitioner at the time and place notified to the workman by the employer or that medical practitioner, provided such time and place is reasonable.

(3) In the event of the workman being, in the opinion of any medical practitioner, unable or not in a fit state to attend on the medical practitioner named by the employer, that fact shall be notified to the employer, and the medical practitioner so named shall fix a reasonable time and place for a personal examination of the workman and shall send him notice accordingly.

(4) if the workman fails to submit himself for such examination, his right to compensation shall be suspended until such examination has taken place; and if such failure extends for a period of fifteen days from the date when the workman was required to submit himself for examination under subsection (2) or subsection (3) as the case may be, no compensation shall be payable unless the court is satisfied that there was reasonable cause for such failure.

(5) The workman shall be entitled to have his own medical practitioner present at such examination, but at his own expense.

(6) Where the workman is not attended by a medical practitioner he shall, if so required by the employer, submit himself for treatment by a medical practitioner without expense to the workman.

(7) If the workman has failed to submit himself for treatment by a medical practitioner when so required under the provisions of subsection (6), or having submitted himself for such treatment has disregarded the instructions of such medical practitioner, then if it is proved that such failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting incapacity shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had submitted himself for treatment by, and duly carried out the instructions of, such medical practitioner, and compensation, if any, shall be payable accordingly.

(8) Where under this section a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension save where the court is satisfied that there was reasonable cause on the part of the workman for failure to attend on the medical practitioner.

(9) Notwithstanding the previous provisions of this section, where a claim for compensation is made in respect of the death of a workman, then if the workman failed to submit to examination by a medical practitioner when so required under the provisions of this section, or failed to submit himself for treatment by a medical practitioner when so required under the provisions of this section, or having submitted himself for such treatment disregarded the instructions of such medical practitioner, and if it is proved that such failure or disregard was unreasonable in the circumstances of the case and that the death of the workman was caused thereby, the death shall not be deemed to have resulted from the injury, and no compensation shall be payable in respect of the injury.



(10) Where the employer has not at his own expense made suitable arrangements for the medical or surgical attendance in respect of an injured workman, the workman shall in addition to the compensation payable under sections 7, 8, 9 or 11 be entitled to a sum equal to the reasonable expenses incurred by him for medical or surgical attendance in respect of his injury.

*2 of 1964, s.12*

### **Agreement as to compensation**

*2 of 1964, s. 13*

**17.-** (1) The employer and workman may, with the approval of the Commissioner of Labour, after the injury in respect of which the claim to compensation has arisen, agree in writing as to the compensation to be paid by the employer. Such agreement shall be in triplicate, one copy to be kept by the employer, one copy to be kept by the workman and one copy to be sent by the employer to the Commissioner of Labour:

Provided that -

(a) the compensation agreed upon shall not be less than the amount payable under the provisions of this Act; and

(b) where the workman is unable to read and understand writing in the language in which the agreement is expressed, the agreement shall not be binding against him unless it is endorsed by a certificate of the Commissioner of Labour to the effect that he read over and explained to the workman the terms thereof and that the workman appeared fully to understand and approve the agreement.

(2) Any agreement made under subsection (1) may on application to the court be made an order of the court.

(3) Where compensation has been agreed the court may, notwithstanding that the agreement has been made an order of the court under the previous subsection, on application by any party within three months after the date of the agreement, cancel it and make such order (including an order as to any sum already paid under the agreement) as in the circumstances the court may think just, if it is proved -

(a) that the sum paid or to be paid was or is not in accordance with the provisions of subsection (1); or

(b) that the agreement was entered into in ignorance of, or under a mistake as to, the true nature of the injury; or

(c) that the agreement was obtained by such fraud, undue influence, misrepresentation or other improper means as would, in law, be sufficient ground for avoiding it.

(4) No stamp duty shall be leviable or payable on any agreement under this section.

*2 of 1964, s. 13*

## **Determination of claims**

**18.**-(1) If an employer on whom notice of the accident has been served under section 15 does not within fourteen days after the receipt of the notice agree in writing with the workman as to the amount of compensation to be paid, the workman may, in the prescribed form and manner, make an application for enforcing his claim to compensation to the court having jurisdiction in the province in which the accident giving rise to the claim occurred.

(2) All claims for compensation under this Act unless determined by agreement, and any matter arising out of proceedings thereunder, shall be determined by the court whatever may be the amount involved, and the court may, for that purpose, call upon any Government officer or any independent medical practitioner to give evidence, if the court is of opinion that such officer or practitioner is, by virtue of his expert knowledge, able to assist the court.

## **Review**

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

Provided where the application to review is based on a change in the condition of the workman any such application shall be supported by a certificate of a medical practitioner if the services of a medical practitioner are available.

(2) Any periodical payment may on review under this section, subject to the provisions of this Act, be continued, increased, diminished, converted to a lump sum, or ended. If the accident is found to have resulted in permanent incapacity, the periodical payment shall be converted to the lump sum to which the workman is entitled under the provisions of section 7 or section 8, as the case may be, and such lump sum shall be dealt with in accordance with the provisions of subsection (2) of section 14.

*2 of 1964, s.14*

(3) Where application is made by an employer under this section for any periodical payment to be ended or diminished, and the application is supported by the certificate of a medical practitioner, the employer may pay into court the periodical payment, or so much thereof as is equal to the amount by which he contends that the periodical payment should be diminished, to abide the decision of the court made on a review under this section.

(4) In making a review under this section the court shall have regard only to the capacity for work of the workman as affected by the accident.

## **Limitation of power of employer to end or decrease periodical payments**

**20.** Subject to the provisions of subsection (6) of section 9, subsection (4) of section 16, and subsection (3) of section 19, an employer shall not be entitled, otherwise than in pursuance of an agreement or an order of the court -

(a) to end periodical payments except -

(i) where a workman resumes work and his earnings are not less than the earnings which he was obtaining before the accident; or

(ii) where a workman dies;

(b) to diminish periodical payments, except that, where the earnings of a workman in receipt of periodical payments, together with such payments, exceed the amount of his earnings at the date of the accident, the employer may diminish the payments to such workman by an amount equal to such excess.

### **Jurisdiction of the court**

**21.** – (1) Save as is provided in this Act and any rules made thereunder, the court shall, upon or in connection with any question to be investigated or determined under the provisions of this Act or any rules made thereunder, have all the powers and jurisdictions exercisable by the court in or in connection with civil actions in such court and the law, rules and practice relating to such civil actions and to the enforcement of judgments and orders of the court shall *mutatis mutandis* apply.

(2) Where in any proceedings under this Act on a claim for compensation in respect of the death of a workman, the court is satisfied that other or prima facie evidence as to the dependency on the deceased workman of a person claiming to be a dependant, residing outside the province in which the proceedings are being taken, or as to the degree of such dependency, cannot be procured, or cannot be procured without undue hardship to the claimant or other party to the proceedings, a statement as to the dependency and as to the degree of dependency of the claimant signed by the Provincial Secretary in which the claimant resides shall be prima facie proof of the facts stated therein. The signature of the Provincial Secretary shall be admitted without proof unless the court shall have reason to doubt the genuineness thereof.

*LN. 88 of 1978*

(3) If in such proceedings any evidence is adduced which in the opinion of the court traverses the facts set out in such a statement, or if for any other reason the court thinks fit, the court may request a court having jurisdiction in the district in which a person claiming to be a dependant resides to investigate the fact of the dependency and the degree of dependency of such person. The record of any such investigation including the finding of the court thereon shall be receivable as evidence in the proceedings, and a certificate signed by a Magistrate or an officer of the court which has conducted the investigation shall be sufficient proof of such record and such signature shall be admitted without proof unless the court shall see reason to doubt the genuineness thereof.

*2 of 1964, s.16*

### **Power of court to submit questions of law**

*2 of 1964, s.17*

*Cap. 20*

**22.** The court may, if it thinks fit, submit any question of law for the consideration of the High Court. Such admission shall be by way of case stated and the provisions of section 43 of the Magistrates' Courts Act shall *mutatis mutandis* apply.

### **Appeals**

*2 of 1964, s.17*

**23.**-(1) Subject to the provisions of this section and of section 14, an appeal shall lie to the High Court from an order of the court.

(2) No appeal shall lie in any case in which the parties have agreed to abide by the decision of the court or in which the order of the court gives effect to an agreement come to by the parties.

(3) No appeal shall lie after the expiration of thirty days from the date of the order of the court:

Provided that the High Court may, if it thinks fit, extend the time for appealing under this section notwithstanding that the time for appealing has elapsed.

### **Liability in case of workmen employed by contractors**

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

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

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

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

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

### **Remedies against both employer and stranger**

*2 of 1964, s. 18.*

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

(a) the workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this Act for such compensation:

Provided that -

(i) if the workman has recovered compensation under this Act before damages have been awarded in such proceedings, then the amount of such compensation shall be deducted from the damages to be so awarded;

(ii) if the workman has recovered damages in such proceedings before compensation under this Act has been paid, then, notwithstanding the provisions of this Act, the amount of such compensation shall be abated by the amount of damages so recovered; and

(b) if the workman has recovered compensation under this Act the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the provisions of section 24 relating to liability in case of workmen employed by contractors, shall be entitled to be indemnified as regards the amount of compensation, including costs, by the person so liable to pay damages as aforesaid, and any question as to the right to and amount of any such indemnity shall, in default of agreement, be settled by civil suit or, by consent of the parties, by arbitration under the Arbitration Act.

Cap. 2

### **Regulation to apply to accidents to seamen employed on Solomon Islands ships**

*LN 46A of 1978*

**26.**-(1) This Act shall apply to an accident happening to a seaman employed on a Solomon Islands ship whether the accident happens in Solomon Islands or elsewhere or on board the said ship or elsewhere.

(2) The application of this Act in respect of accidents happening to seamen shall be subject to the following modifications-

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

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

(c) in the case of the death of a seaman leaving no dependants, no compensation shall be payable if the owner of the ship is, under the Merchant Shipping Act, 1894, liable to pay the expenses of burial;

*57 & 58 Vict. c.60*

(d) where incapacity for work results from the injury, the owner of the ship may deduct from the payments due to the injured seaman under this Act any expenses of maintenance which the owner of the ship is, under the Merchant Shipping Act, 1894, as amended by any subsequent enactment or otherwise, liable to defray and has, in fact, defrayed;

(e) any sum payable by way of compensation by the owner of a ship under this Act shall be paid in full notwithstanding anything in section 503 of the Merchant Shipping Act, 1894 (which relates to the limitation of a shipowner's liability in certain cases of loss of life, injury, or damage), but the limitations of the owner's liability imposed by that section shall apply to the amount recoverable by way of indemnity, under section 25 of this Act, as if the indemnity were damages for loss of life or personal injury;

(f) subsections (2) and (3) of section 174 of the Merchant Shipping Act, 1894 (which relates to the recovery of wages of seamen lost with their ship), shall apply as respects proceedings for the recovery of compensation by the dependants of a seaman lost with his ship as they apply with respect of proceedings for the recovery of wages due to seamen and apprentices; and proceedings for the recovery of compensation shall in such a case be maintainable if the claim is made within eighteen months of the date at which the ship is deemed to have been lost with all hands.

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

(4) When an action is commenced for the recovery of compensation in respect of an accident happening out of Solomon Islands, the action shall, on the application of the defendant, be stayed until the plaintiff has given to the defendant a sufficient undertaking not to institute any proceedings for the recovery of compensation or damages from the defendant in any other jurisdiction in respect of the same accident.

(5) In any action for the recovery of compensation it shall be a good defence that proceedings for the recovery of compensation or damages in respect of the same accident have been instituted by

or on behalf of the same person against the same defendant in any other jurisdiction other than Solomon Islands or that any claim by or on behalf of the same person against the same defendant for compensation or damages in respect of the same accident under the laws of any other jurisdiction other than Solomon Islands, has been settled by agreement or fully satisfied.

(6) For the purposes of this Act an accident shall be deemed to happen in Solomon Islands if it happens within the territorial waters of Solomon Islands and shall be deemed to happen out of Solomon Islands if it happens elsewhere.

### **Proceedings independently of the Act**

*2 of 1964, s. 19*

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

Provided that-

(a) if damages are awarded after compensation has been paid the amount of damages awarded in such proceedings shall take into account the compensation paid in respect of the same injury under this Act;

(b) a judgment against the employer in such proceedings shall be a bar to proceedings under this Act in respect of the same injury at the suit of any person by whom or on whose behalf the proceedings against the employer were taken.

(2) If in proceedings independently of this Act or on appeal it is determined that the employer is not liable under such proceedings, the court in which such proceedings are taken or the appellate tribunal shall, if the plaintiff so choose, proceed to determine whether compensation under this Act is liable to be paid to the plaintiff and shall assess the amount of compensation so payable, but may deduct from such compensation any extra costs which in the opinion of the court or appellate tribunal have been incurred by the employer by reason of the proceedings having been taken independently of this Act.

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

**28.**-(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then, in the event of the employer becoming bankrupt, or making a composition or arrangement with his creditors, or, if the employer is a company, in the event of the company having commenced to be wound up or a receiver or manager of the company, business or undertaking having been duly appointed, or possession having been taken, by or on behalf of the holders of debentures secured by a floating charge, of any property comprised in or subject to the charge, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in the enactments relating to bankruptcy and the winding up of companies, be transferred to and vested in the workman, and upon any such

transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

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

### **Contracting out**

*2 of 1964, s. 20*

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

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

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

**30.** Compensation payable under this Act shall not be capable of being assigned, charged or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against such compensation.

### **Regulations**

*2 of 1964, s. 22*

*LN 46A of 1978*

**31.**-(1) The Minister may make regulations not inconsistent with this Act for the purpose of giving better effect to the purposes and provisions thereof and, without prejudice to the generality of the foregoing power, he may make regulations -

(a) prescribing procedure, forms and fees;

(b) prescribing anything which is to be or may be prescribed under this Act; and

(c) requiring employers and insurers carrying on in Solomon Islands the business of insuring employers against their liabilities under this Act to make periodic or other returns as to such matters as he may think fit, and prescribing a time limit for the making of such returns.

(2) Any person required to make a return by virtue of any regulation made under subsection (1) who-



(a) fails to make such return within the time within which he is required to make it;

(b) makes or causes to be made a return which he knows to be false in any material particular; or

(c) on being so required fails to give any information or explanation respecting the return which it is in his power to give,

shall be guilty of an offence and liable to a fine of ten dollars for every day during which the default continues.

(3) Where a person convicted of an offence under this section is a company, the chairman and every director and every officer of the company shall be guilty of a like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

### **Rules of court**

*2 of 1964, s. 23*

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

### **Regulations as to transfer of funds**

**33.-** (1) Where an arrangement has been made whereby sums awarded under the law relating to workmen's compensation in Solomon Islands to beneficiaries resident or becoming resident in the United Kingdom or in any other part of Her Majesty's dominions, and sums awarded under the law relating to workmen's compensation in the United Kingdom or in such other part of Her Majesty's dominions, to beneficiaries resident or becoming resident in Solomon Islands, may, at the request of the authority by which the award is made, be transferred to and administered by a competent authority in the United Kingdom or in such other part of Her Majesty's dominions or in Solomon Islands, as the case may be, the Minister may make rules -

(a) for the transfer, in such manner as may be provided by the arrangement, to the United Kingdom or that part of Her Majesty's dominions with which the arrangement is made of any money in the disposition of the court applicable for the benefit of any person resident in or about to reside in the United Kingdom or such other part of Her Majesty's dominions;

(b) for the receipt and administration by an officer appointed by the Minister for this purpose of any money which under any such arrangement has been transmitted from the United Kingdom or the part of Her Majesty's dominions with which the arrangement has been made as money applicable for the benefit of any person resident or about to reside in Solomon Islands.

(2) For the purposes of this section, "Her Majesty's dominions" includes British protectorates and protected states and territories in respect of which a mandate has been accepted by Her Majesty.

2 of 1964, s. 24

3 of 1979, s.10

**FIRST SCHEDULE**  
(Section 3 (1) and 8 (1).)

<i>Injury</i>	<i>Percentage of incapacity</i>
Loss of limbs.....	100
Loss of both hands or of all fingers and both thumbs...	100
Total loss of sight.....	100
Total paralysis.....	100
Injuries resulting in being bedridden permanently.....	100
Any other injury causing permanent total disablement.	100
Loss of remaining eye for one – eyed workman.....	100
Loss of remaining arm by one – armed workman.....	100
Loss of arm at shoulder.....	60
Loss of arm between elbow and shoulder.....	50
Loss of arm at elbow.....	47½
Loss of arm between wrist and elbow.....	45
Loss of hand at wrist.....	42½
Loss of four fingers and thumb of one hand.....	42½
Loss of four fingers.....	35
Loss of thumb -	
both phalanges.....	35
one phalanx.....	10
Loss of index finger –	
three phalanges.....	10
two phalanges.....	8
one phalanx.....	4
Loss of middle finger –	
three phalanges.....	6
two phalanges.....	4
one phalanx.....	2
Loss of ring finger –	
three phalanges.....	5
two phalanges.....	4
one phalanx.....	2
Loss of little finger –	
three phalanges.....	4
two phalanges.....	3
one phalanx.....	2
Loss of metacarpals –	
first or second (additional).....	3

third, fourth or fifth (additional).....	2
Loss of leg at or above knee.....	70
Loss of leg below knee.....	40
Loss of foot.....	40
Loss of toes –	
all.....	15
great, both phalanges.....	15
great, one phalanx.....	2
if one or more toes lost, each.....	1
Loss of eye –	
eye out.....	30
sight of.....	30
lens of.....	30
sight of, except perception of light.....	30
Loss of hearing –	
both ears.....	50
one ear.....	7

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

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

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

(a) where two digits have been injured, the sum total of the percentages shall be increased by twenty *per centum* of such sum total;

(b) where three digits have been injured, the sum total of the percentages shall be increased by thirty *per centum* of such sum total;

(c) where four digits have been injured, the sum total of the percentages shall be increased by forty *per centum* of such sum total.

A one-eyed workman who on entering employment has failed to disclose to his employer that fact that he is one-eyed shall, if he loses his remaining eye, be entitled to compensation in respect of a degree of disablement of thirty *per centum* only.

For the purposes of this Schedule, a one-eyed workman means a workman who has lost the sight of one eye.

SECOND SCHEDULE

(Section 11)

<i>Disease</i>	<i>Occupation</i>
Poisoning by lead, its alloys or compounds and their sequelae	Handling of ore containing lead, including fine shot in zinc factories. Casting of old zinc and lead in ingots. Manufacture of articles made of cast lead or of lead alloys. Employment in the polygraphic industries. Manufacture of lead compounds. Manufacture and repair of electric accumulators. Preparation and use of enamels containing lead. Polishing by means of lead files or putty powder with a lead content. All painting operations involving the preparation and manipulation of coating substances, cements or colouring substances containing lead pigments.
Poisoning by mercury, its amalgams and compounds and their sequelae.	Handling of mercury ore. Manufacture of mercury compounds. Manufacture of measuring and laboratory apparatus. Preparation of raw materials for the hat-making industry. Hot gilding. Use of mercury pumps in the manufacture of incandescent lamps. Manufacture of fulminate of mercury primers.
Anthrax infection.	Handling of animal carcasses or parts of such carcasses including hides, hooves, horns, wool, hair, bristles or skins or other animal products or residues, or contact with animals infected with anthrax.
Silicosis with or without pulmonary tuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death.	Industries or processes as may from time to time be prescribed as involving exposure to the risk of silicosis.
Phosphorus poisoning by phosphorus or its compounds, and its sequelae.	Any process involving the production, liberation or utilisation of phosphorus or its compounds.
Arsenic poisoning by arsenic or its compounds, and its sequelae.	Any process involving the production, liberation or utilisation of arsenic or its compounds
Poisoning by benzene or its homologues, their nitro- and amido-derivatives, and its sequelae.	Any process involving the production, liberation or utilisation of benzene or its homologues, or their nitro- and amido-derivatives.
Poisoning by the halogen derivatives of	Any process involving the production, liberation or

hydrocarbons of the aliphatic series.	utilisation of halogen derivatives of hydrocarbons of the aliphatic series.
Pathological manifestations due to: (a) radium and other radio-active substances;	Any process involving exposure to the action of radium, radio-active substances or X-rays.
(b) X-rays.	
Primary epitheliomatous cancer of the skin.	Any process involving the handling, or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.

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## CHAPTER 78

### WORKMEN'S COMPENSATION

#### *Subsidiary Legislation*

#### THE WORKMEN'S COMPENSATION (ACCIDENT AND OCCUPATIONAL DISEASE RETURN) REGULATIONS

*(Section 31)*

*190/408/1959*

*LN 80/1965*

*LN 160/1965*

*LN 31/1979*

*(1st January 1960)*

#### **Title**

**1.** These Regulations may be cited as the Workmen's Compensation (Accident and Occupational Disease Return) Regulations.

#### **Returns to be made by employers**

*LN 80/1965*

*LN 160/1965*

*LN 31/1979*

**2.** Within seven days of any employer becoming aware of any accident or disease which causes death to any of his workmen or any injury incapacitating such workman for a period exceeding three days from attending at the work on which he was employed, such employer shall furnish to the Commissioner of Labour a return of such accident or disease, which return shall be complete and accurate in every particular and shall be in the form prescribed in the Schedule hereto.

## Returns may be posted

3. It shall be lawful for any person required by these Rules to furnish any return to the Commissioner of Labour to post such return by registered post and addressed to the Commissioner of Labour at Honiara, and for purposes of these Rules the time at which any such return is so posted shall be deemed to be the time at which such return is furnished.

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## SCHEDULE

*LN 160/1965*

*LN 31/1979*

### RETURN OF ACCIDENT/OCCUPATIONAL DISEASE

(Pursuant to the Workmen's Compensation (Accident and Occupational Disease Return) Regulations)

The following particulars are reported of an accident/occupational disease which caused to a workman death/injury, incapacitating him from attending for a period of more than three days at the work on which he was employed-

#### 1. Employer-

- (i) Name
- (ii) Address
- (iii) Trade/Occupation
- (iv) Name and address of Insurance Company (if insured against accident or occupational disease to workman)

#### 2. Workman-

- (i) Name
- (ii) Sex
- (iii) Age
- (iv) Occupation
- (v) Address
- (vi) Any identity particulars

#### (3). Accident/Occupational Disease-

- (i) Date and time (of accident)/Date of onset (of disease)
- (ii) Circumstances in which accident/disease occurred (if accident was due to machinery give details of part or parts causing accident)
- (iii) Particulars of injury/disease as known to the employer
- (iv) Particulars of medical attention and where given

(4) Earnings - (Average per month calculated over the past twelve months or for such lesser period as the workman has been employed) -

Rate of wages.....  
 Cost of living allowance.....  
 Other allowance or regular payment (e.g. *bonus, over-time, etc.*).....  
 Value of food.....  
 Value of housing.....  
 Value of fuel.....

Total earnings per month .....

Date .....

Signature of Employer

TO BE SENT WITHIN SEVEN DAYS OF ACCIDENT TO:  
 The Commissioner of Labour,  
 P.O. Box G. 13,  
 Honiara, Solomon Islands

LN 137/1991  
 LN.115/1996

THE PRESCRIPTION OF SUMS ORDER  
 (Sections 6, 7, 8, 9, 12 & 31)

[6th December 1991]  
 (16<sup>th</sup> October.1996)

The sums specified in Column III of the Schedule are prescribed as the sums in respect of the matters specified in Column II of the Schedule, and appearing against the relevant sections of the Act set out in Column I of the Schedule.

SCHEDULE

COLUMN I	COLUMN II	COLUMN III
Section 6(a)	Compensation in case of death	80,000
Section 6(a) (proviso)	Minimum amount of Compensation	11,500
Section 6 (c)	Funeral Expenses	3,500
Section 7(1)	Compensation for permanent total incapacity	80,000
Section 7(1) (proviso)	Minimum amount of Compensation	11,000
Section 9(l)	Amount of periodic payments	400 per month

Section 9(1) (proviso (ii))	Maximum amount of periodical payments	1,400 per month
Section 12(5)	Minimum amount of earnings	400 per month

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WORKMEN'S COMPENSATION (RULES OF COURT) RULES  
(Section 32)

LN 113/1968

(21st September 1968)

*Preliminary*

**Citation**

1. These Rules may be cited as the Workmen's Compensation (Rules of Court) Rules.

**Interpretation**

2. In these Rules, unless the context otherwise requires- "application" means an application referred to in rule 4 of these Rules;

"assessing", in relation to costs, means an undisputed assessment of the amount of the costs incurred in relation to any application;

"Registrar" means the Registrar of the High Court;

"taxing", in relation to costs, means a determination by a Magistrate, after the hearing of all parties concerned therein, of the amount of costs incurred in relation to any application.

**Forms**

3. The forms contained in the Schedule or forms to the like effect shall be used with such variations and modifications as the circumstances may require.

*Applications*

**Mode of applications**

4.-(1) Any workman or employer who desires the determination of any question arising out of an accident in which compensation is or might be claimed or any application for review of any order for compensation made shall file with the court a written application containing the following particulars -



(a) the name and address of the applicant;

(b) the name and address of the respondent;

(c) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims, or the question which he desires to have determined.

(2) If the application be made by an employer, it shall be accompanied by a statement whether he admits his liability to pay compensation or denies such liability, and whether the admission or denial is total or partial, and if he admits or denies liability partially, a statement of the extent to which he admits or denies liability, and in the case of denial of liability, the grounds upon which such denial is based shall be stated.

### **Procedure after lodging application**

5.-(1) As soon as may be after an application containing to the satisfaction of the court the particulars required by rule 4 has been filed, the court shall cause a copy thereof to be served upon the respondent together with a notice in Form 1 of the Schedule informing the respondent that he must file with the court such an answer as is specified in paragraph (2) of this rule within the period therein stated, and that in default of his complying with the provisions of that paragraph or of his appearing at the time and place specified in the notice, such order may be made as to the court seems just:

Form 1

Provided that, save with the written consent of the respondent communicated to the court, not less than thirty days shall elapse between the date of the service of the notice upon the respondent and the date fixed for the hearing of the application.

(2) If the respondent intends to oppose an application he shall, not later than thirty days after service upon him of the notice, or within such extended period as the court may in its discretion allow, file with the court a written answer to the application containing a concise statement of the extent of his opposition and the grounds therefor.

(3) The court may, at any time before the determination of the question in dispute and upon such terms as to adjournment or as to costs as it may deem just, allow an application, or any particulars or statement accompanying the same, or any answer thereto, to be amended; and any such amendment shall be lodged with the court in writing and the court shall, so soon as may be, cause a copy of the amendment to be served upon the opposite party.

(4) Costs shall not be awarded personally against the Commissioner of Labour appearing for or otherwise acting on behalf of a worker pursuant to the provisions of section 76 of the Labour Act.

Cap. 73

### **Request for further particulars**

**6.-** (1) The respondent to any application may, not later than thirty days after he has received notice of the application, file with the court a request in writing that the applicant be required to furnish further particulars of the grounds upon which the application is made, specifying in such request the matters concerning which he requires information; and correspondingly the applicant may, not later than thirty days after he has received a copy of the answer to the application file with the court a request in writing for similar particulars of the grounds upon which the application is opposed.

(2) If any party fails to furnish to the court for transmission to the opposite party the particulars required by any request submitted to him pursuant to the provisions of paragraph (1) of this rule not later than thirty days after the service upon him of such request and in consequence of such failure the hearing of the application is adjourned, the court may order that the costs occasioned by such adjournment shall be paid by the party so in default.

(3) If in the opinion of the court any request for particulars is unnecessary or vexatious, the court may disallow the request and award any costs occasioned thereby against the party making such request.

(4) Costs shall not be awarded personally against the Commissioner of Labour appearing for or otherwise acting on behalf of a worker pursuant to the provisions of section 76 of the Labour Act.

### **Payment into court**

**7.-** (1) A respondent from whom compensation is claimed may pay into court such sum of money as he considers sufficient to cover his liability.

(2) If no greater compensation be awarded on the application than the sum paid into court by the respondent, the court may order that any costs incurred by the respondent, after payment by him of such sum into court, shall be paid by the applicant.

### **Procedure where contractor wishes to intervene**

**8.-**(1) Where a principal has given notice in writing to a contractor of any application for compensation made against the principal, and the contractor wishes to intervene, the contractor shall forthwith file with the court in which the application has been filed a written declaration of his intention to intervene and the court shall so soon as may be serve copies of such declaration upon the applicant and the principal; and thereupon the contractor shall be entitled to take copies of the application and of any other relevant documents then filed with the court in connection with the application.

(2) Where a contractor has filed with the court a declaration of intention to intervene under paragraph (1) of this rule, he shall not later than thirty days, or such longer period as the court

may allow, after the service upon him of the notice in writing by the principal referred to in that paragraph, also file with the court an answer to the application.

(3) On hearing the application, the court may either order that the contractor be made a respondent if the court is satisfied that he is entitled so to intervene, or may refuse to make him a respondent and order him to pay any costs incurred by reason of the intervention if the court is satisfied that he is not entitled so to intervene.

### **Disputing contractor to appear before court**

9. If any person served with a notice as a contractor wishes to dispute the applicant's claim or his own liability to the principal he shall appear before the court; and in default of his so doing he shall be deemed to admit the validity of any order against the principal, whether such order is made by consent or otherwise, and his own liability to indemnify the principal to the extent of the claim in the notice served on him by the principal.

### **Joinder of interested parties**

10. The court may at any stage of the proceedings before the making of the award, upon the request in writing of any person claiming to be an interested party, or of its own motion, order that any person appearing to be interested be joined in the proceedings.

### **Medical and burial expenses**

11.- (1) An application to determine what sum shall be payable in respect of medical attendance on, or the burial of, a deceased workman who leaves no dependants shall be made by the personal representative, if any, of the deceased workman, or, if there be no such personal representative, or he fails to make such application, by any person to whom any such expenses are due or the Commissioner of Labour; and in such event any other person known to the applicant to be a person to whom any such expenses are due shall be joined in the application either as an applicant or a respondent.

(2) Where the amount awarded by the court is insufficient to pay such expenses in full, the amount shall be apportioned between the persons to whom such expenses are payable in such manner as the court may direct.

### **Periodical payments**

Form 2

Form 3

12. Where upon any application the court orders compensation to be paid by way of periodical payments such order shall be made in Form 2 in the Schedule; and any order revising such first-mentioned order shall be made in Form 3 in the Schedule.

*Special Case*

## Special case

13. (a) When the court submits any question of law for determination by the High Court, the case shall be divided into paragraphs numbered consecutively, and shall state concisely such facts and refer to such documents as may be necessary to enable the High Court to determine the question of law raised thereby.

(b) The case shall be signed by the Magistrate or the clerk of the court, if any, and sent to the Registrar who shall appoint a day, hour and place for the hearing of the special case.

(c) The Registrar shall so soon as may be cause notice of hearing to be served upon all parties to the proceedings:

Provided that the service of such notice shall not be less than thirty days before the date of the hearing except with the consent of all parties thereto.

(d) Any party to the proceedings shall be entitled to obtain from the Registrar a copy of the special case stated.

(e) After the determination of any question by the High Court, the High Court shall remit the case with a memorandum of its decision or direction, as the case may be, to the court submitting the special case.

(f) The High Court may at any time remit the special case to the court for restatement or further statement.

(g) The costs of the hearing of a special case shall be in the discretion of the High Court and shall form part of the proceedings before the court submitting the special case:

Provided that costs shall not be awarded personally against the Commissioner of Labour appearing for or otherwise acting on behalf of a worker pursuant to the provisions of section 76 of the Labour Act.

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## *Service of Process*

### General provisions as to service

14.-(1) Service of applications, answers, notices and other documents which are required to be served upon any person in connection with any application shall be served through the court.

(2) Service may be effected-

(a) by personal service by court bailiff or messenger or by any police officer or the Commissioner of Labour upon the person to be served or upon his advocate or other

agent duly appointed by such person for receipt of service and notified in writing to the court accordingly; or

(b) by sending a copy of the document to be served by registered post to the person to be served at an address notified by him to the court as an address for service, or, if no such address be notified, to his place of residence in Solomon Islands if such be known to the court or by reasonable enquiry can be ascertained by the court; and, until the contrary is shown, such document shall be deemed to have been served at the time at which it would be delivered in the ordinary course of post and the cost of postage shall be a cost in the application; or

(c) by any other manner in which the court may, in any particular case, direct that service shall be effected.

(3) In the case of any application in respect of which an application, answer, notice or other document needs to be served upon any person outside Solomon Islands, the provisions of Order 11 of the High Court (Civil Procedure) Rules, 1964, shall apply as if such application, answer, notice or other document were a document requiring to be served in a civil or commercial cause or matter to which the said Order relates.

(4) In the case of any application referred to in paragraph (3) of this rule, the application shall be removed for determination into the High Court.

### *Fees*

#### **Fees**

**15.** No fees shall be payable in respect of any application made or proceeding instituted pursuant to any of the provisions of the Act.

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#### SCHEDULE (Rule 3)

#### FORM 1 (Rule 5 (I))

### WORKMEN'S COMPENSATION (RULES OF COURT) RULES

#### NOTICE TO RESPONDENT AS TO APPLICATION

#### IN THE MAGISTRATE'S COURT OF SOLOMON ISLANDS

Case No.  
In the matter of an Applicant

BETWEEN:

Applicant

AND:

Respondent

To

Address

Take notice that, if you intend to oppose the application, of which a copy is served upon you herewith, you must file with this court, within thirty days after the service of this notice upon you, a written answer thereto containing a concise statement of the extent of your opposition and the grounds therefor.

And further take notice that the ..... day of ..... 19... at ..... o'clock in the ..... noon, or so soon thereafter as the application can be heard at the Magistrate's Court at ..... has been fixed as the time and place for the hearing of the application and that in default of your filing with the said court within the time aforesaid a written answer as herein required, or of your appearing at the said time and place fixed for the hearing of the application, such order may be made as the court deems just and expedient.

Dated this ..... day of ..... 19...

Magistrate or Clerk of Court

\_\_\_\_\_  
*FORM 2*  
*(Rule 12)*

WORKMEN'S COMPENSATION (RULES OF COURT) RULES

ORDER FOR PERIODICAL PAYMENTS

IN THE MAGISTRATE'S COURT OF SOLOMON ISLANDS

Case No.  
In the matter of an Application

BETWEEN:

Applicant

AND:

Respondent

It is ordered that (1) ..... do forthwith pay to (2) .....  
at (3) ..... the taxed or assessed costs of an application heard on the ..... day of  
..... 19... and the sum of \$..... being ..... the amount now due from the  
said (1) ..... to the said (2) ..... in respect of a monthly payment of \$..... from the ....  
day of ..... 19... being the date of injury, to the date of the order; and do further pay at the  
same place on every day from the date of this order, until otherwise ordered, the sum of \$....

Dated this ..... day of ..... 19...

Magistrate or Clerk of Court

- (1) Employer's name and address.
- (2) Workman's name and address.
- (3) Place where payment is to be made.

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FORM 3  
(Rule 12)

WORKMEN'S COMPENSATION (RULES OF COURT) RULES

ORDER ON REVISION OF ORDER/AGREEMENT FOR PERIODICAL PAYMENT

IN THE MAGISTRATE'S COURT OF SOLOMON ISLANDS

Case No.  
In the matter of an Application

BETWEEN:

Applicant

AND:

Respondent

Before .....  
on the ..... day of ..... 19...  
Upon application for revision of the Order for periodical payments made the ..... day of .....  
19... (or agreement arrived at between the said parties on the ..... day of ..... 19...) and  
upon hearing the evidence given by .....

and ..... for the applicant and ..... and ..... for the respondent, it is hereby ordered that the said order/agreement be varied in the following manner ..... and that the costs of the said ..... of and incidental to this application for review and order be taxed or assessed and paid by the said ..... to the said .....

Dated this ..... day of ..... 19...

Magistrate or Clerk of Court

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