

WORKERS' COMPENSATION

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Workers' Compensation Act 1956

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SCHEDULE — COMPENSATION FOR SPECIFIED INJURIES

Workers' Compensation Act 1956

TABLE OF AMENDMENTS

The Workers' Compensation Act 1956 No 6 was made and commenced on 18 September 1956.

Amending Legislation	Certified	Date of Commencement
Executive Council Ordinance 1966 No 3		14 February 1966
Ordinances Revision Ordinance 1967 No 25		29 December 1967
Adaptation of Laws Order 1969 GN No 188/1969	9 October 1969	31 January 1968
Statute Law Revision Act 2011 No 8	15 April 2011	Sch 1[151]–[155]: 15 April 2011
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act relating to Compensation to Workers for Injuries by Accident arising out of or in the course of their Employment, and for other purposes.

BE it ordained by the Administrator of the Island of Nauru, acting in pursuance of the powers conferred by Article 1 of the Agreement dated the second day of July, 1919, between the Government of the United Kingdom, the Government of the Commonwealth of Australia and the Government of the Dominion of New Zealand, and adopted by the Republic.

1 Short title

This Act may be cited as the *Workers' Compensation Act 1956*.

[s 1 subst Act 8 of 2011 s 12 and Sch 1[151], opn 15 Apr 2011]

2 Commencement

This Act shall come into effect on 18 September 1956.

[s 2 am Act 8 of 2011 s 12 and Sch 1[155], opn 15 Apr 2011]

3 Commonwealth Workmen's Compensation Act 1912 to cease to apply

[s 3 omitted by the Law Revision Commission under powers authorised by Act 10 of 2019]

4 Compensation for injuries sustained before commencement of Act

[s 4 repealed by the Law Revision Commission under powers authorised by Act 10 of 2019]

5 Interpretation

(1) In this Act:

'compensation' means compensation under this Act;

[def am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

'dependant', in relation to a deceased worker, means:

- (a) a member of the family of the worker;
- (b) a person to whom the worker stood in *loco parentis* or who stood in *loco parentis* to the worker;
- (c) an ex-nuptial child or grand-child of the worker; and
- (d) if the worker was an ex-nuptial child, a parent or grand-parent of the worker,

who was wholly or in part dependent upon his or her earnings at the date of his or her death or who would, but for his or her incapacity due to the injury, have been so dependent;

'disease' includes any physical or mental ailment, disorder, defect or morbid condition, whether of sudden or gradual development, and also includes the aggravation, acceleration or recurrence of a pre-existing disease;

'earnings', in relation to a worker in respect of whom compensation is payable means his or her salary or wages as varied in accordance with

variations in the cost of living determined by competent authority, and includes the value of payments in kind and allowances payable to him or her in respect of his or her employment, but does not include a payment for the performance of overtime or a payment or an allowance which is intermittent or which is payable for special expenses incurred by him or her in respect of his or her employment;

'employer' includes the Administration, any body of persons, corporate or incorporate, and the legal personal representative of a deceased employer;

'incapacity' in relation to a worker, means incapacity from earning his or her full earnings at the work at which he or she was employed at the date of his or her injury, and

'incapacitated' has a corresponding meaning;

'injury' means an injury referred to in Section 6(1) caused by an accident arising or occurring in the manner specified in that subsection;

[def am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

'medical treatment' means:

- (a) medical or surgical treatment by a legally qualified health practitioner;
- (b) the provision of skiagrams, crutches and artificial members and artificial replacements;
- (c) treatment and maintenance as a patient at a hospital; or
- (d) nursing attendance, medicines, medical or surgical supplies or curative apparatus supplied or provided in a hospital or otherwise;

'member of the family' in relation to a worker or an employer, means the wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, adopted child or mother-in-law of the worker or employer, and includes, in relation to a worker, a woman who for a period of not less than 3 years immediately before his death or incapacity was wholly or mainly maintained by the worker and who, although not legally married to him, lived with him as his wife on a permanent and *bona fide* domestic basis and who, at the date of his death or incapacity, is not less than the age of 50 years or is maintaining 1 or more children under the age of 16 years;

'monthly earnings', in relation to a worker in respect of whom compensation is payable, means:

- (a) in the case of a worker who has attained the age of 21 years at the time of the injury and who was employed for a period of 1 month or more immediately preceding his or her injury by the same employer in the grade in which he or she was employed at the time of the injury, uninterrupted by absence from work on account of illness or other unavoidable cause, his or her earnings for that month or, if he or she was employed for more than 1 month, his or her earnings for 1 month at the average monthly rate at which he or she was paid during that period of employment;
- (b) in the case of any other worker who has attained the age of 21 years at the time of the injury, the earnings for 1 month at the average monthly rate at which the worker would have been paid if he or she had been

- so employed in the same grade at the same work by the same employer for a period of 12 months immediately preceding his or her injury; and
- (c) in the case of a worker who is, at the time of the injury, under the age of 21 years or is an apprentice, his or her earnings for 1 month at the average monthly rate at which the worker would have been paid in his or her employment if he or she had been so employed for a period of 12 months and he or she had attained that age or had completed his or her apprenticeship immediately before the commencement of that period;

'outworker' means a person to whom articles or materials are given to be treated or manufactured in his or her own home or on other premises not under the control or management of the person who gave out the articles or materials;

'permanent and partial incapacity' means partial incapacity of a permanent nature in any work which an injured worker was capable of undertaking at the date on which the injury happened or occurred, and includes incapacity from an injury specified in the Schedule or a combination of injuries so specified in respect of which the aggregate of percentages of incapacity specified in that Schedule opposite to those injuries does not exceed 100 percent;

[def am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

'permanent and total incapacity' means total incapacity of a permanent nature in any work which an injured worker was capable of undertaking at the date on which the injury happened or occurred, and includes incapacity from a combination of injuries specified in the Schedule in respect of which the aggregate of percentages of incapacity specified in that Schedule opposite to those injuries exceeds 100 percent;

[def am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

'temporary and partial incapacity' means partial incapacity of a temporary nature in the work at which an injured worker was employed at the date on which the injury happened or occurred;

'temporary and total incapacity' means total incapacity of a temporary nature in any work which an injured worker was capable of undertaking at the date on which the injury happened or occurred;

'the 1912 Act'

[def omitted by the Law Revision Commission under powers authorised by Act 10 of 2019]

'the Court' means the Supreme Court; and

[def am GN No 188/1969 O 3, opn 31 Jan 1968]

'worker' means a person who has entered into or works under a contract of service or apprenticeship with an employer in the Republic, whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, is oral or in writing, but does not include:

- (a) a member of the employer's family dwelling in his or her home;
- (b) a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business;
- (c) an outworker; or

- (d) a member of Her Majesty's naval, military or air forces while on active service.

[def am Act 8 of 2011 s 12 and Sch 1[152], [155], opn 15 Apr 2011]

[subs (1) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (2) Where a worker has entered into concurrent contracts of service with 2 or more employers under which he or she worked at different times, his or her monthly earnings shall for the purposes of this Act, be computed as if his or her earnings under the concurrent contracts which he or she is incapacitated from performing were earnings in the employment of the employer for whom he or she was working at the time of the injury.

- (3) Where the services of a worker are temporarily lent or let on hire to another person by the person with whom the worker has entered into a contract of service or apprenticeship, the last-mentioned person shall, for the purposes of this Act, be deemed to continue to be the employer of the worker while he or she is working for that other person.

[subs (3) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (4) For the purposes of Sections 7, 18 and 19, a reference to a worker shall, where the worker died as a result of an injury, be read as a reference to the legal personal representative or to a dependant of the deceased worker who has a legal claim in respect of the death of the worker.

[subs (4) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (5) For the purposes of this Act, a reference to a dependant does not include his or her legal personal representative if the dependant dies before a claim in respect of the death of a worker on whom he or she is dependent is made or before an order for payment of compensation has been made.

[subs (5) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (6) A reference in the provisions of this Act applicable to a worker after the date of the injury shall be read as including a reference to a former worker.

[subs (6) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (7) Where a worker sustains an injury by accident in a place outside the Republic in circumstances which, if the injury had been sustained in the Republic, would entitle him or her to compensation in accordance with this Act, his or her employer is, subject to this Act, liable to pay compensation as if the injury had been sustained in the Republic.

[subs (7) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (8) For the purposes of this Act, a person who is recruited as a worker from a place outside the Republic by an employer in the Republic shall be deemed to have entered into a contract of service or apprenticeship with that employer at the time and place of his or her recruitment.

[subs (8) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

6 Liability of employer for compensation for death of, or injury to, worker in his or her employment

- (1) Subject to this Act, where a worker sustains a physical or mental injury, or the aggravation, acceleration or recurrence or a preexisting physical or mental injury, which results in his or her incapacity for a period of not less than 4 days, or in his or her death, and the injury was, caused by an accident:

- (a) arising out of or in the course of his or her employment or his or her attendance at a trade, technical or other training school which, by the terms of his or her employment, he or she is required or expected by his or her employer to attend; or
- (b) occurring while he or she is travelling, by the shortest convenient route for the journey, to or from:
 - (i) his or her place of employment or a school referred to in paragraph (a); or
 - (ii) a place which it is necessary for him or her to attend to obtain a medical certificate or to receive medical treatment or compensation in respect of a previous injury,
 his or her employer is liable to pay compensation in accordance with this Act.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (2) For the purposes of subsection (1), where a worker dies or sustains an injury by accident occurring while he or she is travelling during or after a substantial interruption of the journey or a substantial deviation from the route made for a reason in connection with his or her employment, attendance at the school or obtaining the certificate, treatment or compensation, as the case may be, he or she shall be deemed not to have sustained the injury while he or she was travelling by the shortest convenient route for the journey referred to in paragraph (b) of that subsection unless, in the circumstances of his or her particular case, the nature, extent, degree and content of the risk of accident was not materially changed or increased by reason only of that interruption or deviation.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[155], opn 15 Apr 2011]

- (3) For the purposes of subsection (1), the journey to the Republic from a worker's place of recruitment and his or her return to that place shall be deemed to be a journey to or from, as the case may be, his or her place of employment.
- (4) An employer is not liable to pay the compensation claimed in respect of an injury which is attributable to the worker's serious and wilful misconduct unless the injury results in death or serious and permanent incapacity.
- (5) An employer is not liable to pay compensation if the injury to a worker resulting in death or incapacity is intentionally self-inflicted.
- (6) An employer is not liable to pay compensation in respect of a worker who has sustained an injury and who was, when the accident arose or occurred, acting in contravention of a law applicable to his or her employment or of an order given by, or on behalf of, his or her employer or without instructions from his or her employer unless:
 - (a) the injury results in death or serious and permanent incapacity; and
 - (b) the worker was so acting for the purposes of, and in connection with, his or her employer's trade or business.

[subs (6) am Act 8 of 2011 s 12 and Sch 1[155], opn 15 Apr 2011]

7 Notice of injury and claims for compensation

- (1) Compensation for an injury is not payable under this Act unless:
 - (a) the worker gives notice of the injury as soon as practicable after it arises or occurs and before the worker has voluntarily left the employment in which he or she was injured; and

- (b) the claim for compensation is made:
- (i) within 6 months after the date of the accident; or
 - (ii) in case of death, within 6 months after the date of death.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (2) The want of notice or a defect or inaccuracy in the notice is not a bar to the recovery of compensation if it is found in the proceedings for the settling of the claim that the employer is not, or would not be, if a notice or an amended notice were then given and the hearing postponed, prejudiced in his or her defence by the want, defect or inaccuracy, or that the want, defect or inaccuracy was occasioned by mistake or other reasonable cause.
- (3) The failure to make a claim within the period specified in subsection (1)(b) is not a bar to the maintenance of proceedings if the failure was occasioned by mistake or other reasonable cause.
- (4) A notice in respect of an injury shall contain the name and address of the person injured, and a statement in ordinary language of the cause of the injury and the date on which the injury arose or occurred and shall be served on the employer, or, if there is more than one employer, upon one of the employers.
- (5) The notice and claim may be served by delivering it at the residence or place of business of the person on whom it is to be served.
- (6) Where the employer is a body of persons, corporate or unincorporate the notice and claim may also be served by delivering it to the office, or if there be more than one office, any of the offices, of that body.
- (7) Upon the request of a worker who claims compensation in accordance with this Section, his or her employer shall, for the purpose of calculating the monthly earnings of the worker, furnish in writing:
- (a) a list of the earnings earned by the worker during each month in that employment; or
 - (b) if, owing to the casual nature and the terms of the employment, it is impracticable to furnish a list of his or her earnings, a list of the average monthly amount earned, during the 12 months immediately before the date of the injury, by a person of similar earning capacity in the same grade, employed at the same work and by the same employer, or, if there is no such person so employed by that employer, by a person of similar earning capacity in the same grade and employed in the same class of employment in the Republic.

[subs (7) am Act 8 of 2011 s 12 and Sch 1[155], opn 15 Apr 2011]

8 Medical examination and treatment of injured worker

- (1) Subject to the succeeding provisions of this Section, where a worker has given notice of an accident under Section 7, he or she shall, if so requested by his or her employer, submit himself or herself for examination by a legally qualified health practitioner provided and paid for by the employer.
- (2) Subject to the succeeding provisions of this Section, a worker receiving periodical payments under this Act shall, if and when so required by his or her employer, submit himself or herself for examination by a legally qualified health practitioner provided and paid for by the worker.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (3) Subject to subsection (4), a worker who is required to submit himself or

herself for examination under this Section shall attend upon, and shall submit himself or herself for examination by, the health practitioner at the time and place notified to the worker by the employer or the health practitioner.

- (4) Where in the opinion of a legally qualified health practitioner, the worker is unable or is not in a fit state to attend upon the health practitioner named by his or her employer in accordance with subsection (3), the worker shall notify his or her employer and arrange with him or her a reasonable time and place for the examination.
 - (5) Compensation is not payable to a worker who:
 - (a) without reasonable cause fails or refuses to submit himself or herself for the examination in accordance with subsection (3) within 15 days after the date on which he or she was notified that he or she was required to submit himself or herself to the examination; or
 - (b) if he or she has arranged a reasonable time and place for the examination in accordance with subsection (4), without reasonable cause fails or refuses to submit himself or herself for the examination at the time and place so arranged.
 - (6) Where a worker fails or refuses to submit himself or herself for the examination as required under this Section or in any way obstructs the examination, the right to compensation shall be suspended until the examination has taken place.
 - (7) Compensation is not payable in respect of a period for which the right to compensation is suspended under subsection (6), unless the Court is satisfied that the worker had a reasonable excuse for his or her failure to submit himself or herself to the examination by the health practitioner.
 - (8) A worker who has suffered an injury shall, if so required by his or her employer, submit himself or herself for medical treatment by a legally qualified health practitioner provided and paid for by his or her employer.
 - (9) Where a worker unreasonably fails to submit himself or herself for medical treatment in accordance with subsection (8), or having submitted himself or herself, unreasonably disregards the instructions of the health practitioner, and the injury is aggravated by that failure or by reason that he or she disregarded those instructions, the injury and the resulting incapacity shall, for the purposes of this Act, be deemed to be of the same nature and duration as might reasonably be expected if he or she had so submitted himself or herself for medical treatment and carried out the instructions, and compensation is payable accordingly.
- [subs (9) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]
- (10) Notwithstanding the preceding provisions of this Section, where:
 - (a) a claim for compensation is made in respect of the death of a worker;
 - (b) the worker failed, without reasonable excuse, to submit himself or herself before his or her death for examination or to medical treatment by a legally qualified health practitioner or unreasonably disregarded the instructions of the health practitioner; and
 - (c) the death of the worker was caused by that failure,the death of the worker shall be deemed not to have resulted from the injury and no compensation is payable in respect of the injury.

9 Termination of claims by agreement or by the Court

- (1) An employer upon whom a notice and a claim in respect of an injury has been served under Section 7, may enter into an agreement with the worker in accordance with Section 10 as to the amount of compensation to be paid to the worker, not being an amount less than the amount of compensation for which the employer is liable under this Act.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (2) Where an employer on whom a notice under Section 7 has been served does not, within 14 days after the receipt of the notice, agree with the worker as to the compensation to be paid, the worker may apply to the Court for determination of his or her claim for compensation.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (3) All claims, matters and questions arising under this Act shall, in the absence of agreement, be determined by the Court and the Court may, for that purpose, procure the attendance of any witness who by virtue of his or her expert knowledge is able to assist the Court.

[subs (3) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

10 Agreement as to compensation

- (1) An agreement referred to in Section 9 shall:
- (a) be in writing, in duplicate, one copy of which shall be kept by the employer and the other by the worker; and
 - (b) where the worker is unable to read or understand writing in the language in which the agreement is written, be endorsed with a certificate of the Minister, or of an officer appointed by the Minister for that purpose, certifying that he or she had read over and explained the terms of the agreement to the worker and that the worker appeared fully to understand and approve the agreement.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (2) An agreement made in accordance with subsection (1) may, on application to the Court, be made an order of the Court.

- (3) A worker or his or her employer who has entered into an agreement under Section 9, whether or not that agreement has been made an order of the Court under subsection (2), may apply to the Court within 3 months after the date of the agreement to have the agreement cancelled on the ground that:

- (a) the agreement is not in accordance with the provisions of this Section;
- (b) the amount of compensation is less than the compensation for which the employer is liable under this Act;
- (c) the agreement was entered into in ignorance of, or under a mistake as to, the true nature of the injury; or
- (d) the agreement was obtained by fraud, undue influence, misrepresentation or other improper means sufficient in law for avoiding it.

[subs (3) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (4) The Court may refuse to cancel the agreement, or may cancel it and make such an order, including an order relating to an amount of compensation already paid under the agreement, as in the circumstances the Court thinks just.

11 Compensation payable by employer where worker dies

- (1) Where a worker dies as a result of an injury:
- (a) if the worker leaves dependants wholly dependent upon his or her earnings, his or her employer is liable to pay to such of those dependants, and in such proportions according to the loss suffered by those dependants, as the Court determines:
 - (i) an amount, not exceeding \$4,700, calculated by aggregating the monthly earnings of the deceased worker for the period of 48 months immediately preceding the injury; or
 - (ii) if the amount so calculated is less than the amount of \$1,500, that last-mentioned amount;
 - (b) if the worker does not leave dependants wholly dependent upon his or her earnings but leaves dependants in part dependent upon his or her earnings his or her employer is liable to pay to such of those dependants, and in such proportions according to the loss suffered by those dependants, as the Court determines:
 - (i) an amount, not exceeding the compensation payable under paragraph (a), agreed upon by the employer and the dependants; or
 - (ii) in the absence of agreement, such amount as the Court considers reasonable; or
 - (c) if the worker leaves no dependants, his or her employer is liable to pay an amount, not exceeding \$120, equal to the cost of the funeral expenses of the deceased worker and the expenses of medical attendance as a result of the injury to the worker to form part of the estate of the deceased worker.

[subs (1) am Act 25 of 1967 s 4 and Sch 2, opn 29 Dec 1967]

- (2) Where compensation is payable to a worker in respect of an incapacity from an injury and that worker dies as a result of the injury leaving dependants wholly dependent upon his or her earnings, any compensation paid or payable before the death of the worker in respect of his or her incapacity from the injury shall be deducted from the compensation payable under subsection (1)(a).

[subs (2) am Act 8 of 2011 s 12 and Sch 1[155], opn 15 Apr 2011]

- (3) Where there are both dependants wholly dependent on a worker's earnings and dependants partially so dependent, compensation may be allotted partly to the dependants wholly dependent and partly to the dependants partially dependent.

[subs (3) am Act 25 of 1967 s 3 and Sch 1, opn 29 Dec 1967]

12 Compensation for permanent and total incapacity

Where a worker sustains an injury which results in permanent and total incapacity, his or her employer is liable to pay to the worker an amount, not less than \$2,000, but not exceeding \$4,700 calculated by aggregating the monthly earnings of the worker for the period of 60 months immediately preceding the injury.

[s 12 am Act 25 of 1967 s 4 and Sch 2, opn 29 Dec 1967]

13 Compensation for permanent and partial incapacity

- (1) Where a worker sustains an injury which results in permanent and partial incapacity, his or her employer is liable to pay as compensation to the worker:

- (a) if the injury is an injury referred to in the Schedule, an amount calculated in accordance with that Schedule; or
- (b) if the injury is not referred to in that Schedule, an amount calculated by the Court as a percentage of the compensation which would be payable if the worker had sustained an injury resulting in permanent and total incapacity proportionate to the percentage of incapacity of the worker actually resulting from the injury.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (2) Where a worker sustains more than one injury by the same accident resulting in permanent and partial incapacity, his or her employer is liable to pay compensation in accordance with subsection (1) in respect of each injury not exceeding in the aggregate the amount of compensation which would have been payable under Section 12, if permanent and total incapacity had resulted from the injuries.

14 Compensation for temporary incapacity

- (1) Where a worker sustains an injury which results in a temporary and total incapacity or a temporary and partial incapacity, his or her employer is liable to pay to the worker:
 - (a) periodical payments at a rate per month, not exceeding the rate of \$76, calculated by taking half the difference between his or her average monthly earnings at the date of the accident and the average monthly earnings that he or she is, or the Court determines he or she is, capable of earning in a suitable business or employment after the accident, at such times as the employer and the worker agree or, in the absence of agreement, as the Court orders, in respect of the period of the worker's incapacity; or
 - (b) a lump sum payment equal to the aggregate of periodical payments at the rate determined in accordance with paragraph (a) in respect of a period which the Court determines is the probable period of the incapacity having regard to possible changes in the degree of incapacity and any payment, allowance or benefit that the worker is, in the opinion of the Court, likely to receive from his or her employer during that period.

[subs (1) am Act 25 of 1967 s 4 and Sch 2, opn 29 Dec 1967]

- (2) The aggregate of periodical payments payable under subsection (1)(a) or a lump sum payment payable under subsection (1)(b) shall not exceed the compensation that would be payable under this Act if the worker had sustained an injury resulting in a permanent and total incapacity or a permanent and partial incapacity.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (3) Where a worker:
 - (a) is receiving periodical payments under this Section;
 - (b) intends to leave the Republic in order to reside elsewhere; and
 - (c) before he or she leaves the Republic, gives notice to his or her employer of his or her intention to leave the Republic,
 the worker shall continue to be paid the periodical payments payable to him or her during the period of his or her absence from the Republic or, if his or her employer agrees, shall be paid a lump sum equal to the aggregate of the remaining periodical payments payable to him or her.

- (4) Where a worker:
- (a) is receiving periodical payments under this Section in respect of an injury; and
 - (b) leaves the Republic in order to reside elsewhere without giving prior notice to his or her employer,
- the worker shall not be paid periodical payments in respect of the period for which he or she is absent from the Republic and he or she ceases to be entitled to further compensation in respect of that injury after the expiration of a period of 6 months' absence from the Republic.
- (5) An employer shall not:
- (a) end periodical payments made under this Section unless:
 - (i) the employer and the worker so agree;
 - (ii) the Court so orders;
 - (iii) the worker is not entitled to be paid those periodical payments by reason of the operation of the provisions of Section 8(7) or subsection (4);
 - (iv) the worker resumes work and his or her earnings are not less than his or her earnings immediately before the injury; or
 - (v) the worker dies; or
 - (b) diminish those periodical payments unless:
 - (i) the employer and the worker so agree;
 - (ii) the Court so orders;
 - (iii) the worker returns to work; or
 - (iv) his or her earnings, if any, since the injury have been increased.

[subs (5) am Act 25 of 1967 s 3 and Sch 1, opn 29 Dec 1967; Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

15 Compensation for death or incapacity from disease due to nature of employment

- (1) Subject to the succeeding provisions of this Section, where:
- (a) a worker is incapacitated for work or dies as a result of his or her having contracted a disease due to the nature of the employment in which the worker was employed; and
 - (b) the worker contracted the disease at any time within the period of 12 months immediately before the date of commencement of his or her incapacity or death,
- the employer who last employed the worker during that period of 12 months in the employment to the nature of which the disease was due is liable to pay compensation in accordance with this Act as if the disease were an injury under this Act.
- [subs (1) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]
- (2) Where the disease is of such a nature that it is contracted by a gradual process, another employer who, during that period of 12 months, employed the worker in the employment to the nature of which the disease was due, shall be liable to make to the employer from whom compensation is recoverable such contributions as are agreed upon by the employers or, in the absence of agreement, are settled by the Court.
- (3) Compensation under this Section is not payable:

- (a) to a worker who, as a result of his or her having contracted a disease, is incapacitated on a date more than 12 months after the date on which he or she ceased to be employed by his or her employer in an employment to the nature of which the disease was due; or
 - (b) in respect of a worker who, on account of his or her having contracted a disease, dies on a date more than 12 months after the date on which he or she ceased to be so employed unless his or her death was preceded, whether immediately or not, by a period of incapacity in respect of which the employer is liable under this Section.
- (4) In the application of the provisions of this Act to and in relation to a worker to whom this Section applies, a reference to an injury shall be read as a reference to a disease due to the nature of the employment in which the worker was employed.

[subs (4) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (5) The injury of a worker who contracts a disease due to the nature of his or her employment shall be deemed to have happened or occurred:
- (a) for the purposes of calculating his or her monthly earnings:
 - (i) if the worker is employed in an employment to the nature of which the disease is due on the date from which he or she is incapacitated or on which he or she dies as a result of his or her having contracted the disease, on the date from which he or she is incapacitated or on the date of his or her death, as the case requires, or, if he or she dies after a period of incapacity, on the date from which he or she is incapacitated; and
 - (ii) in any other case, on the last day on which he or she was employed in an employment to the nature of which the disease was due; and
 - (b) for the purpose of any other provision of this Act in its application to a claim under this Section, on the date from which he or she is incapacitated by the disease or the date of his or her death from the disease, as the case requires, or, if he or she dies after a period of incapacity, on the date from which he or she is incapacitated.

[subs (5) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

16 Distribution of compensation

- (1) Where compensation in the nature of a lump sum, which is not the subject of an agreement, is payable by an employer, the employer shall pay that sum into the Court for the benefit of the person entitled to it under this Act.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (2) Where an employer pays compensation in the nature of a lump sum into the Court, the Court may, subject to subsections (3) and (4), order that the amount of compensation so paid into the Court be paid to the person entitled to compensation, be invested or otherwise dealt with for his or her benefit as the Court thinks fit.
- (3) Where, on application, the Court considers that an order under subsection (2) should be varied on account of variation in circumstances of the persons entitled or of any other cause which the Court considers sufficient, the Court may make an order for the variation of the former order.

[subs (3) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (4) An employer may make a payment by way of compensation to a worker to whom compensation in the nature of a lump sum is payable pending the

settlement or determination of the worker's claim for compensation by the Court and the Court may, in so settling or determining the claim order that the whole or a part of that payment be deducted from the amount of compensation payable to the worker.

- (5) Compensation in the nature of periodical payments or compensation under an agreement made in accordance with Section 10, may be paid to the person entitled to the compensation or to the Court, and when paid to the Court, the Court shall pay that compensation to the person entitled to it.

[subs (5) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (6) An order by the Court under this Section is final and conclusive.
- (7) The receipt of the Registrar or the Court is a sufficient discharge of an obligation to pay an amount or compensation into the Court under this Section.

17 Review of periodical payments by the Court

- (1) Where compensation by way of periodical payments is payable under this Act either under an agreement or under an order of the Court, the employer or the worker may apply to the Court for a review of the compensation payable to the worker but, if the application is on the grounds of a change in the condition of the worker, the application shall be supported by a certificate of a legally qualified health practitioner.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (2) The Court may, having regard only to the incapacity of the worker as affected by the injury:
- (a) continue, increase, diminish or end the periodical payments as it thinks fit; or
 - (b) if the injury has resulted in a permanent incapacity, order that the worker be paid a lump sum calculated in accordance with Section 12 or 13, as the case requires, less the sum or the periodical payments already paid to him or her.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

18 Remedies against both the employer and a stranger

- (1) Where an injury in respect of which compensation is payable is caused under circumstances which appear to create a legal liability in some person other than the employer to pay damages in respect of the injury:
- (a) the worker may take proceedings against that person to recover damages and may also make a claim against the employer under this Act, but shall not be entitled to retain in full both damages and amounts received under this Act;
 - (b) where the worker receives both amounts under this Act and damages from that other person, he or she shall repay to the employer so much of those amounts as does not exceed the amount of the damages received from that person;
 - (c) upon notice to that person, the employer has first charge upon moneys payable by that person to the worker to the extent of any amounts which the employer has paid to the worker under this Act;
 - (d) where the worker has received amounts under this Act, but no damages or less than the full amount of the damages to which he or she is

entitled, the person liable to pay the damages shall indemnify the employer against so much of the amounts paid to the worker as does not exceed the damages for which that person is liable; and

- (e) payment of money by that person to the employer under either of paragraphs (c) and (d) shall, to the extent of the amount paid, be a satisfaction of the liability of that person to the worker.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[153], [155], opn 15 Apr 2011]

- (2) A reference in this Section to damages includes a reference to an amount agreed to be paid in settlement of a claim for damages.

19 Liability of an employer independently of this Act

- (1) Except as provided in this Section, a worker is not entitled, in respect of an injury, to receive compensation or a payment by way of compensation from his or her employer both independently of and also under this Act.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (2) Where injury is caused to a worker in circumstances which appear to create a legal liability in his or her employer to pay damages in respect of the injury and the worker has received compensation, the worker is not entitled to take proceedings against his or her employer to recover damages unless he or she commences those proceedings within 12 months after the date upon which he or she received payment, or the first payment, of compensation.

- (3) Where a worker is awarded damages against his or her employer in respect of an injury independently of this Act:

- (a) amounts received by him or her as compensation in respect of that injury shall, to the extent that they do not exceed the damages, be deemed to have been paid by the employer in or towards satisfaction of the damages; and
- (b) he or she is entitled to recover under this Act so much, if any, of the amount which, but for this Section, would be payable under this Act as does not exceed any unsatisfied balance of the damages.

[subs (3) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (4) A reference in this Section to damages awarded includes a reference to an amount agreed to be paid by an employer in settlement of a claim for damages.

[s 19 am Act 8 of 2011 s 12 and Sch 1[155], opn 15 Apr 2011]

20 Compulsory insurance

- (1) An employer, other than the Republic, shall obtain from an insurer approved by the Cabinet for the purposes of this Act, and shall at all times maintain in force with an insurer so approved, a policy or policies of insurance or indemnity for the full amount of his or her liability under this Act to all workers employed by him or her.

[subs (1) am Act 3 of 1966 Sch 1, opn 14 Feb 1966; Act 8 of 2011 s 12 and Sch 1[153]–[155], opn 15 Apr 2011]

- (2) Where 2 or more employers may become liable to pay compensation in respect of the same worker, those employers, or any of them, may comply with their obligations under subsection (1) in relation to that worker by means of a joint policy of insurance in respect of their joint liability.

- (3) The premium chargeable in respect of a policy referred to in subsection (2) shall not exceed the current rates for insurance of an employer's liability in respect of workers engaged in the same trade, occupation, calling or industry.
- (4) Subject to subsection (6), a policy of insurance or indemnity for the purposes of this Act shall contain only such provisions relating to an employer's liability under this Act as are determined by the Cabinet, but may contain such other provisions relating to liability under any other written law of the Republic as are appropriate to a particular case.

[subs (4) am Act 3 of 1966 Sch 1, opn 14 Feb 1966; Act 8 of 2011 s 12 and Sch 1[153], [154], opn 15 Apr 2011]

- (5) A contravention of subsection (4) does not annul the policy or diminish or affect the liability of the insurer to the person insured under the policy.
- (6) A policy of insurance or indemnity for the purposes of this Act:
- (a) shall provide that the insurer shall, as well as the employer, be directly liable to a worker insured under the policy and, in the event of his or her death, to his or her dependants, to pay the compensation for which the employer is liable; and
 - (b) shall provide that the insurer shall be bound by, and subject to, an order, decision or determination made against the employer of the worker under the provisions of this Act.

[subs (6) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (7) An employer applying to an insurer to issue or renew a policy of insurance or indemnity against liability under this Act shall supply to the insurer a full and correct statement of all earnings paid to workers in his or her employment during the period relevant to the determination of the premium payable by him or her for that policy of insurance.

[subs (7) am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

- (8) The Cabinet may, in its discretion:
- (a) approve an insurer for the purposes of this Section; and
 - (b) revoke any such approval.

[subs (8) am Act 3 of 1966 Sch 1, opn 14 Feb 1966; Act 8 of 2011 s 12 and Sch 1[154], opn 15 Apr 2011]

- (9) The revocation of the approval of an insurer shall not:
- (a) annul a policy issued before the revocation; or
 - (b) diminish or otherwise affect the liability of the insurer under such a policy.

- (10) For the purposes of the provisions of this Section relating to the obligations of employers, every policy which is in force at the time when the approval of an insurer is revoked shall, until the expiration of the current period of the insurance or indemnity but no longer, be deemed to be a policy maintained in force with an insurer approved by the Cabinet.

[subs (10) am Act 3 of 1966 Sch 1, opn 14 Feb 1966; Act 8 of 2011 s 12 and Sch 1[154], opn 15 Apr 2011]

- (11) An employer to whom this Section applies shall not contravene or fail to comply with a provision of this Section which is applicable to him or her.

Penalty: \$400.

[subs (11) am Act 25 of 1967 s 4 and Sch 2, opn 29 Dec 1967]

- (12) An employer to whom this Section applies who has been convicted under

subsection (11) of the offence of failing to comply with a provision of this Section, shall not continue to fail to comply with that provision.

Penalty: \$40 for each week or part of a week during which the failure continues.

[subs (12) am Act 25 of 1967 s 4 and Sch 2, opn 29 Dec 1967]

21 Compensation not assignable

Compensation under this Act, or the possibility of compensation, shall be, and shall be deemed at all times to have been, absolutely inalienable prior to actual receipt of the compensation, whether by means of, or in consequence of, sale, assignment, charge, execution or otherwise and shall not pass to another person by operation of law, nor shall a claim be set off against the amount of that compensation.

[s 21 am Act 8 of 2011 s 12 and Sch 1[153], opn 15 Apr 2011]

22 Regulations

The Cabinet may make regulations, not inconsistent with this Act, prescribing all matters which are necessary or convenient to be prescribed for giving effect to this Act, and, in particular, for prescribing matters providing for and in relation to:

- (a) the procedure in regard to the medical examination of injured workers;
- (b) the procedure in regard to compulsory insurance and the approval of insurers;
- (c) the matters in which fees shall be paid and the fees to be paid;
- (d) the forms to be used in connection with this Act; and
- (e) penalties not exceeding \$100 for any breach of the regulations.

[s 22 am Act 3 of 1966 Sch 1, opn 14 Feb 1966; Act 25 of 1967 s 4 and Sch 2, opn 29 Dec 1967; Act 8 of 2011 s 12 and Sch 1[153]–[155], opn 15 Apr 2011]

SCHEDULE

[Section 13]

COMPENSATION FOR SPECIFIED INJURIES

- 1 The compensation payable to a worker who sustains an injury specified in the table in this Schedule shall be calculated as a percentage of the compensation which would be payable if the worker had sustained an injury resulting in permanent and total incapacity proportionate to the percentage of incapacity specified in that table opposite to the injury actually sustained by the worker.

Nature of the injury			Percentage of incapacity resulting from the injury.
Loss of both eyes	..	..	100
Loss of an only useful eye, the other being blind or absent	..	..	100
Loss of one eye with serious diminution of sight of the other	..	..	75
Loss of one eye	..	..	40
Loss of hearing	..	..	70
Complete deafness of one ear	..	..	20
Loss of both hands	..	..	100
Loss of right arm or the greater part of the right arm	..	..	80
Loss of left arm or the greater part of the left arm	..	..	72
Loss of lower part of right arm, right hand or five fingers of the right hand	..	..	70
Loss of lower part of left arm, left hand or five fingers of the left hand.	..	..	63
Loss of right thumb	..	..	30
Loss of left thumb	..	..	27
Loss of right forefinger	..	..	20
Loss of left forefinger	..	..	18
Loss of right middle finger	..	..	16
Loss of left middle finger	..	..	15
Loss of right ring finger	..	..	14
Loss of left ring finger	..	..	13
Loss of right little finger	..	..	13
Loss of left little finger	..	..	12
Loss of total movement of joint of right thumb	..	..	14
Loss of total movement of joint of left thumb	..	..	13
Loss of distal phalanx or joint of right thumb	..	..	16
Loss of distal phalanx or joint of left thumb	..	..	15

Nature of the injury			Percentage of incapacity resulting from the injury.
Loss of portion of terminal segment of right thumb involving one-third of its flexor surface without loss of distal phalanx or joint	..	..	14
Loss of portion of terminal segment of left thumb involving one-third of its flexor surface without loss of distal phalanx or joint	..	..	13
Loss of two phalanges or joints of right forefinger	..	..	12
Loss of two phalanges or joints of left forefinger	..	..	11
Loss of two phalanges or joints of right middle or ring finger	..	..	11
Loss of two phalanges or joints of left middle or ring finger	..	..	10
Loss of two phalanges or joints of right little finger	..	..	10
Loss of two phalanges or joints of left little finger	..	..	9
Loss of distal phalanx or joint of right forefinger	..	..	10
Loss of distal phalanx or joint of left forefinger	..	..	9
Loss of distal phalanx or joint of other finger of right hand	...	..	8
Loss of distal phalanx or joint of other finger of left hand	..	..	7
Loss of hand and foot	..	..	100
Loss of both feet	..	..	100
Loss of leg above knee	..	..	75
Loss of leg below knee	..	..	65
Loss of foot	..	..	60
Loss of great toe	..	..	20
Loss of any other toe	..	..	8
Loss of two phalanges or joints of any other toe	..	..	7
Loss of phalanx or joint of great toe	..	..	10
Loss of phalanx or joint of any other toe	..	..	6

- 2 For the purpose of calculating the compensation payable in accordance with this Schedule to a worker who habitually uses his or her left hand and arm to perform work usually performed by a worker with his or her right hand and arm, the percentage of incapacity of the first-mentioned worker shall, notwithstanding the table in this Schedule be:

- (a) for the loss of his or her left arm or part of his or her left arm, the percentage of incapacity specified in that table for a similar loss in respect of a right arm or the corresponding part of a right arm; and
 - (b) for the loss of his or her right arm or part of his or her right arm, the percentage of incapacity specified in that table for a similar loss in respect of a left arm or the corresponding part of a left arm.
- 3 For the purpose of this Schedule, the loss by a worker of a specified part of the body includes:
- (a) the permanent loss of the use of that part; and
 - (b) the permanent loss of the efficient use of that part in and for the purposes of his or her employment at the date of the injury.

