

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

Regulations under section 47

WORKMEN'S COMPENSATION REGULATIONS

S.40/57  
S.99/59

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*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,

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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

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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 re-  
spondent

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 re-  
spondent 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;

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(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

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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

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

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(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:

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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.

(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.