

LAWS OF BRUNEI

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CHAPTER 74

WORKMEN'S COMPENSATION

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Short title
2. Meaning of "workman"
3. Interpretation

PART II

WORKMEN'S COMPENSATION FOR INJURY

4. Employer's liability for compensation
5. Compensation for occupational diseases
6. Compensation limited to injuries received at work
7. Persons entitled to compensation
8. Amount of compensation
9. Method of calculating earnings
10. Distribution of compensation
11. Compensation not to be assigned, attached or charged
12. Notice of claim
13. Notice to Commissioner by employer
14. Powers of Commissioner on receipt of notice
15. Medical examination and treatment
16. Approved hospitals and special hospitals
17. Review
18. Commutation of half-monthly payments
19. Workman leaving Brunei to reside elsewhere
20. Liability in case of workman employed by contractors
21. Remedies both against employer and stranger
22. Bankruptcy of employer
23. Special provisions relating to seamen
24. Returns as to compensation
25. Contracting out

26. Commissioner may pay wages earned by dead workman to dependants
27. Employers to insure
28. Approved insurers to furnish information

PART III

THE COMMISSIONER AND ARBITRATORS

- 29. Commissioner may hold inquiries
- 30. Recording of agreements
- 31. Effect of failure to record an agreement
- 32. Arbitrator to decide when parties fail to agree
- 33. Agreement to be free of stamp duty
- 34. Appearance of parties
- 35. Experts to assist arbitrator
- 36. Inquiry by arbitrator
- 37. Power of the Commissioner and of an arbitrator
- 38. Documents admissible as evidence
- 39. Arbitrator's order to be sent to Commissioner
- 40. Costs
- 41. Powers to submit cases
- 42. Appeal from arbitrator
- 43. Enforcement of orders and agreements
- 44. Inquiry due to negligence, etc. of employer
- 45. Reciprocal arrangements for payment of workmen's compensation
- 46. Amendment of Schedules
- 47. Regulations

SCHEDULES

WORKMEN'S COMPENSATION ACT

An Act to consolidate and amend the law relating to payment of compensation to workmen for injuries suffered in the course of their employment

5 of 1957
S.99/59
7 of 1964
13 of 1978
S.66/79

Commencement: 1st April 1957

PART I

PRELIMINARY

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

2. (1) In this Act —

Meaning of
"workman"

"workman", subject to the proviso to this subsection, means any person who has, either before or after the commencement of this Act, entered into or works under a contract of employment whether by way of manual labour or otherwise, whether the contract is expressed or implied, or is oral or in writing, whether the remuneration is calculated by time or by work done, and whether by the day, week, month or longer period or otherwise:

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

(a) any person employed otherwise than by way of manual labour whose earnings calculated in accordance with the provisions of section 9, exceed \$750 a month;

(b) any person whose employment is of a casual nature and who is employed otherwise than for the

purposes of the employer's trade or business, not being a person employed for the purposes of any gain or recreation and engaged or paid through a club;

(c) any person who is a member of any local armed forces established under any written law;

(d) any person employed, or selected for employment, in a civil capacity by the Government or by any statutory body or authority before the date upon which this Act comes into force where, in consequence of injury received by any such person in the discharge of his duties, a pension or gratuity which would not be payable if such injury were received otherwise is paid to him or, in the case of his death, to any of his dependants as defined in this Act, under any written law for the time being in force in Brunei or any part thereof providing for the grant of such pension or gratuity;

(e) an outworker;

(f) any member of the family of the employer who dwells with him in his house;

(g) any class of person whom His Majesty the Sultan and Yang Di-Pertuan in Council may by order signified in the *Gazette* declare not to be workmen for the purposes of this Enactment.

(2) If in any proceedings for the recovery of compensation under this Act it appears to the Commissioner or an arbitrator or the Court that the contract of employment under which the injured person was working at the time when the accident causing the injury happened was illegal, the Commissioner, the arbitrator or the Court may, if having regard to all the circumstances of the case he or it thinks proper so to do, deal with the matter as if the injured person

had at such time been a person working under a valid contract of employment.

(3) 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 to any public officer whom the Minister may appoint to act on behalf of the dependants of the workman.

3. (1) In this Act —

Interpreta-
tion

“approved hospital” means a hospital declared to be such under subsection (1) of section 15;

“arbitrator” means a person appointed by His Majesty by notification in the *Gazette* to be an arbitrator for workmen's compensation;

the “Commissioner” means the Commissioner of Labour appointed under section 3 of the Labour Act, Cap. 93 and includes any officer to whom the Commissioner has delegated all or any of the powers conferred or duties imposed on the Commissioner by this Act;

“compensation” means compensation as provided for by this Act;

“contract of employment” means a contract of service or of apprenticeship or a contract for the execution or performance of any work undertaken at the premises of an employer, which forms part of any trade or business carried on by such employer or of the domestic service of his household;

“dependant” means any member of the family of a workman who was 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 —

(a) being the parent or grandparent of a child born out of wedlock, leaves such child so dependent upon his earnings, or

(b) being a child born out of wedlock leaves a parent or grandparent so dependent upon his earnings, or

(c) being divorced leaves a divorced wife so dependent upon his earnings

shall include such child, parent, grandparent or divorced wife 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 that other person for the provision of the ordinary necessities of life suitable for persons in his class and position:

And provided further that where on application being made by a woman the Commissioner is satisfied after due enquiry under section 10 (5) of this Act that —

(a) such woman and the deceased were living together as man and wife at the time of the accident; and

(b) such woman was wholly or in part dependent on the earnings of the deceased at the time of his death or would but for the incapacity due to the accident have been so dependent,

the Commissioner may deem such woman to be a dependant for the purposes of this Act.

“domestic servant” means a person employed exclusively in the work or in connection with the work of a private dwelling house and not of any trade, business or profession carried on by the employer in such dwelling house and includes any person employed in the capacity of a cook, house servant (including bed room and kitchen servants), waiter, butler, child’s or baby’s nurse, valet, footman, gardener, washerman or washerwoman, watchman, groom and driver or cleaner of any vehicle licensed for private use;

“earnings” means any remuneration paid in cash to a workman by his employer in consideration of work done in respect of his contract of employment and any privilege or benefit which is capable of being estimated in money and includes the value of any food, fuel or quarters supplied to the workman by the employer if as a result of the accident the workman or any of his dependants is deprived of such food, fuel or quarters; and includes any overtime payments or other special remuneration for work done, whether by way of bonus, allowance or otherwise, if of constant character or for work habitually performed and including tips if the employment be of such nature that the habitual giving and receiving thereof is open and notorious and is recognised by the employer; but shall not include —

- (a) casual payments of a non-recurrent nature;
- (b) a travelling allowance or the value of any travelling concession;
- (c) a contribution paid by the employer towards any pension or provident fund;

(d) a sum or concession received by the workman in consideration of any special expenses incurred by him by reason of the nature of his employment;”

“employer” includes —

(a) the Government;

(b) any statutory body or authority;

(c) any person or body of person whether incorporate or not;

(d) the legal personal representative of a deceased employer; and

(e) in relation to a person employed for the purpose of any game or recreation and engaged or paid through a club, the manager or members of the managing committee of such club;

and where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of employment, 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;

“insurer” means any society, association, company or underwriter carrying on in Brunei the business of effecting contracts of insurance against the liability of an employer for personal injury by accident to any workman in his employment arising out of and in the course of such employment;

“member of the family” means a wife, husband, father, mother, grandfather, grandmother, step-

father, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister, daughter-in-law or sister-in-law and any such person is included whether the relationship is created by blood or by any adoption recognised as valid by the law of Brunei;

“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 home or on other premises not under the control or management of the person who gave out the materials or articles;

“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 his incapacity and where the incapacity is of a permanent nature, such incapacity as reduces his earning capacity in every employment which he was able to undertake at the time of the accident:

Provided that every injury specified in the First Schedule to this Act, 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 or exceeds 100 per centum, shall be deemed to result in permanent partial incapacity;

“premises” means in relation to an employer any place where work is executed or performed under the control or management of such employer whether exclusively or otherwise and the approaches thereto and any other land occupied in connection therewith, whether such approaches or

other land form part of a public road or are otherwise open to the public or not, and any place where a workman is required to work by such employer or such employer's foreman or other agent, and any vehicle or vessel belonging to such employer or operated by a person employed by him;

“registered medical practitioner” means a medical practitioner registered or exempted from registration under the provisions of any written law relating to the registration of medical practitioners from time to time in force in Brunei;

“special hospital” means a hospital declared to be such under subsection (2) of section 16;

“total incapacity” means such incapacity whether of a temporary or permanent nature as incapacitates a workman for all work 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 to this Act where the percentage or aggregate percentage of the loss of earning capacity as specified in that Schedule against such injury or injuries amounts to or exceeds 100 per centum; and

(2) The exercise and performance of the powers and duties of a Department of the Government or a statutory body or authority shall, for the purposes of this Act, be deemed to be the trade or business of the Government or statutory body or authority, as the case may be.

PART II

WORKMAN'S COMPENSATION FOR INJURY

4. (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, save as hereinafter provided, be liable to pay compensation in accordance with the provisions of this Act.

Employer's
liability for
compensation

(2) An accident happening to a workman while he is, with the express or implied permission of his employer, travelling as a passenger by any vehicle, ship, vessel or aircraft to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by such means, be deemed to arise out of and in the course of his employment, if the accident would have been deemed so to have arisen had he been under such an obligation, and if at the time of the accident the vehicle, ship, vessel or aircraft is being operated by or on behalf of his employer or by some other person by whom it is operated in pursuance of arrangements made with his employer and is not being operated in the ordinary course of a public transport service.

(3) An accident happening to a workman in or about any premises at which he is for the time being employed shall be deemed to arise out of and in the course of his employment if it 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 damage to property.

(4) An accident happening to a workman shall be deemed to arise out of and in the course of his employment notwithstanding that he was at the time of the accident acting in contravention of any statutory or other regulations 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 —

- (i) the accident would have been deemed so to have arisen had such an act not been done in contravention as aforesaid or without instruction from his employer as the case may be; and
- (ii) such act was done for the purposes of and in connection with the employer's trade or business.

(5) If a workman whose normal place of employment is in Brunei or whose contract of employment was made in Brunei is injured or dies as a result of an accident occurring outside Brunei in circumstances in which if such accident had happened in Brunei such workman would have been entitled to compensation under this Act the employer of such workman shall be liable to pay compensation in accordance with the provisions of this Act:

Provided that if compensation is payable to such workman under any workmen's compensation law in force at the place where such accident has occurred the amount of such compensation shall be deducted from any compensation payable in accordance with the provisions of this Act.

(6) An employer shall not be liable to pay compensation in respect of any injury which does not incapacitate the workman for a period of at least 3 days from earning full wages at the work on which he was employed.

(7) An employer shall not be liable to pay compensation in respect of any injury to a workman resulting from an accident if it is proved that the injury to the workman is directly attributable to the workman having been at the time thereof under the influence of alcohol or a drug, unless such injury results in the death or permanent incapac-

ity causing a loss of earning capacity of not less than 50 per centum of the workman.

(8) No compensation shall be payable in respect of any incapacity or death resulting from a deliberate self-injury or the deliberate aggravation of an accidental injury.

(9) No compensation shall be payable 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 such representation was false.

(10) For the purposes of this Act an accident arising in the course of a workman's employment shall be deemed, in the absence of evidence to the contrary, also to have arisen out of that employment.

5. (1) If a workman who is employed in any occupation described in the Second Schedule contracts a disease or injury shown in such Schedule to be related to that occupation, or if a workman who has been employed in such occupation contracts such a disease or injury within 12 months after ceasing to be so employed, and if incapacity or the death of such workman results from that disease, compensation shall be payable as if the disease were a personal injury by accident arising out of and in the course of that employment, and all the other provisions of this Act shall apply accordingly, subject to the provisions of this section:

Compensation for occupational diseases

Provided that where the workman has developed any of the diseases mentioned in the Second Schedule that disease shall, unless the contrary is proved, be presumed to be due to the nature of the occupation if the workman has been employed in any of the specified occupations within 30 days of the date on which a registered medical practitioner certifies that in his opinion the workman is suffering from that disease.

(2) When a workman enters into a contract of employment with any employer to work in any occupation specified in the Second Schedule or is, with his consent, transferred by his employer to such an occupation, he shall, if requested to do so by the employer, submit himself for examination by a registered medical practitioner, the fee for which shall be paid by the employer.

Provided that such workman shall not be required to submit himself for examination by a registered medical practitioner otherwise than in accordance with regulations made under this Act nor at shorter intervals than may be prescribed therein.

(3) No compensation shall be payable under this section in respect of the incapacity or death of a workman if the disablement begins or the death happens, as the case may be, more than 12 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 compensation shall be payable in respect of the death of a workman if his death has been preceded whether immediately or not, by any period of incapacity in respect of which compensation is payable under this section.

(4) For the purposes of calculating the monthly earnings of the workman in a claim for compensation under this section, the date of 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 deemed to be the date of the happening of the accident.

(5) For all other purposes of this Act the date of commencement of the incapacity of the workman, or the date on which a registered medical practitioner certifies that in his opinion the workman is suffering from such disease, whichever date is the earlier, or the date of his death if there has been no previous period of incapacity, shall be deemed to be the date of the happening of the accident.

(6) If the disease has been contracted by a gradual process, so that 2 or more employers are severally liable to pay compensation in respect thereof under this section, the aggregate amount of such compensation shall not exceed the amount that would have been payable if those employers had been a single employer, and in such case each of those employers shall, in default of agreement, be liable for such proportion of the compensation payable as the arbitrator thinks just.

(7) His Majesty in Council may by order signified in the *Gazette* from time to time amend the Second Schedule.

6. Save as provided in sections 4 and 5, no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of the relevant employment.

Compensation limited to injuries received at work

7. (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.

Persons entitled to compensation

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

(3) Where a dependant dies before a claim under this Act is made, or, if a claim has been made, before an

agreement or award has been arrived at or made, the legal personal representative of the dependant shall have no right to payment of compensation, and the amount of compensation shall be calculated and apportioned as if that dependant had died before the workman.

Amount of
compensa-
tion

8. The amount of compensation payable in accordance with the provisions of this Act shall be as specified in the Third Schedule to this Act.

Method of
calculating
earnings

9. (1) For the purposes of this Act the earnings of a workman shall be computed in such manner as is best calculated to give his true monthly earnings at the date of the accident, subject to the following provisions —

(a) where the workman has been exclusively employed by the employer who is liable to pay compensation during a continuous period of not less than 6 months immediately preceding the accident in the grade in which he was employed at the time of the accident, his monthly earnings shall be deemed to be the average amount of his earnings during the last 6 completed months of that period:

(b) Where the workman has been exclusively employed by the employer who is liable to pay compensation in the grade in which he was employed at the time of the accident during a continuous period of less than 6 months immediately preceding the accident and there is another workman who has been exclusively employed on similar work by the same employer for a continuous period of not less than 6 months immediately preceding the accident, the monthly earnings of the former workman shall be deemed to be the average amount of the earnings of the latter workman during the last 6 completed months of that period;

(c) where reliable evidence of the earnings of the relevant workman under paragraph (a) or (b) does not exist or cannot be adduced without undue delay or expense, regard may be had to evidence of the earnings of workmen employed on similar work in the same locality at or about the date of the accident;

(d) where the earnings of a workman cannot be determined according to the provisions of paragraph (a), (b) or (c) of this subsection or where the earnings of workman so determined are less than \$150 a month then in any such case the monthly earnings of such workman shall be deemed to be \$150.

(2) Where a workman is employed under concurrent contracts of employment with 2 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.

(3) For the purposes of this section a period of employment shall be deemed to be continuous which has not been interrupted by a period of absence from work exceeding 14 days.

(4) The provisions of subsections (1) and (2) shall apply to the calculation of monthly earnings for the purposes of the definition of "workman" in section 2.

10. (1) Nothing in this section shall prevent an employer from making any payment not exceeding \$500 direct to a workman or dependant on account of a claim which is pending settlement or determination, and the Commissioner may order that the whole or any part of such payment shall be

Distribution
of compensa-
tion

deducted from the amount of compensation payable to the workman or dependant under the provisions of this Act.

(2) Unless expressly authorised by the Commissioner in writing, no payment of compensation in respect of a workman whose injury has resulted in death, permanent total incapacity or permanent partial incapacity shall be made otherwise than by deposit with the Commissioner, and any such payment made directly to the workman or his dependants shall be deemed not to be payment of compensation for the purposes of this Act.

Provided that this subsection shall not apply to compensation payable to a workman who is 18 years of age and above in respect of injury resulting in permanent partial incapacity:

(3) Any other money which is payable as compensation may, and where the person to whom it is payable so requests shall, be deposited with the Commissioner.

(4) The receipt of the Commissioner shall be a sufficient discharge for any compensation deposited with him.

(5) Subject to the provisions of section 38 of this Act, the Commissioner shall make such enquiry as he may deem necessary to determine the number of dependants of a deceased workman and the extent to which they were dependent upon him:

(6) Compensation deposited in respect of an accident resulting in the death of a workman shall, subject to any deduction made under subsection (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(7) (a) Where any lump sum deposited with the Commissioner is payable to a woman or to any workman or dependant who is below 18 years of age or is under any legal disability, the Commissioner may at his discretion cause such sum to be invested, applied or otherwise dealt with for the benefit of the workman or his dependants until he attains 18 years of age or during his disability, as the case may be, in such manner as the Commissioner may determine.

(b) Where a periodical payment is payable to any workman under a legal disability the Commissioner may, of his own motion or on application made to him in that behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman.

(c) In all other cases compensation whether or not deposited with the Commissioner shall be paid to the person entitled thereto.

(8) If the Commissioner is satisfied after such inquiry as he may deem necessary that no dependant of a deceased workman exists or can be traced and the circumstances are such that there is no reasonable likelihood that any dependant can be traced he shall repay the balance of the money deposited with him under subsection (1) to the person by whom it was deposited.

(9) The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(10) Where after inquiry made of his own motion or on application made to him the Commissioner is satisfied that, by reason of neglect of children on the part of a parent,

or of the death or a change in circumstances of any dependant, or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of that order as he thinks just in the circumstances of the case:

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

Compensation not to be assigned, attached or charged

11. Save as provided by this Act, no lump sum or periodical payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law nor shall any claim be set off against the same.

Notice of claim

12. (1) Except as provided in this section proceedings for the recovery of compensation for an injury shall not be maintainable unless notice of the accident in respect of which such compensation is claimed has been given to the employer within 7 days after the happening thereof and unless a claim for compensation with respect to such accident has been made within 6 months from the happening of the accident causing the injury, or, in the case of death, within 6 months from the date of death.

(2) No notice to the employer shall be necessary where a fatal accident has occurred.

(3) 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 be, if a notice or amended notice were then given and the hearing postponed, prejudiced in his defence by such want, defect or inaccuracy, or that such want, defect or inaccuracy was occasioned by mistake, absence from Brunei or other reasonable cause.

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

(5) Notice to the employer, or if there is more than one employer, to one of such employers, in respect of an injury may be given either in writing or orally or to the foreman or other person under whose supervision the workman was employed, or to any person designated for the purpose by the employer, and shall state in ordinary language the cause of the injury and the date at which the accident happened.

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

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

(8) The notice hereby required may be given by the Commissioner on behalf of any workman, and a notice so given shall have the same effect as if given by the workman himself.

Notice to
Commissioner
by em-
ployer

13. (1) Every employer shall give notice in writing to the Commissioner of the occurrence of any accident on his premises or cases of occupational disease as specified in section 5 in connection with anything done for the purpose of the employer's trade or business which —

(a) results in the death of any person injured; or

(b) totally or partially disables any person injured for more than three consecutive days from earning full wages at the work at which he was employed.

(2) Such notice shall be given within 10 days of the occurrence of the accident in such form as may be prescribed.

(3) A notice under this section may contain a denial of liability to pay compensation and shall not be construed as an admission unless liability be admitted by clear and express words.

(4) Any employer failing or omitting to give notice as required by this section shall be guilty of an offence: Penalty, a fine of \$4,000:

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the Commissioner.

(5) For the purposes of this section "employer" shall include the person, if any, referred to in section 19 as "the principal".

Powers of
Commissioner
on receipt
of notice

14. On receipt of a notice under subsection (1) of section 13 the Commissioner may, without prejudice to any subsequent proceedings under Part III of this Act, if it appears to him that a claim for compensation may arise in respect of the injury or death of any workman —

(a) inform such workman or his dependants of the reported cause and circumstances of such injury or death and advise them of their right to compensation; and

(b) if so requested by such workman or dependants make a claim for compensation on their behalf; or

(c) advise the employer from whom such notice was received to offer such workman or dependants such amount of compensation as may appear to the Commissioner, having regard to the reported cause and circumstances of such injury or death, to be payable in accordance with the provisions of this Act.

15. (1) When notice of an accident has been given to an employer by a workman or by the Commissioner on a workman's behalf the employer may, and, if so directed by the Commissioner, shall, before the expiry of 5 days from the time at which service of the notice has been effected, offer to have the workman examined free of charge to the workman by a registered medical practitioner and may, and, if so directed by the Commissioner, shall further offer to pay the cost of such medical treatment of and such medicines for such workman as the registered medical practitioner may deem necessary, and the workman shall submit himself for such examination; and any workman who is in receipt of a periodical payment under this Act shall, if so required, submit himself for such examination from time to time:

Medical examination and treatment

Provided that a workman shall not be required to submit himself for examination by a registered medical practitioner otherwise than in accordance with the regulations made under this Act or at shorter intervals than may be prescribed therein.

(2) If a workman, on being required to do so by the employer under subsection (1), or by the Commissioner, or by an arbitrator, at any time refuses to submit himself for examination by a registered medical practitioner, or in any way obstructs such medical practitioner, his right to compensation shall be suspended during the continuance of such refusal or obstruction.

(3) If a workman having been so required, and before the expiry of the period within which he is liable under subsection (1), to submit himself for medical examination, voluntarily leaves, without having been so examined, the place at which he was residing at the time of the accident his right to compensation shall be suspended until he notifies his employer of his new address and offers himself for such examination.

(4) Where a workman, whose right to compensation has suspended under subsection (2) or (3), dies without having submitted himself for medical examination as required by those subsections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under subsection (2) or (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in paragraph (a) of subsection (2) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured workman has refused to be treated by a registered medical practitioner whose services have been offered to him by the employer free of charge or, having accepted such offer, has failed to carry out or deliberately disregarded the instructions for his treatment of such medical practitioner, then —

(a) where the workman is in receipt of periodical payments under the provisions of this Act, the Commissioner may order the suspension of such periodical payments until such workman accepts such treatment or has carried out such instructions, and may further, where he is satisfied that the duration of the workman's incapacity has been prolonged by such refusal, failure or disregard, order the restriction of the period of such periodical payments to such period, calculated from the date of injury, as the incapacity of the workman might reasonably have been expected to have lasted for, had he accepted such treatment and carried out such instructions; or

(b) where the workman has suffered permanent incapacity and the Commissioner is satisfied that such incapacity has been aggravated by such refusal, failure or disregard the Commissioner may order that compensation be paid to the workman appropriate to such disablement as he might reasonably have been expected to have suffered if he had been regularly treated by a registered medical practitioner.

16. (1) The Minister shall from time to time by notification in the *Gazette* declare which hospitals are approved hospitals for the purpose of this Act; and, where a workman is so injured that a registered medical practitioner certifies that his treatment in an approved hospital is necessary, such workman may be admitted to an approved hospital.

Approved
hospitals and
special hos-
pitals

(2) Where the Minister is satisfied that suitable equipment and supervision are available in any hospital for the treatment and convalescence of injured workmen and especially for giving them treatment for the re-education of injured parts and the restoration, so far as practicable, of bodily powers and general health, he may by notification in the *Gazette* declare such hospital to be a special hospital for

the purpose of the Act; and any injured workman may be admitted for treatment to such special hospital on the recommendation of the registered medical practitioner in charge of an approved hospital:

Provided that the registered medical practitioner in charge of such special hospital certifies that in his opinion such treatment will benefit the workman.

(3) Where an injured workman is admitted either to an approved or a special hospital, the employer shall, in addition to the payment of compensation to the workman or, where the workman's death supervenes, to that workman's dependants, be liable to pay directly to such hospital all ward fees and treatment fees in respect of such workman and the cost of such medicines and of such artificial limbs, surgical appliances and other prostheses required as a result of the injury sustained as are certified by the registered medical practitioner in charge of the approved or special hospital to be reasonably necessary and which are in fact supplied to such workman:

Provided that His Majesty in Council shall from time to time by notification in the *Gazette* fix the maximum amounts for which an employer shall be liable in respect of the several fees and costs specified in this subsection.

(4) If the injured workman refuses treatment at an approved or special hospital any award of compensation made to him may, at the instance of the employer, be suspended or reviewed by the Commissioner.

Review

17. (1) Any periodical payment payable under this Act, either under an agreement between the workman and the employer and consented to and recorded by the Commissioner or under the award of an arbitrator, may be reviewed by the Commissioner on the application either of the employer or of the workman accompanied by a certificate of a

registered medical practitioner that there has been a change in the condition of the workman.

(2) Any periodical payment may, on review under this section, and subject to the provisions of this Act, be continued, increased, decreased or ended.

18. Any periodical payments may by agreement between the workman and the employer consented to and recorded by the Commissioner or, if the workman and the employer cannot agree or the Commissioner does not consent and the payments have been continued for not less than 6 months, on application to an arbitrator, be commuted into a lump sum to be paid instead of such half-monthly payments of such amount as may be agreed to by the parties and consented to by the Commissioner or determined by the arbitrator, as the case may be.

Commuta-
tion of
periodical
payments

19. (1) If a workman receiving a periodical payment intends to leave Brunei in order to reside in another country, he shall give to the Commissioner 14 days previous notice of his intended departure; and the Commissioner shall forthwith inform the employer who may agree with the workman to continue the payments in the country in which the workman intends to reside, and in default of agreement either party may apply to the Commissioner for the commutation of such periodical payments into a lump sum to be paid instead of such half-monthly payments and the Commissioner shall thereupon determine the amount of such lump sum.

Workman
leaving
Brunei to re-
side else-
where

(2) If a workman receiving a periodical payment leaves Brunei for the purpose of residing in another country without giving notice as provided in subsection (1), he shall thereupon cease to be entitled to any benefits upon this Act during his absence from Brunei and he shall, for the purposes of paragraph 3 of the Third Schedule be deemed to have received periodical payments during such absence.

Liability in
case of work-
man em-
ployed by
contractors

20. (1) Where any person (in this section referred to as "the principal") in the course of or for the purpose of his trade or business contracts with any other person (in this section referred to as "the contractor") for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if the workman had been immediately employed by him and where a claim has been made to the principal for compensation, this Act shall apply as if references to the principal were substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the wages 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 the person who would have been liable to pay compensation to the workman if this section had not been enacted.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal, and a claim made against a principal or a contractor, as the case may be, shall not bar subsequent proceedings under this Act against the other to recover so much of the compensation agreed or awarded as may remain unpaid.

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

Remedies
both against
employer and
stranger

21. Where any injury for which compensation is payable 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 against that person to recover damages and may claim against any person liable to pay compensation but he shall not be entitled to recover both damages and compensation; and

(b) if the workman has recovered compensation, the person by whom the compensation was paid, and any person who has been called upon to pay an indemnity under subsection (2) of section 20, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid and all questions as to the right to and amount of any such indemnity may, in default of agreement, be settled by an arbitrator.

22. (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then —

Bankruptcy
of employer

(a) in the event of the employer becoming bankrupt or making a composition or scheme of arrangement with his creditors,

(b) where the employer has died and an administration order is made under the provisions of any written law relating to bankruptcy from time to time in force in Brunei and any debt provable in bankruptcy is owing to a workman by him in respect of a liability to pay compensation against which he is insured, or

(c) 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's business or undertaking having been duly appointed or possession having been taken by or on behalf of the holders of debentures secured by a floating charge

of any property comprised in or subject to the charge,

the rights of the employer against the insurers as respecting that liability shall, notwithstanding anything in any written law relating to bankruptcy or the winding-up of companies for the time being in force in Brunei or any part thereof, be transferred to and vest 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:

Provided that the insurers shall not be under any greater liability to the workman than they would have been under to the employer had the transfer not happened.

(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.

(3) Where in any case such as is referred to in subsection (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that subsection shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the bankruptcy or liquidation for the amount paid to the workman:

Provided that the provisions of this subsection shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting incapacity as soon as practicable after he becomes aware of the institution of the bankruptcy or liquidation proceedings and that the employer was insured and with whom.

(4) There shall be included —

(a) amongst the debts which under the provisions of any written law relating to bankruptcy from time to time in force in Brunei are in the distribution of the property or assets of a bankruptcy to be paid in priority of all other debts the amount due in respect of any compensation or liability for compensation accrued before the date of the receiving order, adjudication order or administration order, as the case may be, and such amount shall take priority after the amount due for salaries and wages; and

(b) amongst the debts which under any written law governing the winding-up of companies are in the winding-up of a company to be paid in priority to all other debts the amount due in respect of any compensation or liability for compensation accrued before the date of the commencement of the winding-up of the company.

(5) Where the compensation is a periodical payment the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum into which the periodical payment could, if commutable, be commuted if application were made for the purpose under section 18 and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of subsection (4) shall apply in the case of any amount for which an insurer is entitled to prove under subsection (3), but otherwise those provisions shall not apply where the bankrupt or the company being wound up has entered into such a contract with insurers as is referred to in subsection (1).

(7) This section shall not apply where a company is wound up voluntarily for purposes only of reconstruction or of amalgamation with another company.

Special provisions relating to seamen

23. (1) Subject to the provisions of subsection (3), this Act shall apply to masters and seamen where such persons are workmen within the meaning of this Act, and are members of the crew of any registered Brunei ship, or of any other Brunei ship of which the owner, or (if there is more than one owner) the managing owner, or manager resides or has his principal place of business in Brunei, subject to the following modifications —

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

(b) in the case of the death of the master or seaman, the application for compensation shall be made within 3 months after news of the death has been received by the claimant;

(c) where the injured master or seaman is discharged or left behind in a port or place outside Brunei, depositions respecting the circumstances and nature of injury may be taken by any judge or magistrate in any part of the Commonwealth, or by any Brunei consular officer elsewhere, and if so taken shall be transmitted by the person by whom they were taken to the Minister, and such depositions or certified copies thereof shall in any pro-

ceedings for enforcing the claim be admissible in evidence as provided in section 209 of the Merchant Shipping Act, and that section shall apply accordingly; Cap. 145

(d) in the case of the death of a master or seaman leaving no dependants, no compensation shall be payable, if the employer is under the Merchant Shipping Act liable to pay the expenses of burial; Cap. 145

(e) the periodical payment shall not be payable in respect of any period during which the employer is under the Merchant Shipping Act liable to defray the expenses of maintenance of the injured master or seaman; Cap. 145

(f) proceedings for the recovery of compensation by dependants of masters or seamen lost with their ship with all hands shall be maintainable if the application is made within 6 months of the date at which the ship is deemed to have been lost with all hands;

(g) for the purposes of paragraph (f) a ship shall be deemed to have been lost with all hands if the Director of Marine shall so declare by notification in the *Government Gazette* after such enquiry as he shall think fit, and the date of such loss shall be deemed to be the date of publication of such notification.

(2) Subject to the provisions of subsection (3), this Act shall also apply to any person, not being a master or seaman, employed on board any such ship as is mentioned in this section, if he is so employed for the purposes of the

ship or of any passengers or cargo or mails carried by the ship, and if he is otherwise a workman within the meaning of this Act.

(3) This Act shall not apply —

(a) to members of the crew of a Brunei ship registered or licensed outside Brunei if in the place of registration or licensing of the ship a law relating to workmen's compensation is in force and applies to the members of such crew;

(b) to such members of the crew of a fishing vessel as are remunerated wholly or mainly by shares in the profits or the gross earnings of the working of such vessel, except in such cases and subject to such modifications as His Majesty in Council may by order provide.

(4) In this section, “Brunei ship”, “master”, “seaman” and “ship” have the respective meanings assigned to those expressions by the Merchant Shipping Act.

Returns as to
compensa-
tion

24. (1) The Minister may by notification in the *Gazette* direct that every person employing workmen, or that any special class of such persons, shall send at such time and in such form and to such authority as may be specified a correct return specifying the number of injuries in respect of which compensation under this Act has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the Minister may direct.

(2) Any person making default in complying with any direction notified under this section shall be guilty of an offence: Penalty, a fine of \$2,000.

25. Any contract or agreement whether made before, on or after the date of coming into force of this Act whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the 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.

Contracting
out

26. Notwithstanding anything contained in any written law relating to the administration or distribution of estates of deceased person for the time being in force in Brunei, where a workman has died and it appears to the Commissioner that his dependants are entitled to compensation under this Act and that any money, not exceeding the amount of his earnings for 2 months as calculated under section 9, was payable to such workman by his employer it shall be lawful for the Commissioner in his discretion to receive that money and to pay the same to the dependants without the production of a grant of representation.

Commission-
er may pay
wages earned
by dead
workman to
dependants

†27. (1) Every employer shall insure and keep himself insured with an insurer approved by the Minister (hereinafter referred to as an approved insurer) in respect of any liability which he may incur under the provisions of this Act to any workman employed by him:

Employer to
insure

Provided that His Majesty in Council may, by notification in the *Gazette*, declare that the provisions of this section shall not apply to any employer or class of employers.

(2) Any employer required to insure under this section may instead, in such manner as may be prescribed,

†This section is reproduced as to be amended by Act 12 of 1982 when that Act comes into operation.

deposit with the Commissioner such sum of money or furnish such other security as the Commissioner may approve and such money or other security shall be used to pay compensation to that employer's workmen as occasion may arise.

(3) Any employer who, for the purpose of defraying or partly defraying the cost of insurance in respect of his liability to pay compensation under the provisions of this Act, makes any deduction from the earnings of a workman in his employment shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for 6 months.

(4) Any employer who fails to insure himself in accordance with subsection (1) of this section shall be guilty of an offence: Penalty, a fine of \$4,000 and imprisonment for 3 months.

(5) The Commissioner may require any employer to inform him of the name and address of the insurer with whom such employer has insured himself as required by this section.

(6) Every policy of insurance issued for the purpose of this section shall be deemed to provide that any workman having a claim against the person insured in respect of the liability in regard to which such policy was issued, or the Commissioner acting on behalf of such workman, shall be entitled to recover in his own name, as though he were a party to the policy, directly from the insurer any amount which he would have been entitled to recover from the person insured.

(7) Any condition in a policy of insurance issued for the purposes of this section providing that no liability shall arise under the policy, or that any liability so arising shall cease, in the event of some specified thing being done or omitted to be done after the happening of the accident giving rise to a claim under the policy, shall be of no effect upon the claim made by a workman under subsection (6):

Provided that nothing in this section shall be taken to render void any provision in a policy requiring the insured employer to repay to the insurer any sums which the latter may have paid under the policy in satisfaction of any such claim.

†28. (1) An approved insurer shall collect, compile and maintain in respect of all employers insured by him for the purposes of section 27 statistics and information relating to —

Approved insurers to furnish information

(a) the occurrence and cause of accidents and occupational diseases:

(b) any settlement of claim for compensation arrived at by agreement;

(c) any claim for compensation determined by the arbitrator;

(d) the amount of any premium or charge demanded from or paid by employers in respect of the insurance of workmen;

†This section is not yet in operation.

(e) the ratio of expenses to benefits;

(f) the amounts paid in commissions to agents;
and

(g) the income and expenditure in relation to insurance of employers under this section, and shall transmit any such statistics and information to the Commissioner upon demand or at such times as he may direct.

(2) The statistics and information required to be kept under subsection (1) shall be kept separate from statistics and information relating to any other business carried on.

(3) Any approved insurer who contravenes any of the provisions of this section or fails to transmit to the Commissioner any statistics and information under this section shall be guilty of an offence: Penalty, a fine of \$4,000.

PART III

THE COMMISSIONER AND ARBITRATORS

Commission-
er may hold
inquiries

29. (1) For the purposes of deciding —

(a) any matter requiring to be decided by him under the provisions of sections 10, 15, 16, 19 or the Third Schedule; or

(b) any question arising from proceedings under the Act in which it appears to him that the entitle-

ment to compensation of the workman or his dependants is not in dispute

the Commissioner may hold an enquiry in such manner as he thinks fit and may make such order as he considers necessary.

(2) Any party aggrieved by any order of the Commissioner under subsection (1) may at any time within 14 days of the communication to him of such order apply to the arbitrator to vary or cancel such order.

(3) If any other question arises under this Act that question shall be settled by agreement between the Commissioner, the workman and the employer and for the purpose of reaching agreement the Commissioner may hold an enquiry in such manner as he thinks fit.

(4) An application to the Commissioner to settle any question may be made by or on behalf of a workman or the employer and shall be made in such form and shall be accompanied, by such fee as may be prescribed and shall contain a concise statement of the circumstances of the accident and of the resulting injury:

Provided always that where the Commissioner has reasonable cause to believe that an accident has occurred resulting in injury to or the death of any workman he may of his own motion and at any time hold an inquiry to ascertain whether such accident has occurred and whether any compensation payable under this Act is being paid.

(5) (a) The Commissioner may, before holding any inquiry under this section, require a preliminary investigation to be made by such public officer as he shall appoint in writing in that behalf into the circumstances of any accident resulting in injury to or the death of any workman and for this purpose

the provisions of section 35 shall apply to such offer.

(b) Any public officer appointed under paragraph (a) to make a preliminary investigation shall, upon completing the same, forward to the Commissioner the record of such investigation and such record shall form part of the record of the Commissioner.

(6) (a) The Commissioner may at any time, of his own motion, or on application made by or on behalf of the workman or the employer, reopen any inquiry held by him and may, by agreement with the workman and the employer, confirm, amend, vary or cancel any agreement previously reached.

(b) The provisions of section 30 shall apply if agreement is not reached under paragraph (a).

Recording of
agreements

30. (1) Where the amount of the compensation whether by way of lump sum compensation or by way of periodical payments has been ascertained by agreement between the workman and his employer a memorandum shall within 14 days be sent by the employer (and may be sent by the workman or any dependant) to the Commissioner, who, on being satisfied as to its genuineness and that the amount of compensation agreed upon is adequate shall, except as hereinafter provided in this section, record the memorandum in a register in the prescribed manner.

(2) No such memorandum shall be recorded until 7 days have expired after communication by the Commissioner of notice to the parties concerned that he intends to record the same.

(3) Where it appears to the Commissioner that an agreement for the payment of a sum, whether by way of commutation of a periodical payment or otherwise, or an

agreement for the amount of compensation ought not to be recorded by reason of the inadequacy of the sum or amount or by reason of the agreement having been obtained by fraud or undue influence or other improper means he may refuse to record the memorandum of the agreement and if he and the employer and the workman are unable to settle the question by agreement, the Commissioner shall refer the matter to an arbitrator.

(4) An agreement for the payment of compensation which has been recorded under this section shall be enforceable under this Act notwithstanding anything contained in any other written law for the time being in force.

31. Where a memorandum of any agreement required to be recorded under section 30 is not sent to the Commissioner in accordance with the provisions of that section the employer shall be liable to pay the full amount of compensation which he would otherwise be liable to pay.

Effect of failure to record an agreement

32. (1) An arbitrator shall decide —

Arbitrator to decide when parties fail to agree

(a) any application made to him to vary or cancel an order made by the Commissioner under subsection (1) of section 29; and

(b) any other question arising under the Act which a workman, his employer and the Commissioner cannot settle by agreement under subsection (3) of section 27.

(2) For the purposes of subsection (1) a question shall be deemed not settled by agreement unless the workman, the employer and the Commissioner all signify their consent by signing an acknowledgement of agreement or unless an agreement between the workman and the employer is recorded by the Commissioner under the provisions of section 30.

(3) An application requesting the decision of an arbitrator on any question may be drawn up and submitted to an arbitrator by a workman, by the employer, by the Commissioner on behalf of a workman or by the Commissioner of his own motion, or by any person aggrieved by any order of the Commissioner under section 29 (1).

(4) An application to an arbitrator for the settlement of any question shall be made in such form and shall be accompanied by such fee, if any, as may be prescribed and shall contain, in addition to any particulars which may be prescribed, a concise statement of the circumstances in which the application is made and of the relief or order which the applicant seeks and of the questions on which agreement both has and has not been reached:

Provided that the payment of fees shall be waived when the Commissioner makes an application either of his own motion or on behalf of a workman.

(5) The Commissioner shall, at the request of any person applying for the same and upon payment of the prescribed fees, supply to him a copy of his records together with a copy of any relevant correspondence and shall authenticate the same.

Agreement
to be free of
stamp duty

33. No stamp duty shall be leviable or payable on any agreement under this Act.

Appearance
of parties

34. (1) Any appearance, application or act required to be made or done by any person before or to an arbitrator (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by an advocate or, with leave of the Commissioner, by any other person authorised in writing by such person or, when such person is a workman, by the Commissioner on his behalf or, when such person is an employer, by a person in his permanent and exclusive employment or by his insurer or, where the insurer is a

company, by an agent authorised, generally or specifically under the seal of the company, to represent the company in such proceedings.

(2) Where the Government is a party to any proceedings under this Act such appearance, application or act may be made by the head of the department by, in or under which the workman was employed or by any officer of such department authorised in writing by the head thereof or any person authorised by the Attorney General.

35. An arbitrator may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

Experts to assist arbitrator

36. (1) Where any matter is under this Act required to be done by or before an arbitrator, the same shall, without prejudice to the provisions of this Act and to any regulations made hereunder, be done by or before the arbitrator for the area in which the accident which resulted in the injury occurred:

Inquiry by arbitrator

Provided that, where the workman is a seaman, any such matter may be done by or before the arbitrator for the area in which the owner or agent of the ship resides or carries on business.

(2) The Minister may, in any particular case, direct that any question which has been referred to an arbitrator for decision under section 32, be transferred to some other arbitrator for decision and the provisions of this Act shall apply accordingly.

37. (1) For the purposes of this Act the Commissioner and an arbitrator shall have all the powers of a magistrate for the summoning and examination of witnesses and the administration of oaths or affirmations and for compelling

Powers of the Commissioner and of an arbitrator

Cap. 7

the production of documents and material objects and the Commissioner and an arbitrator shall be a civil court for all the purposes of section 132 and of Chapter XXXII of the Criminal Procedure Code.

(2) The Commissioner or an arbitrator shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be signed by the Commissioner or the arbitrator with his own hand and shall form part of the record:

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

Cap. 22

(3) Any person who in any way wilfully obstructs the service of or obedience to any summons and any person summoned who neglects to attend and to produce documents as required in such summons and any person who commits in respect of such inquiry any offence described in Chapter X of the Penal Code shall be punishable on conviction as provided in that Chapter.

(4) Every person who gives evidence before the Commissioner or an arbitrator shall be bound to answer truthfully all questions put to him by the Commissioner or the arbitrator and any person who wilfully makes any false statement or who gives any evidence in any inquiry under this Act which he knows to be untrue, or who does any other act, which if done in a judicial proceeding would be punishable under Chapter XI of the Penal Code, shall be punishable on conviction as provided in that Chapter. No evidence taken under this Act shall be admissible in any criminal proceeding against the person who gave such evidence except when such person is charged with an offence under Chapter X or XI of the Penal Code.

(5) Every arbitrator shall be deemed to be a public servant within the meaning of the Penal Code.

38. (1) In any proceedings under the provisions of this Act any document purporting to be —

Documents
admissible as
evidence in
proceedings

(a) a report under the hand of a registered medical practitioner upon any workman examined or treated by him; or

(b) a statement under the hand of a competent authority as to the dependency and the degree of dependency on a deceased workman of any person claiming to be a dependant of such workman.

shall be prima facie proof of the facts stated therein and the signature of such registered medical practitioner or competent authority shall be admitted without proof unless the Commissioner or an arbitrator shall have reason to doubt the genuineness thereof:

Provided that nothing herein contained shall prevent the Commissioner or an arbitrator from taking into consideration any other evidence as to the existence of dependants or the extent of dependency.

(2) For the purposes of this section —

“registered medical practitioner” includes any medical practitioner registered under any written law relating to the registration of medical practitioners in force in the country in which such medical practitioner resides;

“competent authority” means

(a) within Brunei, any District Officer; and

(b) outside Brunei any Commissioner, state Commissioner, Deputy Commissioner or Assistant Commissioner, or officer holding an equivalent position appointed under any law relating to work-

man's compensation in force in the country in which the claimant resides.

Arbitrator's order to be sent to Commissioner

39. When an arbitrator has decided the question or questions submitted to him under section 30 he shall send a certified copy of his order thereon to the Commissioner before whom the original inquiry under section 27 was held.

Costs

40. All costs of and incidental to any proceedings before an arbitrator shall, subject to regulations made under this Act, be in the discretion of the arbitrator:

Provided that no costs shall be awarded against the Commissioner whether he appears of his own motion or on behalf of a workman.

Power to submit cases

41. (1) An arbitrator may, if he thinks fit, submit any question of law for the decision of a Judge, and if he does so he shall decide such question in conformity with such decision.

(2) An appeal shall lie to the Court of Appeal from any decision of a Judge under this section.

Appeal from arbitrator

42. (1) Save as hereinafter provided, no appeal shall lie to the High Court from any order of an arbitrator.

(2) If a Judge shall sign a certificate that the decision of an arbitrator involves a question of law which it is desirable in the public interest to have determined by the High Court, upon an application made in that behalf by or on behalf of a workman or his employer an appeal shall lie to the High Court.

(3) An appeal shall lie to the Court of Appeal from any decision of the High Court under this section.

(4) An appeal shall not lie in any case in which the parties have agreed to abide by the decision of the arbitrator

or in which the order of the arbitrator gives effect of an agreement come to by the parties.

(5) Subject to rules of Court, the procedure in an appeal to the High Court shall be the procedure in a civil appeal from a Magistrate Court with such modifications as the circumstances may require.

43. (1) Where any order has been made by an arbitrator or the Commissioner or any agreement recorded by the Commissioner, the Commissioner shall, at the request of any person claiming under such order or agreement, send a certified copy thereof to a Registrar of the Supreme Court who shall cause the said copy to be recorded and thereupon the said order or agreement shall for all purposes be enforceable as a judgement of the Supreme Court.

Enforcement
of orders and
agreements

(2) Where the Commissioner has sent a certified copy of an order or of an agreement to the Registrar to be recorded under the provisions of subsection (1) and subsequently on review under section 10, 15, 16 or 17 an order is made varying the amount of compensation to be paid under such order or agreement, the Commissioner shall send a certified copy of the said order or agreement as varied by him to the Registrar who shall cause the same to be recorded and thereupon the original order or agreement as varied by the subsequent order shall for all purposes thenceforth be enforceable in lieu of the original order or agreement as a judgment of the Supreme Court.

44. Where any injury is caused to a workman by the negligence, breach of statutory duty or other wrongful act or omission of the employer, or of any person for whose act or default the employer is responsible, nothing in this Act shall limit or in any wise affect any liability of the employer independently of this Act:

Injury due to
negligence,
etc. of em-
ployer

Provided that any damages awarded to a workman in an action at common law or under any Act in respect of any

such negligence, breach of statutory duty or wrongful act or omission, shall be reduced by the value of any compensation which has been paid or is payable under the provisions of this Act in respect of the injury sustained by the workman.

Reciprocal
arrangements
for payments
of workmen's
compensa-
tion

45. Where an arrangement has been made between the Government and the Government of any other territory, whereby sums awarded under the law relating to workmen's compensation in Brunei to beneficiaries resident or becoming resident in the territory administered by any such Government, and sums awarded under the law relating to workmen's compensation in any such territory to beneficiaries resident or becoming resident in Brunei, may at the request of the authority by which the award is made be transferred to and administered by a competent authority in any such territory or by the Commissioner in Brunei, as the case may be, money in the hands of the Commissioner shall be transferred, and money received by him shall be administered in the manner prescribed.

Amendment
of Schedules

46. His Majesty in Council may from time to time by order, which shall be published in the *Gazette*, amend the Schedules to this Act.

Regulations

47. (1) His Majesty in Council may make regulations for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such regulations may provide for —

(a) the limitations subject to which officers appointed to exercise powers and perform duties conferred and imposed on the Commissioner may exercise and perform such powers and duties;

(b) the intervals at which and conditions subject to which a workman may be required to submit himself for examination by a registered medical practitioner under sections 5 and 15;

(c) the manner in which money in the hands of the Commissioner may be invested for the benefit of the dependants of a deceased workman under section 10;

(d) the form of notice which an employer is required to give to the Commissioner under subsection (2) of section 13;

(e) the procedure for the review of compensation by the Commissioner or an arbitrator when the injured workman declines treatment under subsection (6) of section 15 or declines treatment in either an approved or a special hospital;

(f) the intervals at which and the conditions subject to which an application for review may be made under subsection (4) of section 16 and under section 17;

(g) the procedure to be followed when a registered medical practitioner who has examined a workman certifies that treatment in either an approved or a special hospital is necessary under subsection (1) or subsection (2) respectively of section 16 and the procedure for the payment of hospital fees and the cost of artificial limbs and surgical appliances under subsection (3) of that section;

(h) the procedure for receiving and disposing of money owing to deceased workmen by their employers under section 26;

(i) the manner in which security is to be furnished under subsection (2) of section 27;

(j) the procedure to be followed in investigations or inquiries under section 29;

(*k*) the form and manner in which memoranda or agreements shall be presented and recorded under section 30;

(*l*) fees under subsection (5) of section 32;

(*m*) the procedure for the choosing of an arbitrator of persons possessed of special knowledge to assist him under section 35;

(*n*) scales of the costs which may be allowed for proceedings under this Act before an arbitrator under section 40;

(*o*) the procedure for the transfer of money out of Brunei and for the receipt of money into Brunei under section 45;

(*p*) the transfer of any money in the hands of the Commissioner or for the receipt and administration by the Commissioner of any money applicable for the benefit of a person resident or about to reside in any territory to which section 45 applies or Brunei respectively;

(*q*) the representation in proceedings before an arbitrator of parties who are subject to legal disability or are unable for other reasons to appear personally;

(*r*) legal aid to workmen in difficult cases;

(*s*) the maintenance by the Commissioners and by arbitrators of registers and records of proceedings before them;

(*t*) the manner in which Deputy Commissioners and Assistant Commissioners shall perform their duties and exercise their powers and in particular

the transfer for disposal or report by any Deputy Commissioner or Assistant Commissioner or to the Commissioner of any pending matter or case and of any money deposited in connection therewith;

(u) the withholding by the Commissioner, in whole or in part, of periodical payments pending decision of an application to review the same;

(v) prescribing any matter which is required by this Act to be prescribed.

FIRST SCHEDULE

(Section 3 and the Third Schedule)

INJURIES DEEMED TO RESULT IN PERMANENT INCAPACITY

Item	Injury	Percentage of loss of earning capacity
1.	Loss of two limbs	100
2.	Loss of both hands or of all fingers and both thumbs	100
3.	Loss of both feet	100
4.	Total loss of sight, including the loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	100
5.	Total paralysis	100
6.	Injuries resulting in being permanently bed-ridden	100
7.	Any other injury causing permanent total incapacity	100
8.	Loss of arm at shoulder	75
9.	Loss of arm between elbow and shoulder	70
10.	Loss of arm at elbow	70
11.	Loss of arm between wrist and elbow	60
12.	Loss of hand at wrist	60
13.	Loss of four fingers and thumb of one hand	50
14.	Loss of four fingers	40

15. Loss of thumb —	
both phalanges	35
one phalanx.....	10
16. Loss of index finger —	
three phalanges	10
two phalanges	8
one phalanx.....	4
17. Loss of middle finger —	
three phalanges	6
two phalanges	4
one phalanx.....	2
18. Loss of ring finger —	
three phalanges	5
two phalanges	4
one phalanx.....	2
19. Loss of little finger —	
three phalanges	5
two phalanges	3
one phalanx.....	2
20. Loss of metacarpals —	
first or second (additional)	3
third, fourth or fifth (additional).....	2
21. Loss of leg —	
at or above knee	70
below knee.....	50
22. Loss of foot —	40
23. Loss of toes —	
all of one foot.....	20
great, both phalanges.....	10
great, one phalanx	2
other than great, if more than one toe lost, each.....	1
24. Loss of sight of one eye —	30
25. Loss of hearing, one ear —	20
26. Total loss of hearing —	50

Note —

(1) Total permanent loss of the use of a member shall be treated as loss of such member.

(2) Where there is loss of two or more parts of the hand, the percentage shall not be more than the loss of the whole hand.

(3) Loss of remaining arm, leg or eye if one has already been lost, shall be the difference between the compensation for the total incapacity and compensation already paid, or that which would have been paid, for the previous loss of limb or eye.

(4) In the event of a dispute or disagreement between the registered medical practitioners representing any interested parties as to the percentage loss of earning capacity in relation to workmen's compensation, the Commissioner may refer such dispute or disagreement to the Government Director of Medical Services or to any Government medical practitioner designated in that behalf by the Director of Medical Services, whose assessment thereon shall be final.

SECOND SCHEDULE

(Section 5.)

OCCUPATIONAL DISEASES

Description of occupational disease or injury

Nature of occupation.

- | | |
|---|---|
| 1. Poisoning by: | any occupation involving: |
| (1) lead, its alloys or compounds and their sequelae. | the use or handling of, or exposure to the fumes, dust or vapour of, lead or compound of lead, or a substance containing lead. |
| (2) phosphorous or its compound, and its sequelae. | the use or handling of, or exposure to the fumes, dust or vapour of, phosphorus or a compound of phosphorus, or a substance containing phosphorus. |
| (3) arsenic or its compounds, and its sequelae. | the use or handling of, or exposure to the fumes, dust or vapour of, arsenic or a compound of arsenic, or a substance containing arsenic or exposure to any solution containing arsenic or compound of arsenic. |
| (4) mercury, its amalgams and compounds and their sequelae. | the use or handling of, or exposure to the fumes, dust or vapour of, mercury or a compound of mercury, or a substance containing mercury. |
| (5) Carbon bisulphide | the use or handling of, or exposure to the fumes or vapour of, carbon bisulphide, or a compound of carbon bisulphide, or a substance containing carbon bisulphide. |

Description of occupational disease or injury	Nature of occupation.
(6) benzene or its homologues, their nitro— and amido— derivatives, and its sequelae	the use or handling of, or exposure to the fumes of, or vapour containing benzene or any of its homologues.
(7) Manganese	the use or handling of manganese or substances containing manganese.
(8) Organic phosphates	the use or handling of organic phosphates for the destruction of pests or vermin.
(9) Nitrous fumes	the use or handling of nitric acid or exposure to nitrous fumes.
(10) Rengas wood	the manipulation of Rengas wood or any process in or incidental to the manufacture of articles therefrom.
(11) Carbon monoxide gas	any process involving the use of: <ul style="list-style-type: none"> (i) dynamite and gun-powder for blasting in subterranean galleries; (ii) illuminating gas; (iii) power or producer gas; (iv) blast furnaces, furnaces and stoves for the burning of charcoal, coke and other fuel; (v) gas engines.
(12) Carbon dioxide gas	any process involving blasting the manufacture of mineral waters, fermentation in breweries and the formation of lime in lime kilns.
(13) The halogen derivatives of hydrocarbons of the aliphatic series	any process involving the production, liberation or use of halogen derivatives of hydrocarbons of the aliphatic series.
2. Anthrax	any occupation involving: the handling of wool, hair, bristle, hides or skins or other animal products or residues, or contact with animals infected with anthrax, or the loading, unloading or transport of merchandise.

- | | |
|--|--|
| 3. Glanders | contact with equine animals or their carcasses. |
| 4. Infection by leptospira ictero haemorrhagiae | work in rat infested places. |
| 5. (a) Ulceration of the corneal surface of eye | the use or handling of, or exposure to tar, pitch, bitumen, mineral oil (including paraffin), soot, or any compound, product or residue of any of these substances. |
| (b) Localised new growth of the skin, papillomatous or keratotic | |
| (c) Epitheliomatous cancer or ulceration of the skin, due in any case to tar, pitch, bitumen, mineral oil (including paraffin) soot or any compound, product or residue of any of these substances | |
| 6. Chrome ulceration | the use or handling of chromic acid, chromate or bichromate of ammonium potassium, zinc, or sodium, or any preparation or solution containing any of those substances. |
| 7. Inflammation, ulceration or malignant disease of the skin or subcutaneous tissues or of the bones, or leukaemia, or anaemia of the aplastic type, due to X-rays, ionising particles, radium or other radio-active substances. | exposure to X-rays, ionising particles, radium, or other radio-active substances or other forms of radiant energy. |
| 8. Toxic jaundice | the use or handling of tetrachlorethane or nitro or amino-derivates of benzene, or other poisonous substances. |

9. Cataract produced by frequent or prolonged exposure to the glare of, or rays from molten glass or molten or red-hot metal.
10. Subcutaneous cellulitis or acute bursitis arising at or about the knee (Beat knee) manual labour causing severe or prolonged friction or pressure at or about the knee.
11. Subcutaneous cellulitis of the hand (Beat hand) manual labour causing severe or prolonged friction or pressure on the hand.
12. Subcutaneous cellulitis or acute bursitis arising at or about the elbow manual labour causing severe or prolonged friction or pressure at or about the elbow.
13. Inflammation of the synovial lining of the wrist joint and tendon sheaths manual labour, or frequent or repeated movements of the hand or wrist.
14. Telegraphists' cramp the use of Morse-key telegraphists' instruments for prolonged periods.
15. Compressed-air illness or its sequelae any occupation or process carried on in compressed air.
16. Tuberculosis any occupation involving close and frequent contact with a source or sources of tuberculosis infection by reason of employment:—
 - (a) in the medical treatment or nursing of a person or persons suffering from tuberculosis, or in a service ancillary to such treatment or nursing;
 - (b) in attendance upon a person or persons suffering from tuberculosis, where the need for such attendance arises by reason of physical or mental infirmity;
 - (c) as a research worker engaged in research in connection with tuberculosis;
 - (d) as a laboratory worker, pathologist or post-mortem worker, where the occupation involves working with material which is a source of tuberculosis infection, or in any occupation ancillary to such employment.

17. Silicosis with or without pulmonary tuberculosis: Any occupation involving breathing—in of fine particles of silica generated by industrial processes, e.g. granite crushing, sand blasting, koalin grinding, ceramic work.
 Provided that silicosis is an essential factor in causing the capacity or death.
18. Asbestosis Any occupation involving exposure to asbestos dust.

THIRD SCHEDULE

(Section 8)

AMOUNT OF COMPENSATION PAYABLE

1. 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 lump sum equal to 48 months' earnings or \$28,800, whichever is the less:

Provided that such compensation shall not be less than \$9,600;

(b) If in respect of the same accident compensation has been paid under the provisions of paragraph 2, any sum so paid as compensation shall be deducted from the sum payable under this paragraph.

(c) 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 sub-paragraph (a) as may be determined by the Commissioner to be reasonable and proportionate to the injury to the said dependants.

(d) The reasonable expenses of the burial of the deceased workman and the reasonable expenses of medical attendance on the deceased workman, not exceeding in all such sum as may be prescribed, shall be paid by the employer.

2. Where permanent incapacity results from the injury —

(a) If such permanent incapacity is total, the amount of compensation shall be a lump sum equal to 60 months' earnings or \$36,000, whichever is the less:

Provided that such compensation shall not be less than \$12,000:

And provided further that if the permanent total incapacity which results from an injury is of such a nature that the workman is unable to perform the essential actions of life without the constant attention of another person, additional compensation shall be paid amounting to one quarter of the amount which would otherwise be payable under this subparagraph.

(b) If such permanent incapacity is partial, the amount of compensation shall be a lump sum equal to such percentage of the compensation which would have been payable in the case of permanent total incapacity as is proportionate to the permanent loss of earning capacity caused by the injury:

Provided that in the case of an injury specified in the Second Schedule to this Act the compensation payable shall not be less than 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.

(c) Where more injuries than one are caused by the same accident and permanent incapacity results, the amount of compensation payable in respect of all such injuries shall be aggregated but not so as to exceed in any case the amount which would have been payable in respect of permanent total incapacity.

3. (a) Where temporary incapacity, whether total or partial, results from the injury, the compensation shall be periodical payment equal to, at a rate proportionate to, the difference between two thirds of the monthly earnings which the workman was earning at the time of the accident or \$400, whichever is the less, and the monthly earnings which he is earning or is in the opinion of the Commissioner capable of

earning in some suitable employment or business after the accident.

(b) For the purpose of this paragraph a period of absence from duty certified to be necessary by a medical practitioner shall be deemed to be a period of total temporary incapacity irrespective of the outcome of the injury.

(c) Periodical payments under this paragraph shall be payable on the same days as wages would have been payable to the workman if he had continued to be employed under the contract of employment under which he was employed at the time of the accident:

Provided that —

- (i) by agreement or by order of the Commissioner the periodical payments may be made at shorter intervals; and
- (ii) the interval between periodical payments shall not exceed one month.

(d) Where the incapacity ceases 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 during that period.

(e) Where death or permanent incapacity follows a period not exceeding twelve months of total or partial temporary incapacity there shall not be deducted from the lump sum payable in respect of such death or permanent incapacity any periodical payments paid or payable under this paragraph.

(f) Where death or permanent incapacity follows a period exceeding 12 months of total or partial temporary incapacity there shall be deducted from the lump sum payable in respect of such death or permanent incapacity any periodical payments paid or payable under this paragraph in respect of any period in excess of 12 months.

SUBSIDIARY LEGISLATION

[Subsidiary]

Regulations under section 47

WORKMEN'S COMPENSATION REGULATIONS

S.40/57
S.99/59

ARRANGEMENT OF REGULATIONS

Regulations

PART I

PRELIMINARY

1. Citation
2. Interpretation

PART II

PROCEDURE

3. Notice of accident
4. Procedure on payment to or by Commissioner under section 26
5. Procedure on receipt of verbal complaint
6. Summons to be in Form G in Schedule
7. Acknowledgment of agreement
8. Applications
9. Examination of applicant
10. Commissioner to refer complaint to employer
11. Verbal claim to employer
12. Statement to be filed by respondent
13. Procedure where indemnity claimed under section 20 (2).
 Notice to third party
14. Procedure where claim admitted
15. Failure of respondent or third party to file statement
16. Record
17. Right of entry for local inspection

LAWS OF BRUNEI

64

CAP. 74

Workmen's Compensation

[Subsidiary]

18. Procedure in connection with local inspection
19. Procedure in connected cases
20. Apportionment of compensation among dependants
21. Service by post
22. Summary dismissal of application
23. Preliminary enquiry into application
24. Notice to opposite party
25. Service by post
26. Failure to file statement
27. Date and place of hearing
28. Non-appearance of applicant
29. Absence of respondent or third party
30. Orders
31. Exemption from payment of fees and costs

PART III

MEDICAL EXAMINATION

32. Workman not to be required to submit to medical examination save in accordance with regulations
33. Examination when workman and medical practitioner both on premises
34. Examination in other cases
35. Restriction on number of medical examinations
36. Examination after suspension of right to compensation
37. Examination of women

PART IV

DEPOSIT OF COMPENSATION

38. Deposit under section 10 (1)
39. Publication of lists of deposits

- 40. Procedure where no compensation deposited
- 41. Deposit under section 10 (2)
- 42. Manner in which compensation may be invested under section 10

PART V

ENQUIRY BY EMPLOYER

- 43. Right of employer to present memorandum when notice given

PART VI

**ADMISSION TO APPROVED AND
SPECIAL HOSPITALS**

- 44. Cost of conveyance to an approved hospital
- 45. Cost of conveyance to a special hospital
- 46. Payment of hospital fees
- 47. Liability for excess fees

PART VII

**REVIEW OF HALF-MONTHLY PAYMENTS
AND COMMUTATIONS THEREOF**

- 48. When application may be made without medical certificate
- 49. Procedure on application for review
- 50. Procedure on application for commutation

PART VIII

APPOINTMENT OF REPRESENTATIVES

- 51. When representative must be appointed
- 52. When new representative to be appointed

LAWS OF BRUNEI

66

CAP. 74

Workmen's Compensation

[Subsidiary]

PART IX

RECORD OF MEMORANDA OF AGREEMENT

- 53. Form of memorandum under section 30 (1)
- 54. Procedure when Commissioner does not consider that he should refuse to record memorandum
- 55. Procedure where Commissioner considers he should refuse to record memorandum
- 56. Procedure on refusal to record memorandum
- 57. Registration on memorandum accepted for record

PART X

SUBMISSION OF QUESTION OF LAW UNDER SECTION 41

- 58. Procedure in submitting any question of law

PART XI

TRANSFER OF CASES

- 59. Transfer of case

PART XII

TRANSFER OF MONEY

- 60. Application
- 61. Cost of transmission may be deducted
- 62. Commissioner may order transfer of compensation
- 63. Memorandum of case
- 64. Memorandum and compensation to be forwarded to competent authority
- 65. Commissioner to receive transferred compensation
- 66. Provisions of Act and regulations to apply to transferred compensation

PART XIII

FEES

67. Fees

PART XIV

FORMS

68. Forms may be varied

LAWS OF BRUNEI

68

CAP. 74

Workmen's Compensation

[Subsidiary]

Commencement: 1st April 1957

PART I

PRELIMINARY

Citation 1. These regulations may be cited as the Workmen's Compensation Regulations.

Interpretation 2. In these regulations —

“Act” means the Workmen's Compensation Act;

“transferring authority” means any authority in any other territory to which section 45 of the Act applies who transfers or causes to be transferred any lump sum awarded under the law relating to workmen's compensation and applicable for the benefit of any person residing or about to reside in Brunei.

PART II

PROCEDURE

Notice of accident 3. Notice of accident to the Commissioner by an employer as required under section 13 of the Act shall be in Form A in the Schedule.

Procedure on payment to or by Commissioner under section 26 4. (1) Where the Commissioner receives any money from the employer of a deceased workman under section 26 of the Act, he shall give a receipt in Form B in the Schedule for the amount of such money to the employer and such receipt shall be a sufficient discharge for the employer's liability to pay such money.

(2) The Commissioner on paying any money received by him under paragraph (1) to any person mentioned in the said section shall obtain from that person a receipt in Form C in the Schedule.

Procedure on receipt of verbal complaint 5. When any person states verbally to the Commissioner that he has been injured in an accident in the course of his employment and complains that he has been paid no compensation by his employer, or enquires what compensation he is entitled to receive, or when a dependant of any person who has died as a result of such an accident makes a like report, complaint or enquiry, the Commissioner shall, subject to the provisions of paragraph (1) of regulation 40, reduce such statement,

[Subsidiary]

complaint or enquiry to writing by completing the appropriate Form D, E, or F, as the case may be, or in such other form as he shall think fit, and such person shall sign the same and shall further sign a certificate to the effect that the facts recorded by the Commissioner, which shall be read over to him, are to the best of his knowledge and belief accurate.

6. A summons issued by the Commissioner or an arbitrator under section 37 of the Act shall be in Form G in the Schedule.

Summons to
be in Form G
in Schedule

7. When an agreement is reached under subsection (1) of section 30 of the Act the Commissioner and the workman and employer concerned shall sign an acknowledgment of such agreement as required by subsection (2) of section 32 of the Act in the appropriate Form H, J or K in the Schedule:

Acknowledg-
ment of
agreement

Provided that, when such workman or employer is not present, any written statement signed by him and clearly signifying that he accepts such agreement may be attached by the Commissioner to such acknowledgment, which such workman or employer shall then be deemed to have signed.

8. (1) Any application of the nature referred to in subsection (2) of section 29 of the Act may be sent to the Commissioner by registered post or may be presented to him and, if so sent or presented, shall, unless the Commissioner otherwise directs be made in duplicate in the appropriate Form D, E or F, as the case may be, and shall be signed by the applicant.

Applications

(2) There shall be appended to every such application a certificate, which shall be signed by the applicant, to the effect that the statement of facts contained in the application is to the best of his knowledge and belief accurate.

9. (1) On receiving such application, the Commissioner may examine the applicant on oath or may send the application to any public officer authorised by himself in that behalf and direct such officer to make examination and forward the record thereof to the Commissioner.

Examination
of applicant

(2) The substance of any examination made under this regulation shall be recorded in the manner provided for the recording of evidence in subsection (2) of section 37 of the Act.

10. The Commissioner may enquire orally or in writing of the employer, or principal under section 20 of the Act (in this Part referred to as "the respondent"), of the person making a statement, complaint or

Commission-
er to refer
complaint to
employer

[Subsidiary]

enquiry as described in regulation 5 or an application under regulation 8 whether such employer or principal admits any liability, and such enquiry shall give particulars of such statement, complaint or enquiry and shall constitute a formal claim under section 12 of the Act, and if in writing, the Commissioner shall record the date of the letter and the manner of its despatch, or if oral, the Commissioner shall record the fact that he has done so.

Verbal claim to employer

11. If, after notice of an accident has been given in accordance with section 13 of the Act or a statement, complaint or enquiry has been made as described in regulation 5 or an application under regulation 8, the respondent is present before the Commissioner, the Commissioner may make to him verbally a formal claim under section 12 of the Act and, if he makes such claim, shall record the fact that he has done so.

Statement to be filed by respondent

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

Procedure where indemnity claimed under section 20 (2). Notice to third party

13. Where the respondent claims that if compensation is recovered against him he will be entitled under subsection (2) of section 20 of the Act to be indemnified by a person not being a party to the case (in this Part referred to as "the third party") he shall, within 10 days after being served with the copy of the application, file a notice of such claim with the Commissioner, and the Commissioner shall thereupon cause a copy of the notice of such claim in Form L in the Schedule to be served on the third party, and may, if he thinks fit, call upon him to file a written statement dealing with the claim raised in the application within such time as the Commissioner may fix.

Procedure where claim admitted

14. If the respondent or the third party admits the claim, he shall so inform the Commissioner

Failure of respondent or third party to file statement

15. If the respondent or the third party fails to file a written statement dealing with the claim against him within the time fixed by the Commissioner, the claim may then be referred to an arbitrator for decision under subsection (1) of section 32 of the Act.

Record

16. The Commissioner shall record —

(a) all decisions made by him under sections 8, 10, 15 and 16 of the Act;

(b) his consent to any agreement under section 17 of the Act and the particulars of such agreement;

[Subsidiary]

(c) a concise account of any proceedings conducted by him under the Act and, as required by subsection (2) of section 37 of the Act, any evidence heard by him in the course of such proceedings;

(d) all particulars required to be recorded by regulations 5, 7, 8, 9 and 10.

17. The Commissioner or any public officer authorised under paragraph (a) of subsection (5) of section 29 of the Act may at any time enter the place where the workman was injured, or where the workman ordinarily performed his work, for the purpose of making a local inspection or of examining any persons likely to be able to give information relevant to the proceedings:

Right of entry for local inspection

Provided that the Commissioner or such public officer shall not enter any premises of any industrial establishment, save with the permission of the employer or of some person directly responsible to him for the management of the establishment and such permission may not be unreasonably withheld.

18. If the Commissioner or any public officer authorised under paragraph (a) of subsection (5) of section 29 of the Act purposes to conduct a local inspection with a view to examining on the spot the circumstances in which an accident took place, he shall give the parties or their representatives notice of his intention to conduct such inspection, unless in his opinion the urgency of the case renders the giving of such notice impracticable.

Procedure in connection with local inspection

(2) Such notice may be given orally or in writing and, in the case of an employer, may be given to any person upon whom notice of a claim can be served under subsection (5) of section 12 of the Act.

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

19. Where 2 or more cases pending before the Commissioner or an arbitrator arise out of the same accident and any issue involved is common to 2 or more cases, such cases may, if the parties agree, so far as the evidence bearing on such issue is concerned, be taken together.

Procedure in connected cases

20. The provisions of this Part shall, as far as may be, apply in the case of any proceedings relating to the apportionment of compensation among dependants of a deceased workman.

Apportionment of compensation among dependants

LAWS OF BRUNEI

72

CAP. 74

Workmen's Compensation

[Subsidiary]

Application
to arbitrator

21. An application to an arbitrator for the settlement of any question under section 32 of the Act shall be in Form M-1 or Form M-2 in the Schedule.

Summary dis-
missal of ap-
plication

22. The arbitrator may, after considering the application, summarily dismiss the application, if for reasons to be recorded, he is of opinion that there are no sufficient grounds for proceeding thereon.

Preliminary
inquiry into
application

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

Notice to
opposite
party

24. If the arbitrator does not dismiss the application under regulation 22 or 23, he shall cause to be served on the respondent a copy of the application and may, if he thinks fit, call upon him to file a written statement dealing with the claim within such time as the arbitrator may fix.

Service by
post

25. Service of notices by the Commissioner or by an arbitrator may be by registered post.

Failure to file
statement

26. If the respondent or the third party fails to file a written statement dealing with the claim against him within the time fixed by the arbitrator he may be taken to admit the claim.

Date and
place of hear-
ing

27. The arbitrator shall fix a date, and place for disposing of the application and of the claim for indemnity, if any, and cause notice thereof in the form in Form N in the Schedule to be served on the different parties calling upon them then and there to produce any evidence which they may wish to tender.

Non-
appearance
of applicant

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

Absence of
respondent
or third party

29. If, on the day of hearing or at any adjournment of the case, the respondent or third party does not appear, the arbitrator may proceed to hear the case in his absence, unless the arbitrator, having received a reasonable excuse for his absence, or for other sufficient reason, thinks

[Subsidiary]

fit to adjourn the hearing to some future day upon such terms as to costs as the arbitrator may think fit.

30. (1) The arbitrator, in making orders, shall record concisely his finding and his reasons for such finding. Orders

(2) After the arbitrator has made his order no addition or alteration shall be made to the order other than the correction of a clerical or arithmetical mistake arising from any accidental slip or omission.

(3) Orders shall be in one of the forms in Form O in the Schedule.

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

PART III

MEDICAL EXAMINATION

32. A workman who is required under subsection (2) of section 5 or under subsection (1) of section 15 of the Act to submit himself for medical examination shall be bound to do so in accordance with these regulations and not otherwise. Workman not to be required to submit to medical examination save in accordance with regulations

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

34. In cases to which regulation 33 does not apply the employer may — Examination in other cases

(a) send the registered 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 said medical practitioner; or

[Subsidiary]

(b) send to the workman an offer in writing to have him examined free of charge by a registered medical practitioner, in which case the workman shall submit himself for medical examination at the employer's premises or at such other place 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 6 p.m. and 8 a.m.; and
- (ii) in cases 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 such place.

Restriction
on number of
medical ex-
aminations

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

Examination
after suspen-
sion of right
to compensa-
tion

36. If a workman whose right to compensation has been suspended under subsection (2) or subsection (3) of section 15 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 72 hours after the workman has so offered himself.

Examination
of women

37. (1) No woman shall without her consent be medically examined by a male registered medical practitioner, save in the presence of another woman.

(2) No woman shall be required to be medically examined by a male registered medical practitioner if she deposits a sum sufficient to cover the expenses of examination by a female registered medical practitioner.

PART IV

DEPOSIT OF COMPENSATION

38. (1) An employer depositing compensation with the Commissioner under subsection (1) of section 10 of the Act shall furnish therewith a statement in Form P in the Schedule and shall be given a receipt in Form B in the Schedule.

Deposit
under
section 10 (1)

(2) If, in the statement referred to in paragraph (1) the employer indicates that he desires to be made a party to the distribution proceedings, the Commissioner shall, before allotting the sum deposited as compensation, afford to the employer an opportunity of establishing that the person to whom he proposes to allot such sum is not a dependant of the deceased workman, or, as the case may be, that no one of such persons is a dependant.

(3) The statement of disbursements to be furnished on application by the employer under subsection (9) of section 10 of the Act shall be in Form Q in the Schedule.

39. The Commissioner shall cause to be displayed in a prominent position outside his office, not later than the 7th day of each month, an accurate list of the deposits received by him under subsection (1) of section 10 of the Act during the immediately preceding month together with the names and addresses of the depositors and of the workmen in respect of whose death the deposits have been made.

Publication
of lists of de-
posits

40. (1) Where a dependant 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 dependant may apply to the Commissioner for the issue of an order requiring the employer to deposit compensation in accordance with the said subsection:

Procedure
where no
compensa-
tion depo-
sited

Provided that no such application shall be entertained unless the applicant or, in case no such dependant resides in Brunei, any person whom the Commissioner agrees may act on behalf of such dependant, certifies therein that he has requested the employer to deposit compensation and that the employer has refused or omitted to do so.

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

[Subsidiary]

Provided that —

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

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

(3) If, after completing the enquiry into the application, the Commissioner issues an order requiring the employer to deposit compensation in accordance with subsection (1) of section 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 dependant of the deceased workman who failed to join in the application.

Deposit
under
section 10 (2)

41. An employer depositing compensation in accordance with subsection (2) of section 10 of the Act shall furnish therewith a statement in Form R in the Schedule, and shall be given a receipt in Form B in the Schedule.

Manner in
which com-
pensation
may be in-
vested under
section 10

42. Money to be invested under paragraph (a) of subsection (7) of section 10 of the Act may be paid to the credit of an account to be called the Commissioner's Workmen's Compensation Accounts.

PART V

ENQUIRY BY EMPLOYER

Right of em-
ployer to pre-
sent memor-
andum when
notice given

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

[Subsidiary]

(2) A memorandum presented under paragraph (1) shall be recorded by the Commissioner.

PART VI

ADMISSION TO APPROVED AND
SPECIAL HOSPITALS

44. When a registered medical practitioner who has examined a workman certifies under subsection (1) of section 16 of the Act that such workman requires treatment in an approved hospital, and when the registered medical practitioner in charge of an approved hospital agrees to admit such workman to such approved hospital, the employer of such workman shall cause such workman to be conveyed to the approved hospital in such manner as the registered medical practitioner who has examined him advises to be appropriate to his condition.

Cost of conveyance to an approved hospital

45. When the registered medical practitioner in charge of an approved hospital recommends under subsection (2) of section 16 of the Act that a workman be admitted for treatment to a special hospital, and when the registered medical practitioner in charge of a special hospital certifies under the said subsection that treatment in such hospital will in his opinion benefit such workman and agrees to admit such workman to such special hospital, the employer of such workman shall cause such workman to be conveyed to the special hospital in such manner as the registered medical practitioner in charge of the approved hospital shall direct.

Cost of conveyance to a special hospital

46. The employer of a workman admitted either to an approved or a special hospital shall pay direct to the Medical Officer-in-Charge of such hospital all fees and costs for which he is liable under subsection (3) of section 16 of the Act upon receipt of a bill for such fees and costs.

Payment of hospital fees

47. A workman admitted either to an approved or special hospital shall, where such hospital is a private hospital, himself be liable to pay the amounts of any fees or costs incurred on his behalf in excess of the maximum amounts prescribed by His Majesty in Council under subsection (3) of section 16 of the Act, and, where such hospital is a government hospital, such excess amounts shall be paid from public funds.

Liability for excess fees

PART VII

REVIEW OF HALF-MONTHLY PAYMENTS AND
COMMUTATIONS THEREOF

When application may be made without medical certificate

48. Application in Form S in the Schedule for review of a half-monthly payment under section 17 of the Act may be made without being accompanied by a medical certificate —

(a) by the employer, on the ground that since the right to compensation was determined the workman's wages have increased;

(b) by the workman on any of the following grounds —

(i) that since the right to compensation was determined his wages have diminished;

(ii) 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;

(c) either by the employer or by 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.

Procedure on application for review

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

Procedure on application for commutation

50. (1) When under section 18 of the Act any half-monthly payments are commuted into a lump sum, such lump sum shall, except at the discretion of an arbitrator, be not less than the total of the half-monthly payments which would otherwise have been payable to the workman during the period for which it is estimated that the workman's disablement will continue, less one-quarter per centum of that total for each month comprised in that period:

Provided that fractions of a dollar included in the lump sum so computed shall be increased to the nearest whole dollar.

(2) The Commissioner shall not consent to an agreement under section 18 of the Act unless he considers that the estimate of the probable duration of the workman's disablement is reasonable.

PART VIII

APPOINTMENT OF REPRESENTATIVES

51. Where any party to a proceeding is a minor or is unable to make an appearance, the Commissioner or an arbitrator shall appoint some suitable person, who consents to the appointment, to represent such party for the purpose of the proceeding.

When representative must be appointed

52. If the Commissioner or an arbitrator considers that the interests of any party for whom a representative has been appointed under regulation 51 are not being adequately protected by that representative, or if a person appointed to act as representative dies, or becomes incapable of acting, or otherwise ceases to act as such, the Commissioner or the arbitrator shall appoint in his place another person who consents to the appointment.

When new representative to be appointed

PART IX

RECORD OF MEMORANDA OF AGREEMENT

53. A memorandum under subsection (1) of section 30 of the Act shall either be sent by post or delivered to the Commissioner and shall, unless the Commissioner otherwise directs, be in duplicate and in as close conformity as the circumstances of the case admit to Form H, J or K in the Schedule.

Form of memorandum under section 30 (1)

54. (1) On receiving a memorandum of agreement, the Commissioner shall, unless he considers that there are grounds for refusing to record the memorandum, fix a date for recording the same, and shall issue a notice in writing in Form T in the Schedule to the parties concerned that in default of objections he proposes to record the memorandum on the date so fixed:

Procedure where Commissioner does not consider that he should refuse to record memorandum

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

[Subsidiary]

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

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

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

Procedure where Commissioner considers he should refuse to record memorandum

55. (1) If, on receiving a memorandum of agreement, the Commissioner considers that there are grounds for refusing to record the same, he shall fix a date for hearing the party or parties desiring the memorandum to be recorded, and shall inform such party or parties and, if he thinks fit, any other party concerned of the date so fixed and of the grounds on which he considers that the memorandum should not be recorded.

(2) If the parties to be informed are not present, a written notice shall be sent to them in Form V in the Schedule, and the date fixed in such notice shall be not less than 7 days after the date of the issue of the same.

(3) If, on the date fixed under paragraph (1), the party or parties desiring the memorandum to be recorded show adequate cause for proceeding to the record of the same, the Commissioner may, if information has already been given to all the parties concerned, record the agreement. If information has not been given to all such parties, he shall proceed in accordance with regulation 54.

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

Procedure on refusal to record memorandum

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

(2) Where the agreement is for the redemption of half-monthly payments by the payment of a lump sum, and the Commissioner considers that the memorandum of agreement should not be recorded by

[Subsidiary]

reason of the inadequacy of the amount of such sum as fixed in the agreement, he shall record his estimate of the probable duration of the disablement of the workman.

57. In recording a memorandum under subsection (1) of section 30 of the Act, the Commissioner shall cause the same to be entered in a register in Form W in the Schedule and cause an endorsement to be entered under his signature on a copy of the memorandum to be retained by him in the following terms —

Registration
of memoran-
dum accepted
for record

“This memorandum of agreement bearing Serial
No. of 19..... in Register No. has
been recorded this day of
19..... .

(Signature)

Commissioner”.

PART X

SUBMISSION OF QUESTION OF LAW UNDER SECTION 41

58. (1) When an arbitrator submits any question of law for the decision of a Judge under subsection (1) of section 41 of the Act, such submission shall be in the form of a special case.

Procedure in
submitting
any question
of law

(2) The case shall be in Form X in the Schedule and 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 Judge to decide the questions of law raised thereby.

(3) The case shall be signed by the arbitrator and sent to the appropriate Registrar of the Supreme Court, who shall forthwith transmit the same to a Judge, who shall appoint a day, hour and place for hearing the same.

[Subsidiary]

(4) The Registrar shall forthwith cause due notice in Form Y in the Schedule of the day, hour and place appointed for hearing the case to be given to the Commissioner, who shall forthwith give notice to the parties:

Provided that the parties shall be given such notice not less than 14 clear days before the date of such hearing, unless the Judge shall, with the consent of all parties, fix an earlier day.

(5) Any party shall be entitled, on payment of the proper fees, to obtain from the Registrar a copy of the case.

(6) Any party may be represented by his advocate and solicitor.

(7) After deciding the question submitted to him, the Judge shall remit the case with a memorandum of his decision to the arbitrator.

(8) The Judge may remit the case to the arbitrator for restatement or further statement.

(9) The costs of the hearing of a case shall be in the discretion of the arbitrator and shall form part of the proceedings before such arbitrator.

PART XI

TRANSFER OF CASES

Transfer
of case

59. (1) If a Deputy Commissioner or an Assistant Commissioner is satisfied by any party to any proceedings before him that such matter can be more conveniently dealt with by any other Deputy Commissioner or Assistant Commissioner or by the Commissioner he may subject to any directions given by the Commissioner order such matter to be transferred to such other officer either for report or for disposal, and if he does so shall transmit to such other officer all documents relevant to the decision of such matter and, where the matter is transferred for disposal, shall also transmit in such manner as the Commissioner may direct any money or securities remaining in his hands or held by him for the benefit or any party to the proceedings.

[Subsidiary]

(2) Such other officer to whom any matter is so transferred shall enquire therein and —

(a) if the matter was transferred for report, carry out such enquiry as may be necessary in the circumstances in order to make the report and on completion of the report shall forward it to the officer who had referred the matter to him; and

(b) if the matter was transferred to him for disposal continue the proceedings as if they had been commenced before him.

(3) On receipt of a report from the officer to whom any matter has been transferred for report under paragraph (1), the officer by whom it was referred shall decide the matter referred to in conformity with such report.

PART XII

TRANSFER OF MONEY

60. This Part shall only apply to the transfer of fund between Brunei and a country with which an arrangement has been made under section 45 of the Act.

Application

61. When any sum is transmitted by any authority in Brunei to any other authority in accordance with this Part, the cost of such transmission may be deducted from the sum so transmitted.

Cost of transmission may be deducted

62. When the whole or any part of a lump sum deposited with the Commissioner for payment as compensation under the Act is payable to any person or persons residing or about to reside in any other country, the Commissioner may order the transfer to that country of the sum so payable.

Commissioner may order transfer of compensation

63. When the Commissioner has ordered the transfer of any sum under regulation 62, he shall cause to be prepared and shall certify under his hand a memorandum containing a brief statement of the facts of the case, of the result of it, and of the name and address of each person to whom payment is to be made.

Memorandum of case

LAWS OF BRUNEI

84

CAP. 74

Workmen's Compensation

[Subsidiary]

Memorandum and compensation to be forwarded to competent authority

64. The Commissioner shall forward the memorandum and remit or cause to be remitted the sum to which it relates by such means of safe transmission as he may consider convenient to the authority appointed for this purpose for the country to which the sum is to be transferred, or if no such authority has been appointed, to such authority as His Majesty in Council may by general or special order direct, and shall at the same time request the authority addressed —

(a) to arrange for payment to be made in accordance with the directions contained in the memorandum; and

(b) to furnish him with a report of the action taken upon the memorandum and return any sum the payment of which is for any reason impossible.

Commissioner to receive transferred compensation

65. The Commissioner shall be the proper authority to receive moneys from transferring authorities.

Provisions of Act and regulations to apply to transferred compensation

66. All sums received from a transferring authority shall be disposed of as far as possible in accordance with the provisions of the Act and these regulations:

Provided that the directions, if any, received from the transferring authority as to the manner in which the sum should be administered shall be complied with.

PART XIII

FEES

Fees

67. The following fees are hereby prescribed for hearings before an arbitrator and shall be collected by means of stamps affixed to the form of application employed —

an application for the settlement of
any question \$5.00

PART XIV

FORMS

Forms may be varied

68. Where the forms in the Schedule are not applicable forms of the like character with such variations as the circumstances may require may be used in proceedings under the Act.

SCHEDULE

Form A

(Regulation 3)

NOTICE OF ACCIDENT TO COMMISSIONER FOR
WORKMEN'S COMPENSATION BY EMPLOYER

Section 13 of the Workmen's Compensation Act (Cap. 74)

Employer's Name

Address

Industry

Injured workman's Name Age Sex

Address

Occupation

Date of accident Time

Place of accident

Description of accident

.....

.....

.....

.....

Particulars of Injury (Part of the body injured, nature of injury, whether
serious or slight)

.....

LAWS OF BRUNEI

86

CAP. 74

Workmen's Compensation

[Subsidiary]

Name of insurer (if any)

Have they been informed of the accident? (If not, give reasons)

.....

REMARKS

.....

Employer's Signature

Date 19

Form B

No.

(Regulations 4 (1), 38 and 41)

BRUNEI DARUSSALAM

Received from

the sum of dollars

on account of

\$

Date 19

.....

Commissioner

Form C

(Regulation 4 (2))

RECEIPT

For Money paid out in accordance with section 26 of the Workmen's
Compensation Act (Cap. 74)

Received from the Commissioner the sum of \$
in respect of

.....
Name and Address of Payee

.....
Date 19

.....
Signature of Payee

References:

Form D

(Regulations 5 and 8)

APPLICATION FOR COMPENSATION BY WORKMAN

To the Commissioner for Workmen's Compensation —

Between
..... residing at Applicant
and

LAWS OF BRUNEI

88

CAP. 74

Workmen's Compensation

[Subsidiary]

..... residing at Respondent.

It is hereby submitted that —

1. The applicant, a workman employed by (a contractor with) the respondent on the day of, 19..... received personal injury by accident arising out of and in the course of his employment.

The cause of the injury was*

.....
.....
.....

2. The applicant sustained the following injuries, namely:

.....
.....
.....

†3. The monthly wages of the applicant amount to \$
under the age of 16 years.

The applicant is between the ages of 16 and 18 years.
over the age of 18 years.

†4. (a) Notice of the accident was served on the
day of 19..... .

(b) Notice was served as soon as practicable.

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

*Here insert briefly in ordinary language the cause of the injury.

†Strike out the clauses which are not applicable.

*5. The applicant is accordingly entitled to receive —

(a) half-monthly payments of \$..... from the
day of , 19....., to

(b) a lump sum payment of \$

6. The applicant has taken the following steps to secure a settlement by agreement, namely but it has proved impossible to settle the questions in dispute because

.....
.....
.....

*You are therefore requested to secure agreement to the following questions in dispute, namely —

(a) whether the applicant is a workman within the meaning of the Act;

(b) whether the accident arose out of or in the course of the applicant's employment;

(c) whether the amount of compensation claimed is due, or any part of that amount;

(d) whether the respondent is liable to pay such compensation as is due;

†(e)

.....
.....
.....
.....
.....

Date 19

.....
Applicant

LAWS OF BRUNEI

90

CAP. 74

Workmen's Compensation

[Subsidiary]

I do solemnly and sincerely declare that the statement of facts contained in this application is to the best of my knowledge and belief accurate.

To

of

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

And further take notice that if you fail to forward the statement in writing you will be deemed to admit the claim.

Dated this day of, 19.....

.....
Commissioner

*Strike out the clauses which are not applicable.

†As required.

Form E

(Regulations 5 and 8)

APPLICATION FOR COMPENSATION BY DEPENDANTS

To the Commissioner for Workmen's Compensation.

.....

Between

..... residing at Applicant

and

..... residing at Respondent.

[Subsidiary]

It is hereby submitted that —

I, a workman employed by
(a contractor with) the respondent on the day of
....., 19..... received personal injury by accident
arising out of and in the course of his employment resulting in his death
on the day of, 19.....
The cause of the injury was*

2. The applicant(s) $\frac{\text{is a}}{\text{are}}$ dependant(s) of the deceased being his
.....

3. The monthly wages of the deceased amount to \$.....

under the age of 16 years.

The deceased was between the ages of 16 and 18 years.

over the age of 18 years.

†4. (a) Notice of the accident was served on the
day of, 19.....

(b) Notice was served as soon as practicable.

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

*Here insert briefly in ordinary language the cause of the injury.

†Strike out the clauses which are not applicable.

5. The deceased before his death received as compensation the total sum of \$.....

6. The applicant(s) $\frac{\text{is}}{\text{are}}$ accordingly entitled to receive a lump sum payment of \$.....

7. The applicant(s) $\frac{\text{has}}{\text{have}}$ requested the respondent to deposit compensation and the latter has $\frac{\text{refused}}{\text{omitted}}$ to do so.

*You are therefore requested to secure agreement to the following questions in dispute, namely —

(a) whether the deceased was a workman within the meaning of the Act;

(b) whether the accident arose out of and in the course of the deceased's employment;

(c) whether the amount of compensation claimed is due, or any part of that amount;

(d) whether the respondent is liable to pay such compensation as is due;

(e) whether the applicant(s) $\frac{\text{is a}}{\text{are}}$ dependant(s) of the deceased;

(f) how the compensation, when deposited, should be distributed;

†(g)

*Strike out the clauses which are not applicable.

†As required.

[Subsidiary]

.....
.....
.....
Date 19

.....
Applicant

I do solemnly and sincerely
declare that the statement of facts contained in this application is to the
best of my knowledge and belief accurate.

.....
Applicant

To
of

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

And further take notice that if you fail to forward the statement in
writing you will be deemed to admit the claim.

Dated this day of, 19.....

.....
Commissioner

LAWS OF BRUNEI

94

CAP. 74

Workmen's Compensation

[Subsidiary]

Form F

APPLICATION FOR COMMUTATION

(Regulations 5 and 8)

Under section 17 of the Workmen's Compensation Act (Cap. 74)

To the Commissioner for Workmen's Compensation,

.....

Between

..... residing at Applicant

and

..... residing at Respondent.

.....

It is hereby submitted that —

(1) The applicant/respondent has been in receipt of half-monthly payments from to in respect of temporary disablement by accident arising out of and in the course of his employment.

(2) The applicant is desirous that the right to receive half-monthly payments should be redeemed.

(3) (a) The respondent is unwilling to agree to the redemption of the right to receive half-monthly payments.

(b) The parties have been unable to agree regarding the sum for which the right to receive half-monthly payments should be redeemed.

You are therefore requested to secure agreement —

(a) that the right to receive half-monthly payments should be redeemed;

(b) as to the sum for the redemption of the right to receive half-monthly payments.

Date 19

.....
Applicant

I do solemnly and sincerely
declare that the statement of facts contained in this application is to the
best of my knowledge and belief accurate.

.....
Applicant

Form G

(Regulation 6)

WORKMEN'S COMPENSATION ACT (Cap. 74)

IN THE OFFICE OF THE COMMISSIONER AT

.....
Workmen's Compensation Case No.

IN THE MATTER OF

.....
Whereas I, the undersigned

Commissioner desire to enquire into the above matter:

And whereas I have reason to believe you can give information
respecting the subject matter of the enquiry:

You are hereby required personally to attend at the Labour
Department, on the
..... day of 19....., at

and (i) to answer truthfully all questions which I may put to you;

(ii) to produce the following documents

.....

.....

LAWS OF BRUNEI

96

CAP. 74

Workmen's Compensation

[Subsidiary]

And take notice that if you neglect to attend as required in this summons, you will be liable to be punished as provided in Chapter XI of the Penal Code.

Dated this day of, 19.....

.....
Commissioner

To

.....
.....
.....

Form H

(Regulations 7 and 53)

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day
of 19....., personal injury was caused to
residing at by accident
arising out of and in the course of employment in
The said injury has resulted in temporary disablement to the said work-
man whereby it is estimated that he will be prevented from earning
more than of his previous wages for a period of
any
..... months. The said workman has been in receipt
of half-monthly payments which have continued from the

[Subsidiary]

..... day of 19....., until
 the day of amounting to
 \$..... in all. The said workman's monthly wages are esti-
 mated as \$.....

is over the age of 18 years.

*The workman will reach the age of 18 years on
will reach the age of 16 years on

It is further submitted that, the
 employer of the said workman has agreed to pay, and the said workman
 has agreed to accept the sum of \$..... in full settlement of all
 and every claim under the Workmen's Compensation Act, in respect of
 all disablement of a temporary nature arising out of the said accident
 whether now or hereafter to become manifest.

It is therefore requested that this memorandum be duly recorded*.

It is further submitted that the employer has paid and/or agreed to
 pay the sum of \$..... only in respect of this agreement (in-
 cluding all negotiations and proceedings preliminary thereto), to the
 advocate and solicitor for the workman, as costs.

Dated, 19.....

.....
Witness	Signature of employer

.....
Witness	Signature of workman

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

*Delete if not applicable.

LAWS OF BRUNEI

98

CAP. 74

Workmen's Compensation

[Subsidiary]

†In accordance with the above agreement, I have this day received the sum of \$.....

Dated, 19.....

.....
Workman

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

.....
Witness

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

Form J

(Regulations 7 and 53)

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day
of 19....., personal injury was caused to
residing at by accident arising out
of and in the course of employment in
The said injury has resulted in permanent disablement to the said work-
man of the following nature, namely —

.....
.....
.....

The said workman's monthly wages are estimated as
\$.....

is over the age of 18 years.

The workman will reach the age of 18 years on

will reach the age of 16 years on

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

.....
.....

It is further submitted that, the employer of the said workman has agreed to pay, and the said workman has agreed to accept the sum of \$..... in full settlement of all and every claim under the Workmen's Compensation Act, in respect of the disablement stated above and all disablement now manifest.

It is therefore requested that this memorandum be duly recorded*.

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

Dated, 19.....

.....
Witness

.....
Signature of employer

.....
Witness

.....
Signature of workman

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

*Delete if not applicable.

LAWS OF BRUNEI

100

CAP. 74

Workmen's Compensation

[Subsidiary]

†In accordance with the above agreement, I have this day received the sum of \$.....

Dated, 19.....

.....
Workman

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

.....
Witness

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

Form K

(Regulations 7 and 53)

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day of 19....., personal injury was caused to residing at by accident arising out of and in the course of employment in The said injury has resulted in temporary disablement to the said workman who is at present in receipt of wages amounting to \$..... per month. The said workman's no wages monthly wages prior to the accident are estimated as \$..... The workman is subject to a legal disability by

[Subsidiary]

reason of

It is further submitted that, the employer of the workman has agreed to pay and on behalf of the said workman has agreed to accept half-monthly payments at the rate of \$..... for the period of the said temporary disablement. This agreement is subject to the condition that the amount of the half-monthly payments may be varied in accordance with the provisions of the Workmen's Compensation Act, on account of an alteration in the earnings of the said workman during disablement. It is further stipulated that all rights of commutation under section 18 of the said Act are unaffected by this agreement.

It is therefore requested that this memorandum be duly recorded*.

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

Dated, 19.....

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

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

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

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

*Delete if not applicable.

LAWS OF BRUNEI

102

CAP. 74

Workmen's Compensation

[Subsidiary]

Dated, 19.....

.....
Workman

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

.....
Witness

Form L

(Regulation 13)

NOTICE

Whereas a claim for compensation has been made by

..... applicant, against

....., and the said
has claimed that you are liable under section 20 of the Workmen's
Compensation Act, to indemnify him against a compensation which
he may be liable to pay in respect of the aforesaid claim, you
are hereby informed that you may appear before me at
..... o'clock on the day
of, 19..... at and
contest the claim for compensation made by the said applicant or the
claim for indemnity made by the respondent. In default of your appear-
ance you will be deemed to admit the validity of any award made against
the respondent and your liability to indemnify the respondent for any
compensation recovered from him.

Dated, 19.....

.....
Commissioner

[Subsidiary]

To

of

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

And further take notice if you fail to forward the statement in writing, you will be deemed to admit the claim.

Dated, 19.....

.....
Commissioner

Form M-1

(Regulation 21)

APPLICATION TO AN ARBITRATOR

To the Workmen's Compensation Arbitrator,

.....

Between

..... residing at Applicant

and

..... residing at Respondent.

Whereas a question has arisen under the Workmen's Compensation Act, which the workman, his employer and the Commissioner cannot settle by agreement, out of the following circumstances —

(Here set out concisely the circumstances of the accident, etc.; the injuries suffered by the workman and their consequences, etc.)

LAWS OF BRUNEI

104

CAP. 74

Workmen's Compensation

[Subsidiary]

And whereas the applicant seeks —

(Here set out the relief (compensation, etc.) or order which the applicant seeks.)

And whereas agreement has been reached and recorded on the following questions —

(Delete if not applicable; otherwise set out here details of all matters upon which agreement between the workman, his employer and the Commissioner has been reached.)

And whereas agreement has not been reached on the following questions —

(Here set out details of all matters in dispute.)

Now therefore the aforesaid questions are hereby submitted to you for decision and for your order consequent upon such decision.

Dated this day of 19.....

.....
(Signed)

CERTIFICATE

I, hereby certify that I held an enquiry under section 29 of the Workmen's Compensation Act, into the matters to which this application relates and that agreement was reached/was not reached* on the questions set out in the application.

.....
Signed
Commissioner

Note — There should be attached to the application any documents or correspondence relevant to the matters in dispute, including copies of any application for compensation and of any notes taken by the Commissioner, etc.; and of the record of any agreement reached.

*Delete the words not applicable.

Form M-2

(Regulation 21)

APPLICATION TO AN ARBITRATOR

To the Workmen's Compensation Arbitrator,

.....

Between

..... residing at Applicant

and

..... residing at Respondent.

Whereas, as a consequence of an accident to which the provisions of the Workmen's Compensation Act, apply, the Commissioner has made a decision under section† of the said Act, of which particulars are set out below:

And whereas the applicant is aggrieved by the said decision because

(Here set out the reasons.)

And whereas the applicant seeks

(Here set out the relief or order which the applicant seek.)

Now therefore, the applicant applies to you to consider the matters herein set out and to give your decision thereon and for your order consequent upon such decision.

Particulars

(Here set out concisely the circumstances of the accident, etc.; the injuries suffered by the workman and their consequences, etc., the decision of the Commissioner, and any other relevant facts.)

†Insert 8, 10, 14 or 15, as the case may be.

LAWS OF BRUNEI

106

CAP. 74

Workmen's Compensation

[Subsidiary]

Dated this day of, 19.....

.....
Signed

Note — There should be attached to this application any documents or correspondence relevant to this matter, including copies of any application for compensation and of any notes taken by the Commissioner, etc.; and of the record of any agreement reached.

Form N

(Regulation 27)

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

Workmen's Compensation Act, (Cap. 74)

Between
..... residing at Applicant
and
..... residing at Respondent.

Take notice that the Arbitrator under the Workmen's Compensation Act, will proceed with the hearing of the application in this matter at on the day of, 19..... at the hour of o'clock in the noon.

Dated this day of, 19.....

.....
Arbitrator

To of
.....

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

Workmen's Compensation Act, (Cap. 74)

Between
..... residing at Applicant
and
..... residing at Respondent.

Take notice that the Arbitrator under the Workmen's Compensation Act, will proceed with the hearing of the application in this matter at on the day of, 19..... at the hour of o'clock in the noon, and that if you do not attend at the time and place above-mentioned such order will be made and proceedings taken as the arbitrator may think just and expedient.

Dated this day of , 19.....

.....
Arbitrator

To of
.....

Form O

(Regulation 30)

(i) IN CASE OF APPLICATION FOR HALF-MONTHLY
PAYMENTS OF COMPENSATION

Workmen's Compensation Act, (Cap. 74)

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

[Subsidiary]

(Here insert any introductory recitals of findings on which the order is made which the Arbitrator may think fit.)

1. I order that the respondent C.D. do pay to the applicant A.B. the half-monthly sum of \$ as compensation for personal injuries caused to the said A.B. on the day of 19..... by injury arising out of and in the course of his employment as a workman employed by the said respondent, such half-monthly payment to commence as from the day of, 19....., and to continue during the total or partial incapacity of the said A.B. for work, or until the same shall be ended, diminished, increased or redeemed in accordance with the provisions of the Workmen's Compensation Act.

2. And I order that the said C.D. do forthwith pay to the said A.B. the sum of \$ being the amount of such half-monthly payments calculated from the day of, 19..... until the day of 19..... and do thereafter pay the said sum of \$ to the said A.B. on the and days of each month.

3. And I order that the said C.D. do pay to the applicant costs of or incidental to the proceedings to be taxed under the scale of costs applicable to actions in the High Court/a Magistrate's Court*.

Dated this day of, 19.....

.....
Arbitrator

*delete the words not applicable.

(ii) IN THE CASE OF APPLICATION
BY DEPENDANTS

Workmen's Compensation Act, (Cap. 74)

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

(Here insert any introductory recitals of findings on which the order is made which the Arbitrator may think fit.)

[Subsidiary]

1. I order that the respondent C.D. do pay the sum of \$ to the dependants of A.B. late of deceased, as compensation for the injury resulting to such dependants from the death of the said A.B. which took place on the day of 19....., by accident arising out of and in the course of his employment as a workman employed by the said respondent.

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

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

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

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

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

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

7. And I order that the said C.D. do pay to the applicant costs of or incidental to the proceedings to be taxed under the higher/lower* scale of costs applicable to actions in the High Court/a Magistrate Court*.

Dated this day of , 19.....

.....
Arbitrator

*delete the words not applicable.

LAWS OF BRUNEI

110

CAP. 74

Workmen's Compensation

[Subsidiary]

(iii) IN CASE OF APPLICATION BY PERSON TO
WHOM EXPENSES OF MEDICAL ATTENDANCE
OR BURIAL ARE DUE

Workmen's Compensation Act, (Cap. 74)

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

(Here insert any introductory recitals of findings on which the order
is made which the Arbitrator may think fit.)

1. I order that the respondent C.D. do pay the sum of
\$ for or towards the expenses of medical attendance on
and the burial of A.B. late of deceased, who
died on the day of, 19.....
from injury caused on the day
of, 19....., by accident arising out of and in
the course of the employment of the said A.B. as a workman employed
by the said C.D.

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

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

Dated this day of, 19.....

.....
Arbitrator

Form P

(Regulation 38 (1))

DEPOSIT OF COMPENSATION FOR FATAL ACCIDENT

Section 10 (1) of the Workmen's Compensation Act, (Cap. 74)

Compensation amounting to \$ is hereby presented for deposit in respect of injuries resulting from an accident which occurred on 19....., which caused the death of residing at on 19..... His monthly wages are estimated at

The said workman had, prior to the date of his death, received the following payments, namely amounting in all to

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

(To be deleted if not applicable.)

Dated, 19.....,

.....
Employer

Form Q

(Regulation 38 (2))

STATEMENT OF DISBURSEMENT

Section 10 (9) of the Workmen's Compensation Act, (Cap. 74)

Serial No.

Depositor

Amount deposited \$

LAWS OF BRUNEI

112

CAP. 74

Workmen's Compensation

[Subsidiary]

Date

Deceased Workman's Name

Date	Compensation paid to the following Dependents		Amount
	Name	Relationship	\$ c.
	Funeral Expenses Paid		
	Total		

.....
Commissioner

Form R

(Regulation 41)

**DEPOSIT OF COMPENSATION FOR NON-FATAL
ACCIDENTS**

Section 10 (2) of the Workmen's Compensation Act, (Cap. 74)

Compensation amounting to \$ is hereby presented
for deposit in respect of permanent/temporary injuries sustained
by residing at as
result of an accident which occurred on,
19.....

Dated this day of, 19.....

.....
Employer

Form S

(Regulation 48)

APPLICATION FOR REVIEW OF HALF-MONTHLY
PAYMENT

To the Commissioner for Workmen's Compensation

Between

..... residing at Applicant

and

..... residing at Respondent.

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

PARTICULARS

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

LAWS OF BRUNEI

114

CAP. 74

Workmen's Compensation

[Subsidiary]

6. Grounds of application

.....

Dated this day of, 19.....

(Signed)

Applicant

Form T

(Regulation 54)

To

.....

Whereas an agreement to pay compensation is said to have been
reached between and

And whereas had/have applied for
registration of the agreement under section of the
Workmen's Compensation Act.

Notice is hereby given that the said agreement will be taken into consid-
eration at o'clock on the day
of, 19....., at
and that any objections to the registration of the said agreement should
be made on the date and at the place aforesaid. In the absence of valid
objections, it is my intention to proceed to the registration of the agree-
ment.

Dated, 19.....

.....
Commissioner

Form U

(Regulations 54 and 55)

To

Take notice that registration of the agreement to pay compensation
said to have been reached between you

and on day

of, 19..... has been refused for the following
reasons, namely —

Dated, 19.....

.....
Commissioner

Form V

(Regulation 55)

NOTICE OF INTENDED REFUSAL TO
REGISTER AGREEMENT

Whereas an agreement to pay compensation is said to have been
reached between

and

And whereas has/have
applied for registration of the agreement under section 28 of the Work-
men's Compensation Act, and whereas it appears to me that the said
agreement ought not to be registered for the following reasons
namely —

LAWS OF BRUNEI

116

CAP. 74

Workmen's Compensation

[Subsidiary]

.....

an opportunity will be afforded to you/the said *

..... of showing cause at o'clock

on the day of, 19.....,

at why the said agreement should be registered.
 Any representation with regard to the said agreement should be made
 on that date. If adequate cause is shown on that date, the agreement
 may be registered.

.....
 Commissioner

*Delete words not applicable.

Form W

(Regulation 57)

Serial Number	Case Reference	Date of agreement	Date of registra- tion	Employer	Workman	Initials of Commis- sioner	Remarks

Form X

(Regulation 58)

IN THE SUPREME COURT OF NEGARA BRUNEI
DARUSSALAM

In the High Court at

No. of 19.....

In the matter of the Workmen's Compensation Act, (Cap. 74)

And in the matter of the application of

.....

.....

and

This is a special case started for the opinion of the Court pursuant to section 41 of the above-mentioned Act.

1. (Here state the facts giving rise to the question of law to be submitted).

The question of law for the opinion of the Court is whether (here state the question of law.)

.....

Arbitrator

LAWS OF BRUNEI

118

CAP. 74

Workmen's Compensation

[Subsidiary]

Form Y

(Regulation 58)

IN THE SUPREME COURT OF NEGARA BRUNEI
DARUSSALAM

In the High Court at

No. of 19.....

In the matter of the Workmen's Compensation Act, (Cap. 74)

And in the matter of the application of

.....

.....

Take notice that a Judge will hear the special case stated in the
above-named matter at on
the day of, 19....., at the
hour

Dated this day of, 19.....

.....

Registrar

To the Commissioner