

THE WORKMEN'S COMPENSATION ACT

DIRECTIONS

(under section 37)

The Workmen's Compensation Directions, 1942

L.N. 35/42
17/43

REGULATIONS

(under section 38)

The Workmen's Compensation Regulations, 1938

G.N. 576/38
1270/39
L.N. 142/71

THE WORKMEN'S COMPENSATION ACT

DIRECTIONS
(under section 37)

THE WORKMEN'S COMPENSATION DIRECTIONS, 1942
(Made by the Governor on the 11th day of May, 1942)

L.N. 35/42
Amd:
L.N. 17/43

1. These Directions may be cited as the Workmen's Compensation Directions, 1942.
2. Section 37 of the Act shall apply to the industries specified in the First Schedule. First
Schedule.
3. The day on or before which returns shall be sent to the Minister shall be the 1st day of March in every year.
4. The particulars as to compensation shall be in the form set out in the Second Schedule. Second
Schedule.

THE WORKMEN'S COMPENSATION DIRECTIONS, 1942

FIRST SCHEDULE

(Paragraph 2)

1. Shipping and any business connected with the operation of any dock, harbour, wharf or quay.
2. Factories as defined by the Factories Act.
3. Constructional work of all kinds.
4. Business of operating any club, school, hospital, petrol station or restaurant.
5. Transport and other public utilities.

SECOND SCHEDULE

(Paragraph 4)

COMPENSATED ACCIDENTS

Death Cases

Dependence	No. of cases in which compensation paid during 19.....	Average monthly wages paid for all cases		Total amount of compensation paid during 19.....	
		\$	c	\$	c
Cases where there were persons wholly dependent					
Cases where there were only persons partly dependent					
Total					

CASES OF PERSONS PERMANENTLY DISABLED

	No. of cases in which compensation paid during 19.....		Average monthly wages paid for all cases		Total amount of compensation paid during 19..... (including both weekly and lump sum payments)	
	Partial	Total	\$	c	\$	c
Cases in which the first payment was made during 19..						
Cases continuing from previous years ..						
Total			\$		\$	

SECOND SCHEDULE, *contd.*
 CASES OF PERSONS TEMPORARILY DISABLED

	No. of cases in which compensation paid during 19.....		Average monthly wages paid for all cases		Total amount of compensation paid during 19..... (including both weekly and lump sum payments)	
	Partial	Total	\$	c	\$	c
Cases in which the first payment was made during 19..						
Cases continuing from previous years ..						
Total			\$		\$	

I. Additional particulars as to cases terminated during 19.....

No. of cases settled by payment of lump sum without previous half-monthly payments	No. of cases terminated after less than three months payment	No. of cases terminated after more than three months payments but less than six months	No. of cases terminated after more than six months payments

II. Number of accidents occurring during the period other than those for which compensation has been paid.....

III. Name (if any) of company or association by whom insured—

Address of company or association.....

Signed.....

Date.....

THE WORKMEN'S COMPENSATION ACT

REGULATIONS
(under section 38)

THE WORKMEN'S COMPENSATION REGULATIONS, 1938

(Made by the Governor in Privy Council on the 30th day of July, 1938) G.N. 576/38
Amd:
G.N. 1270/39
L.N. 142/71

1. These Regulations may be cited as the Workmen's Compensation Regulations, 1938. Short title.

2. In these Regulations, unless the context otherwise requires— Interpretation.
"Clerk of the Courts" means a Clerk of the Resident Magistrate's Court or any person performing the duties of the Clerk;
"Court" means a Resident Magistrate's Court;
"Form" means a form in the Schedule.

PART I. Procedure on making Application for Compensation

3.—(1) Any application of the nature referred to in section 28 of the Act shall be filed with the Clerk of the Courts, and shall, unless the Court otherwise directs, be made in Form 1 or Form 2, as the case may be. Applications.
Form 1 or 2.

(2) In any case in which both the principal as defined by the Act and a contractor with him are alleged to be liable to pay compensation under the Act, the provisions of the Rules of the Court applicable to joinder of parties shall apply. Joinder of "principal" and "contractor"

(3) An application on behalf of the dependents of a deceased workman for the settlement of any question arising out of an accident resulting in the death of that workman may be made by the legal personal representative, if any, of the deceased workman on behalf of such dependents, or by the dependents themselves. Legal personal representative or dependents may be applicants.

(4) If there is any conflict of interest between the dependents themselves, or if any dependents when invited to do so neglect or refuse to join in an application, the application may be made by or on behalf of some only of such dependents, the other dependents in either case being named as respondents. Dependents with conflicting interests to be made respondents.

(5) In the construction of paragraph (4) the term "dependents" shall include persons who claim or may be entitled to claim to be dependents, but as to whose claim to rank as dependents any question arises.

Applications to determine questions on which distribution of compensation depends.

(6) In any case in which the amount of compensation payable as the result of the death of a workman has been agreed upon or ascertained, but any question arises as to who are dependents, or as to the amount payable to any dependent, an application for the settlement of such question may be made either by the legal personal representative, if any, of the deceased workman on behalf of the dependents or any of them, or by such dependents or any of them, against the other dependents, and the persons claiming or who may be entitled to claim to be dependents, but as to whose claim to rank as such a question arises; or the application may be made by the persons claiming to be dependents, but as to whose claim to rank as such a question arises, or any of them, against the legal personal representative, if any, of the deceased workman, and the dependents, and such of the persons claiming or who may be entitled to claim to be dependents as are not applicants.

Employer not to be respondent if he pays compensation agreed on or ascertained into Court.

(7) If the employer has paid the agreed or ascertained amount of compensation into Court, it shall not be necessary to make him a respondent, and if made a respondent, the Court may direct that all further proceedings against him be stayed.

Application for burial expenses.

(8) Where the sole question for the determination of the Court is the amount of the funeral expenses of a deceased workman who has left no dependents, the application may be made by the legal personal representative, if any, of the deceased workman, or by the person to whom any such expenses are due.

Infant may be given locus standi.

(9) The Court may at any time direct that an infant shall appear either as applicant or respondent in the same manner as if he were of full age.

Procedure where indemnity claimed.

4. Where the respondent claims that if compensation is recovered against him he will be entitled to be indemnified under the Act by a person not a party to the proceedings (hereinafter referred to as the third party), he shall, within seven days after being served with the copy of the application, file a notice of such claim with the Clerk of the Courts, and the Clerk of the Courts shall thereupon cause a copy of the notice of such claim together with a notice in Form 3

Form 3.

to be served on the third party, and the third party shall file a written statement dealing with the matters raised in the application for compensation or with the claim for indemnity or both within seven days from the service of the copy of the notice thereof or such further time as the Court may allow.

5. If the third party admits the claim, he shall at any time before the first hearing—

Procedure where claim admitted.

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

6. If the third party fails to file a written statement dealing with the claim against him within the prescribed time or within the time fixed by the Court on an application to enlarge the time, he shall be taken to admit the claim.

Failure of respondent or third party to file statement.

7. The provisions of regulations 4–6 shall, with the necessary modifications, apply to a case in which an employer is the applicant and claims to be entitled to indemnity against any person not a party to the proceedings.

Third party procedure where employer is the applicant.

PART II. Memorandum of Agreement

8.—(1) Memoranda of agreement sent to the Clerk of the Courts under subsection (4) of section 17 of the Act, shall be in as close conformity as the circumstances of the case permit with Form 4 or 5 as the case may be.

Form of Memorandum.

Form 4 or 5

(2) Every such memorandum shall contain the like particulars as would have been required if the memorandum had been an application for compensation under these Regulations.

Notice to parties interested of memorandum having been received. Form 6.

9. On receipt of a memorandum and the necessary copies thereof the Clerk of the Courts shall cause to be served a copy on every party interested together with a notice in Form 6 requesting such party to inform him within seven days from the date of the notice whether the memorandum is genuine, or whether he disputes its genuineness, or whether the recording of the memorandum is objected to and, if so, on what grounds.

Where genuineness of memorandum disputed or objection made by employer.

10. If—

- (a) any party interested disputes the genuineness of the memorandum (for example, by alleging that no such agreement has in fact been entered into, or that the terms of the agreement are not correctly stated in the memorandum, or that the agreement is no longer subsisting or enforceable, or that it is not enforceable by reason of its having been entered into under a mutual mistake or obtained by fraud or undue influence or other improper means); or
- (b) where a workman seeks to record a memorandum of agreement between his employer and himself, the employer proves by an affidavit that the workman has, in fact, returned to work, and is earning wages as he did before the accident, and objects to the recording of the memorandum,

the party so disputing or objecting shall within the time prescribed in regulation 9 file with the Clerk of the Courts, in case of a dispute under paragraph (a), a notice in Form 7 stating the grounds on which the genuineness of the memorandum is disputed or, in case of an objection under paragraph (b), the affidavit stating the grounds on which the recording thereof is objected to.

Form 7.

Notice of dispute or objection. Form 8.

11. On receipt of any such notice or affidavit as in regulation 10, the Clerk of the Courts shall cause to be served a copy thereof on every other interested party together with a notice in Form 8 informing every such party that the memorandum will not be recorded except by order of the Court.

Subsequent proceedings.

12.—(1) On receipt of any such notice as in regulation 11, any interested party may apply to the Court to order the memorandum to be recorded.

(2) Where any such application is made the Clerk of the Courts shall refer to the Court the memorandum and all other documents filed in connection therewith, and the Court shall fix a day on which notice shall be given to the parties for the determination of the matter.

(3) At any time during the hearing of an application to record a memorandum, the Court may, with the consent of all parties interested, amend the memorandum.

(4) Upon the hearing of any such application the Court shall determine the matter in controversy between the parties, and may confirm or rectify the memorandum of agreement and direct the Clerk to record it or may make such other order as may seem just.

13.—(1) An application for cancellation of an agreement pursuant to the provisions of subsection (2) of section 17 of the Act shall be in accordance with Form 9.

Application for cancellation of agreement. Form 9.

(2) The applicant shall in an affidavit accompanying the application state the facts necessary to establish that he is an interested person, verify the grounds on which cancellation of the agreement is sought, and, if any money has already been paid under the agreement, he shall also state the particulars of the amount and date of every payment.

PART III. *Application for Review or for Redemption of Half-Monthly Payment and Application for Order where Workman under Legal Disability or for Variation of Order*

14. Any application of the nature referred to in section 7 of the Act shall be in Form 10 and may be made without a medical certificate—

When application may be made without medical certificate. Form 10.

- (a) by the employer, on the ground that since the right to compensation was determined the workman's wages have increased;
- (b) by the workman, on the ground that since the right to compensation was determined his wages have diminished;
- (c) by the workman, on the ground that the employer, having commenced to pay compensation, has ceased to pay the same, notwithstanding the fact that there has been no change in the workman's condition such as to warrant such cessation;

- (d) by the employer, on the ground that the workman has ceased, since the right to compensation was determined, to be a minor;
- (e) either by the employer or the workman, 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;
- (f) either by the employer or the workman, on the ground that in the determination of compensation there is a mistake or error apparent on the face of the record.

Procedure
on applica-
tion for
review.

15. 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 Court that there is reasonable ground for believing that the employer has a right to such reduction or discontinuance, the Court may at any time issue an order withholding the half-monthly payments in whole or in part pending its decision on the application.

Procedure
on applica-
tion for
redemption,
Form 10.

16.—(1) Any application of the nature referred to in section 8 of the Act shall be in Form 10.

(2) Where application is made to the Court under section 8 of the Act for the redemption of a right to receive half-monthly payments by the payment of a lump sum upon the amount of which the parties are unable to agree, the Court shall form an estimate of the probable further duration of the incapacity, and shall award a sum equivalent to the total of the half-monthly payments which would be payable for the period during which it estimates that the incapacity will continue, less one-half *per centum* of that total for each month comprised in that period:

Provided that fractions of a cent included in the sum so computed shall be disregarded.

(3) When, in any case to which paragraph (2) applies, the Court is unable to form an approximate estimate of the probable further duration of the incapacity, the Court may from time to time postpone a decision on the application for a period not exceeding two months at any one time.

Application
for order
where workman
under legal
disability.

17. An application under subsection (6) of section 10 of the Act for an order that a half-monthly payment payable to a workman under any legal disability shall during the disability be paid to any dependent

or other person may be made either by the person liable to make such payment or by or on behalf of the workman entitled to such payment. The application shall be made in Form 11 and shall be served on every interested party. Form 11.

18. An application for the variation of an order of the Court under subsection (7) of section 10 of the Act may be made by or on behalf of any person interested. The application shall be made in Form 12 stating the circumstances under which the application is made and the relief or order which the applicant claims, and shall be served on every other interested party. Application for variation of order. Form 12.

PART IV. *Payment of Compensation into Court*

19. Compensation shall be paid into Court— Payment into Court generally.

- (a) under an order of the Court directing a specific sum to be paid in as compensation; or
- (b) under an agreement between an employer or other person liable to pay compensation and a workman or the dependents of a workman according to the tenor thereof; or
- (c) pursuant to a claim for compensation made out of Court, or to an application for compensation, against an employer or other person liable to pay the same who admits liability, or denies liability but is willing to pay an amount in settlement of the claim.

20.—(1) An employer paying compensation into Court under subsection (1) of section 10 of the Act shall furnish therewith a statement in Form 13. Payment into Court under section 10 (1) of the Act. Form 13.

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

(3) Any dependent, whether notice under subsection (5) of section 10 of the Act has been published or not, may apply to the Court for the payment out or distribution of any sum so deposited.

(4) The statement of disbursements to be furnished on application by the employer under subsection (5) of section 10 of the Act shall be in Form 14.

Form 14.

Publication of list of payments into Court.

21. The Clerk of the Courts shall cause to be displayed in a prominent position outside the Court an accurate list of deposits paid into Court under subsection (1) of section 10 of the Act together with the names and addresses of the depositors and of the workmen in respect of whose death the deposits have been made.

Procedure where no compensation deposited.

22.—(1) Where a dependent of a deceased workman claims that compensation is payable in respect of the death of the workman and no compensation has been deposited in accordance with subsection (1) of section 10 of the Act in respect thereof, the dependent may apply to the Court for the issue of an order requiring the employer to deposit compensation in accordance with the aforesaid subsection:

Provided that no such application shall be entertained unless the applicant proves by affidavit that such compensation has become payable and that he has requested the employer to deposit the compensation and that the employer has refused or omitted to do so, and such affidavit shall contain the names and addresses of all the total and partial dependents of the deceased.

(2) (a) The Court may, at any time cause notice to be given in such manner as the Court thinks fit to all or any of the dependents of the deceased workman who have not joined in the application, requiring them, if they desire to join therein, to appear before the Court on a date specified in this behalf;

(b) if any dependent to whom such notice has been given fails to appear and to join in the application on the date specified in the notice, he shall not be permitted thereafter to claim that the employer is liable to deposit compensation, unless he satisfies the Court that he was prevented by any sufficient cause from appearing when the case was called for hearing.

(3) If, after completing the inquiry into the application the Court issues an order requiring the employer to deposit compensation in accordance with subsection (1) of section 10 of the Act, nothing in paragraph (2) shall be deemed to prohibit the allotment of any part of the sum deposited as compensation to a dependent of the deceased workman who failed to join in the application.

23. An employer paying compensation into Court in accordance with subsection (2) or subsection (3) of section 10 of the Act shall furnish therewith a statement in Form 15.

Payment into Court under section 10 (2) and (3). Form 15.

24. Any money paid into Court shall be deemed to be suitors' money and shall be dealt with in the manner from time to time prescribed therefor by the Resident Magistrates Court Rules.

Money paid into Court.

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

Right of employer to present memorandum when notice given.

(2) A memorandum presented under this regulation shall be recorded by the Clerk of the Courts.

PART V. *Medical Examination of Workman*

26. A workman who is required by subsection (1) of section 14 of the Act to submit himself for medical examination shall do so in accordance with the Regulations contained in this Part.

Workman to submit to medical examination in accordance with Regulations.

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

Examination on premises.

28. In cases to which regulation 27 does not apply the employer may, subject to the provisions of subsection (3) of section 14 of the Act—

Examination in other cases.

- (a) send the medical practitioner to the place where the workman is residing for the time being, in which case the workman shall submit himself for medical examination on being requested to do so by the medical practitioner; or
- (b) send to the workman an offer in writing to have him examined free of charge by a medical practitioner, in which case the workman shall submit himself for medical examination at the employer's premises or at such other place in the vicinity as is specified in such offer and at such time as is so specified:

Provided that—

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

Extended application of regulations 27 and 28.

29. Regulations 27 and 28 shall apply to any workman receiving half-monthly payments who is required by his employer under the provisions of section 15 of the Act to submit himself to medical examination.

Examination after suspension of right to compensation.

30. If a workman whose right to compensation has been suspended under subsection (4) of section 14 of the Act subsequently offers himself for medical examination, his examination shall take place on the employer's premises or at such other place in the vicinity as may be fixed by the employer and at a time to be fixed by the employer not being, save with the express consent of the workman, more than seventy-two hours after the workman has so offered himself.

Medical treatment of workman.

31. The medical treatment to which a workman may be required to submit himself in accordance with the provisions of section 14 of the Act shall include any treatment at or in a hospital or other institution in which the workman may be conveniently and efficiently treated for the personal injury which arose out of and in the course of his employment.

PART VI. *Order and Execution*

Payment of compensation by instalments.

32. The Court may direct that any lump sum payable as compensation be paid into Court by instalments at such times as may be fixed by the Court.

Execution to enforce payment of compensation.

33.—(1) Where under regulation 22, the Court has made an order requiring the employer or other person liable to pay compensation in accordance with subsection (1) of section 10 of the Act and the employer or such other person fails or neglects to do so, execution may be issued for the recovery of the amount of the compensation in the same manner as execution is issued under the Judicature (Resident Magistrates) Act and with the like effect without any further leave of the Court.

(2) Where a party liable to pay compensation into Court under subsection (2) of section 10 of the Act has made default in payment of the amount, the party entitled to such compensation may apply to the Court for leave to issue execution against the goods of the party in default.

(3) An application for leave to issue execution shall be made in accordance with any rules applicable to an application for leave to issue execution in civil proceedings in the Court.

(4) Nothing herein contained shall operate to prevent the Court from directing in its order that execution shall issue for the recovery of the amount of any compensation thereby ordered to be paid, and, if the Court so directs, execution shall issue without any application under regulation 22 for the deposit of compensation, or under this regulation for leave to issue execution.

(5) Execution may be issued without leave of the Court against any party liable to make a half-monthly payment to a workman under any order or recorded memorandum of agreement, but if the party so liable file with the Clerk an application for the review of the half-monthly payment alleging that the incapacity has wholly or partially ceased, execution shall not issue until that application is disposed of by the Court:

Default to make half-monthly payments.

Provided that the Court may direct that execution shall be stayed pending the disposal of the application for review only upon terms that the party liable make payment into Court or otherwise of every half-monthly payment which may become due and payable pending the determination of the application.

34. Where proceedings by way of judgment summons are taken against a party liable to pay compensation or costs under any order of the Court or any recorded memorandum of agreement, who has made default in payment of the amount of compensation, or where payment is to be made by instalments, of any instalment, the rules for the time being in force as to judgment summonses in the Court shall with any necessary modifications, apply to such proceedings.

Enforcement by judgment summons.

35. Where parties liable to pay compensation or costs are a company or firm the Rules of the Court in civil proceedings applicable to execution or to a judgment summons against a company or firm shall apply.

Proceedings against a company or firm.

PART VII. *Miscellaneous*

Schedule.

36. The forms in the Schedule shall be used in all cases to which they are applicable with such amendments as may be necessary.

Copies of documents filed.

37. Where any document is to be filed, there shall be filed with the original document as many copies of the document as there are persons on whom copies of the document are to be served, and in addition any necessary copies for the return of service and for the use of the Court.

Service of documents.

38.—(1) Subject to any particular regulation, any proceeding, document or notice to be served under the Act or these Regulations may be served:

- (a) in the manner provided for the service of a summons under section 146 of the Judicature (Resident Magistrates) Act and any rules made thereunder; or
- (b) in accordance with any law, rule or regulation specifically providing the mode of service in any particular case.

(2) A Bailiff or Assistant Bailiff of the Resident Magistrate's Court may serve any process or effect any execution required under the Act or by these Regulations, and such service or execution shall be subject to all the rules and regulations governing the service of process or execution under the Resident Magistrate's Court Rules and of the tariff of fees for the time being in force, save as in the Act or by these Regulations may be specifically provided.

(3) Where proceedings are taken by a workman against the managing committee of a club as an employer, service or notice of any documents or proceedings shall be valid and sufficient if served on or given to a member of such committee, or its secretary and on the club premises in such manner as would be valid and sufficient if he were the sole employer.

Applications.

39.—(1) All persons whose presence at the hearing of any application may be necessary to enable the Court effectively and completely to adjudicate upon and settle all the questions involved shall, unless the Court otherwise directs, be made parties to the application and every such person shall be served with a copy of the application at least ten clear days before the hearing of the application.

(2) The Court may, whether or not an affidavit is required to be filed in support of an application, hear evidence *viva voce* in order to determine any question involved in any application made under these Regulations.

40. In any proceeding for the determination of any question arising out of an accident to any master, seaman, or apprentice under section 25 of the Act— Masters, seamen and apprentices.

(1) the claim for compensation shall state—

- (a) in the case of the death of a master, seaman, or apprentice, the date at which news of the death was received by the claimant;
- (b) in the case of a master, seaman, or apprentice, lost with his ship, the date at which his ship was lost or is deemed to have been lost.

(2) The application to determine compensation shall be in accordance with Forms 1 and 2 with the necessary modifications, and there shall be added to the particulars therein the name of the ship or vessel on which the deceased workman was employed at the time of the accident, and its port of registry, and if not registered in the Island, the name of the owner, or the managing owner or manager, and his residence or principal place of business if the same is in the Island. Forms 1 and 2.

(3) It shall be sufficient to describe the owners of the ship as “the owners of the ship _____”; and the provisions of the Rules of the Court as to the names of partners shall with the necessary modifications apply to the disclosure of names of such owners. Description of ship owners.

(4) Subject to paragraph (a) of subsection (1) of section 25 of the Act as to service of the notice of accident and the claim for compensation, any document, notice, or proceeding to be served on the owners of a ship shall be deemed to be sufficiently served if served on the managing owner or manager for the time being of the ship, or (except where the master is claiming compensation) on the master of the ship; and section 696 of the United Kingdom Merchant Shipping Act, 1894, subsection (1) shall apply to service on the master of the ship, and where the master is claiming compensation, and there is no managing owner of the ship, service may be effected in accordance with paragraph (c) of the said subsection of the Act.

41. Any application to the Court or other document which is to be signed by the applicant may be signed by his counsel or solicitor. Signature on documents.

