

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE WORKERS' COMPENSATION ACT

CHAPTER 271 OF THE LAWS OF ZAMBIA

CHAPTER 271 THE WORKERS' COMPENSATION ACT

THE WORKERS' COMPENSATION ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation
3. Meaning of "worker"
4. Meaning of "dependant"
5. Meaning of "employer"

PART II

APPLICATION OF ACT

The Laws of Zambia

6. General application
7. Application of section 17
8. Civil liability of employer
9. Concurrent remedies
10. Principals and contractors
11. Workers employed outside Zambia, etc.

PART III
ADMINISTRATION

12. Establishment and Powers of Workers' Compensation Fund Control Board
13. Appointment of officers
14. Functions of Commissioner
15. Inspection and investigation
16. Secrecy
17. Revision of compensation by Commissioner
18. Powers of Commissioner in respect of witnesses, etc.
19. Objections
20. Objection on behalf of dependants
21. Formal inquiry by Commissioner
22. Appeal from decision
23. Suspension of obligation
24. Commissioner may state a case for High Court
25. Commissioner may submit Tribunal's decision to High Court
26. Technical assessors

PART IV
WORKERS' COMPENSATION APPEAL TRIBUNAL

The Laws of Zambia

27. Establishment of Workers' Compensation Appeal Tribunal
28. Functions of Tribunal
29. Decisions of Tribunal
30. Procedure in Tribunal
31. Representation of parties
32. Powers of Tribunal
33. Summoning, etc., of witnesses
34. Witness failing to attend, etc.
35. False evidence
36. Contempt of Tribunal
37. Witnesses' expenses
38. Costs
39. Effect of decisions of Tribunal
40. Appeal to High Court

PART V
RIGHT TO COMPENSATION

41. Right to compensation
42. Accident during first aid training or rescue work
43. Compensation not affected by other pension, etc.
44. Successive awards of compensation
45. Contracting out prohibited
46. Deductions from earnings prohibited
47. Death or disablement attributable to effects of medical treatment
48. Circumstances precluding award of compensation
49. Cessation and revival of periodical payments
50. Suspension of right to periodical payments
51. No abatement of compensation if worker insured
52. Contract of service not to be terminated during disablement
53. Wages for work done
54. Periodical payments in lieu of earnings

PART VI
LIABILITY FOR COMPENSATION AND AMOUNT AND PAYMENT OF COMPENSATION

The Laws of Zambia

55. Liability to pay compensation
56. Amount of compensation for total disablement
57. Amount of compensation for partial disablement
58. Limit of time for periodical payments
59. Amount of compensation for permanent disablement
60. Further medical aid while receiving pension
61. Amount of compensation for death of worker
62. Compensation where worker in receipt of pension dies
63. Diminution of children's allowances
64. Child over seventeen may continue to receive allowances
65. Pensioner absent from or resident out of Commonwealth
66. Pension to cease on remarriage and gratuity to be payable on the remarriage of a widow
- 66A. Commissioner to be informed of deaths
67. Method of calculating earnings
68. Calculation of earnings of permanently disabled worker under twenty-one
69. Payment of lump sum in lieu of pension
70. Worker requiring constant attendance
71. Control of payment of compensation
72. Where employer is liable to pay pension
73. Advances against compensation
- 73A. Review of pensions or allowances

PART VII

PROCEDURE FOR OBTAINING COMPENSATION

Section

74. Notice of accident to be given
75. Employer to give notice of accident to Commissioner
76. Additional information to be supplied
- 76A. Entry of judgment in favour of Commissioner
77. Worker to furnish medical certificates
78. Commissioner may require medical reports
79. Commissioner may call for evidence of death
80. Worker claiming compensation to submit to medical examination
81. Procedure upon information of accident
82. Procedure on presentation of claim
83. Provisional settlement of claim by employer individually liable
84. Commissioner may require employer to make periodical payments

PART VIII
MEDICAL AID

85. First aid
86. Conveyance of injured worker
87. Medical aid expenses
88. Decisions of Commissioner in regard to medical aid
89. Power to prescribe fees for medical aid
90. *Repealed by No. 19 of 1976*

PART IX
DISEASES

91. Compensation in respect of diseases
92. Fixing date of accident
93. Presumption as to cause of disease
94. Minister may amend Second Schedule
95. Special provisions in respect of pneumoconiosis
96. Liability to pay compensation

PART X
COMPENSATION FUND

Section

97. Establishment of Fund
98. Application of Fund
99. Provisions relating to the liability of insurers and certain employers
100. Payment of compensation by Commissioner in respect of accidents arising under repealed Act
101. Powers of Board
102. Holding of assets of Fund
103. Accounts and audit

PART XI
ASSESSMENTS

The Laws of Zambia

104. Liability to assessment
105. Exemption
106. Employers to submit information
107. Assessments on employers
108. Assessment variations
109. Assessment of employers of private domestic servants whose aggregate earnings do not exceed K60,000 per annum
110. Contributions by employers individually liable

PART XII
MISCELLANEOUS

111. Employers to supply particulars of business
112. Employers to keep records
113. Threats and compulsion
114. False statements
115. Failure to pay assessments, etc.
116. Compensation not to form part of deceased worker's estate
117. Recovery of benefits paid in error
118. Priority of payments
119. Compensation not to be assigned, etc.
120. Stamp duty
121. Insurance companies to furnish particulars of employers
122. Evidence
123. Reciprocal arrangements
124. Summary of procedure for recovery of compensation to be displayed by employer
125. Regulations
126. Penalty
127. Repeal and saving
128. Arrangement with the Zambia National Provident Fund Board

FIRST SCHEDULE-Minimum degrees of disablement

SECOND SCHEDULE-Scheduled diseases

THIRD SCHEDULE-Monthly pension of Worker in case of total permanent disablement and monthly allowances for children

FOURTH SCHEDULE-Monthly allowances for children

CHAPTER 271

WORKERS' COMPENSATION

An Act to make provision for the establishment and administration of a Fund for the compensation of Workers disabled by accidents to, or diseases contracted by, such Workers in the course of their employment, and for the payment of compensation to dependants of Workers who die as a result of such accidents or diseases; for the payment of contributions to such Fund by employers; for the grant of pensions and allowances to certain dependants of Workers who, being in receipt of pensions for such disablement, die from causes not connected with such accidents or diseases; for the appointment and powers of a Workers' Compensation Commissioner and the establishment and powers of a Workers' Compensation Board and an Appeal Tribunal; and for matters incidental to and connected with the foregoing.

65 of 1963
22 of 1965
4 of 1966
37 of 1969
Government Notices
176 of 1964
497 of 1964
499 of 1964
Statutory Instruments
156 of 1965
222 of 1969
Acts No.
19 of 1973
19 of 1976
20 of 1979
24 of 1982
27 of 1994
13 of 1994

[1st April, 1964]

(As amended by Act No. 27 of 1994)

PART I

PRELIMINARY

1. This Act may be cited as the Workers' Compensation Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"accident" means an accident resulting in injury to a worker or in damage to, or destruction of, any artificial aid used by a worker in the course of his or her employment;

"assessment" means an assessment or a provisional assessment made under the provisions of Part XI, and any instalment thereof;

"Board" means the Workers' Compensation Fund Control Board established under the provisions of section *twelve*;

"boarding-house" means any premises in which board and lodging are provided for gain for three or more persons who are not members of the family of the person who provides the board and lodging;

"business" means any industry, undertaking, trade, occupation or other activity in which any worker is employed;

The Laws of Zambia

"child" means an unmarried son or daughter under the age of eighteen years, and includes an illegitimate child, a posthumous child, a step-child, an adopted child if the Commissioner is satisfied that such child was adopted prior to the accident concerned, the illegitimate child of the wife of a worker, the child of any woman with whom the worker was, in the opinion of the Commissioner, living as man and wife at the time of such accident if such child was wholly supported by the worker and a child in respect of whom a worker had assumed, under the law and custom of the community of which he is a member, responsibility for support and who was supported by the worker at the time of such accident;

"children's allowance" means the monthly allowance payable in respect of a child or children of a disabled or deceased worker under the provisions of Part VI;

"Commissioner" means the Workers' Compensation Commissioner appointed under the provisions of section *thirteen*;

"Commonwealth" means-

- (a) the self-governing members of the Commonwealth of Nations;
- (b) all British Colonies;
- (c) all states and territories under the protection of Her Britannic Majesty through Her Government in the United Kingdom; and
- (d) obsolete;

"compensation" means compensation under this Act, and includes medical aid and any benefit of any nature to which a worker or his dependants may be entitled under this Act;

"date of commencement" means the 1st April, 1964;

"disablement", in relation to a worker, means disablement which results in the loss or diminution of wage-earning capacity or in the reduction of the chances of obtaining employment;

"earnings" means the average remuneration of a worker at the time of an accident calculated in the manner provided in section *sixty-seven*;

"employer" means a person regarded as, or deemed to be, an employer by section *five*, and includes a principal and the lawful representatives, successors or assigns of such person or principal;

The Laws of Zambia

"employer individually liable" means an employer to whom exemption has been granted under the provisions of section *one hundred and five*, and includes the State;

"financial year" means the period between the 1st April in any year and the 31st March next following, both dates included;

"Fund" means the Workers' Compensation Fund established under Part X;

"injury" means a personal injury, and includes the contraction of a disease;

"legal practitioner" has the meaning assigned to it by the Legal Practitioners Act; Cap. 30

"medical aid" means any or all of the benefits prescribed in paragraphs (a) to (e) inclusive of sub-section (1) of section *eighty-seven*;

"medical practitioner" means a person registered as a medical practitioner under the provisions of the Medical and Allied Professions Act and, in relation to any medical examination of, or report upon, any worker who is for the time being in any country outside Zambia, a person entitled to practise medicine in such country who has been approved for the purpose concerned by the Commissioner; Cap. 297

"partial disablement", in relation to a worker means the inability of such worker, as the result of an accident in respect of which compensation is payable, to perform the whole of the work at which he was employed at the time of such accident or to obtain other suitable work at the same rate of earnings as he was receiving at the time of such accident;

"pension" means the monthly payments of compensation referred to in Part VI, but does not include children's allowances or periodical payments;

"periodical payment" means a periodical payment of compensation under the provisions of sections *fifty-six* and *fifty-seven*;

"person under disability" means a minor, and a mentally disordered or defective person;

"pneumoconiosis" means any form of pneumoconiosis due to the inhalation of dust;

"prescribed" means prescribed by or under the authority of this Act;

"principal" means a person referred to as a principal in section *ten*;

The Laws of Zambia

"private domestic servant" means a person who is employed in domestic service in a private household which is not also a boarding-house;

"regulation" means a regulation made and in force under this Act;

"representative" means the executor or other person lawfully appointed to take charge of the estate of a deceased worker, and, if there is no such person so appointed, means any person specially appointed by the Commissioner under this Act to make an application on behalf of the deceased worker's dependants for compensation, and in other respects to act as the representative of such worker for the purposes of this Act;

"scheduled disease" means any disease specified in the Second Schedule;

"serious and wilful misconduct" means-

- (a) drunkenness; or
- (b) a contravention of any law made for the purpose of ensuring the safety or health of workers or of preventing accidents to workers, if the contravention was committed deliberately or with a reckless disregard of the provisions of such law; or
- (c) any other act or omission which the Commissioner or any court on appeal may, having regard to all the circumstances of an accident, declare to be serious and wilful misconduct;

"technical assessor" means a person appointed under the provisions of section *twenty-six*;

"total disablement", in relation to a worker, means the inability of such worker, as a result of an accident in respect of which compensation is payable, to perform the work for which he was employed at the time of such accident or other suitable work;

"Tribunal" means the Workers' Compensation Appeal Tribunal established under the provisions of section *twenty-seven*;

"widow", in any case where a worker dies leaving no lawful widow or widower, includes any man or woman with whom such worker was, in the opinion of the Commissioner, living as man and wife at any relevant date.

*(As amended by S.I. No. 156 of 1965, No. 4 of 1966,
No. 37 of 1969 and No. 19 of 1976)*

3. (1) In this Act, unless the context otherwise requires and subject to the exceptions hereinafter mentioned, "worker"-

Meaning of "worker"

The Laws of Zambia

- (a) means any person who has entered into, or works under, a contract of service or of apprenticeship or of learnership with an employer, whether the contract is expressed or implied, is oral or in writing, and whether the remuneration is calculated by time or by work done, or is in cash or in kind; and
- (b) includes any person whose occupation is conveying for gain persons or goods by means of any vehicle, vessel or aircraft, the use of which he has obtained under any contract other than a purchase or hire-purchase agreement, whether or not the remuneration of such person under such contract is partly an agreed sum and partly a share in takings, but does not include any such person whose remuneration is fixed solely by a share in takings.

(2) If, in any claim for compensation under this Act, it appears to the Commissioner that the contract of service or apprenticeship or learnership under which the injured worker was working at the time when the accident causing the injury happened was illegal or otherwise unenforceable for any reason whatever, the Commissioner may deal with the matter as if such contract had at such time been a valid contract of service or apprenticeship or learnership, as the case may be.

(3) The following persons are excepted from the definition of "worker", that is to say:

- (a) any person who is a member of any military forces lawfully in Zambia in respect of any injury arising out of and in the course of his/her employment in those forces;
- (b) any person in-
 - (i) the Zambia Police Force or the public service;
 - (ii) the public service of any government or authority specified by the Minister by statutory notice;

except any such person in respect of whom no provision exists in any law for the payment of a gratuity or pension in case of injury or death;

- (c) Repealed by Act No. 19 of 1976;
- (d) any person employed casually by an employer and not in connection with the employer's trade or business;
- (e) any outworker, that is to say, any person to whom articles or materials are given out by any employer to be made up, cleaned, washed, ornamented, finished or repaired or adapted for sale on premises not under the control of the employer;
- (f) members of the Defence Force;

- (g) any person who is a member of the Unified African Teaching Service or the Teaching Service established under the provisions of the African Education Act. Cap. 135

(4) Any reference in this Act to a worker who has been injured shall, when the worker is dead or is a person under disability, include a reference to his representative or to his dependants or to any other person to whom or for whose benefit compensation is payable.

(As amended by G.N. No. 176 of 1964, No. 22 of 1965, S.I. No. 156 of 1965 No. 4 of 1966 and No. 19 of 1976)

4. (1) Subject to the further provisions of this section and unless the context otherwise requires, "dependant" in this Act means- Meaning of "dependant"

- (a) the widow, widower or invalid widower of a worker, if married to, or living with, the worker, as the case may be, at the time of the accident concerned;
- (b) any child, if born before or within ten months after the time of the accident concerned;
- (c) any parent or step-parent of a worker, or any adoptive parent who adopted such worker if the Commissioner is satisfied that the worker was adopted:

Provided that no adoptive parent shall be deemed to be a dependant unless the worker was adopted prior to the accident concerned;

- (d) any son or daughter (other than a child); any brother, sister, half-brother or half-sister; any sister or brother of a parent; or any grandparent or grandchild of a worker;
- (e) any other relation to the worker, whether by consanguinity or affinity:

Provided that no person shall be deemed to be a dependant unless-

- (i) being a person who falls within the provisions of paragraph (e), he was wholly dependent for support and maintenance upon the worker at the time of the accident concerned; or
- (ii) being a person who falls within the provisions of paragraph (a), (b), (c) or (d), he was wholly or partly dependent for support and maintenance upon the worker at the time of the accident concerned.

(2) The widow or child of a worker or a person in respect of whom a declaration has been made under the provisions of section *sixty-four* shall be deemed to be dependent for her or his support and maintenance upon such worker, unless the contrary is proved.

(3) In the case of a worker who leaves two or more widows, such widows or widower shall be entitled to share between themselves such compensation as would be payable to a single widow or widower of the deceased worker, jointly or in such proportions as the Commissioner, in his discretion, may decide.

5. (1) The Government and any person or any body of persons, corporate or unincorporate, having a contract of service or apprenticeship or learnership with a worker shall be regarded, for the purposes of this Act, as the employer of that worker, whether the contract was entered into before or after the commencement of this Act.

Meaning of "employer"

(2) If the services of a worker are temporarily lent or let on hire to another person by the person with whom a contract of service, apprenticeship or learnership is made, the latter shall, save as is provided in sub-section (1) of section *ten*, be deemed to continue to be the employer of the worker while he is working for that other person.

(3) In respect of a worker whose occupation is conveying for gain any persons or goods by means of any vehicle, vessel or aircraft, the use of which the worker obtained from some other person under a contract other than a purchase or hire-purchase agreement, such other person shall, for the purpose of this Act, be deemed to be the employer.

(4) In respect of a worker employed by a club or other association of persons, the members of the managing committee, or, if there be no such committee, the secretary or other responsible officer, of the club or association shall be deemed to be the employer.

(5) For the purposes of the giving or receiving of statements, notices or other documents under this Act, the term "employer" includes a manager, secretary, accountant, treasurer, duly authorised agent or other responsible person employed or appointed by the worker's employer.

(As amended by S.I. No. 156 of 1965 and Act No. 27 of 1994)

PART II

APPLICATION OF ACT

6. This Act shall apply in respect of accidents happening and scheduled diseases contracted on or after the date of commencement.

General application

7. The provisions of section *seventeen* shall apply in respect of any accident happening and any scheduled disease contracted on or after the 1st April, 1945, and before the date of commencement, if the obligations of an insurer in respect of the accident or contracting of the disease have been transferred to the Board under the provisions of sub-section (2) of section *ninety-nine*.

Application of section
17

8. (1) Where any injury is caused to a worker 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 way affect any civil liability of the employer independently of this Act:

Civil liability of
employer

Provided that any damages awarded to a worker in an action at common law or under any law in respect of any such negligence, breach of statutory duty, wrongful act or omission, shall be reduced by the value, as decided by the court, of any compensation which has been paid or is payable under the provisions of this Act in respect of injury sustained by the worker.

(2) For the purposes of sub-section (1), "compensation" includes, in the case of a continuing liability, the capitalised value, as determined by the court, of the pension, periodical payment or allowance, as the case may be, which constitutes the liability.

9. (1) Where an accident in respect of which compensation is payable was caused in circumstances creating a legal liability in some person other than the employer (in this section referred to as the third party) to pay damages to the worker in respect thereof-

Concurrent remedies

- (a) the worker may both claim compensation under this Act and take proceedings against the third party in a court to recover damages:

Provided that where any such proceedings are instituted the court shall, in awarding damages, have regard to the amount which, by virtue of the provisions of paragraph (b), is likely to become payable to the Commissioner or the employer individually liable, as the case may be, by the third party; and

- (b) the Commissioner or the employer individually liable by whom compensation is payable shall have a right of action against the third party for the recovery of the compensation he is obliged to pay under this Act as the result of the accident, and may exercise such right either by joining in a suit instituted by the worker against the third party or by instituting separate suit:

Provided that the amount recoverable under this paragraph shall not exceed the amount of damages, if any, which in the opinion of the court would have been awarded to the worker but for the provisions of this Act.

(2) A worker shall, before instituting proceedings under sub-section (1), in writing notify the Commissioner or the employer individually liable, as the case may be, of his intention to do so and shall likewise notify the Commissioner or such employer if he decides to abandon such proceedings or to relinquish or settle his claim for damages, and shall in connection with any such notification furnish such particulars as the Commissioner may require, and no proceedings in any court to recover damages against any person referred to in sub-section (1) may be taken by a worker until he has so notified the Commissioner or such employer of his intention to take such proceedings and unless he has lodged a claim for compensation.

(3) Notwithstanding anything to the contrary contained in any law, where written notice of intention to institute proceedings under the provisions of paragraph (b) of sub-section (1) has been given by the Commissioner, or an employer, to a third party within twelve months of the receipt by the Commissioner or employer, as the case may be, of due notice of the accident concerned, no such proceedings shall lapse, or be barred, under any law relating to the limitation of actions, until after the expiration of a period of three months from the date upon which the Commissioner has made an award, certified by him to be a final award, of compensation in respect of such accident.

(4) For the purposes of this section, "compensation" includes, in the case of a continuing liability, the capitalised value, as determined by the court, of the pension, periodical payment or allowance, as the case may be, which constitutes the liability.

10. (1) Where any person (in this section referred to as the principal), in the course or for the purposes 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 supervision of the contractor, of the whole or any part of any work undertaken by the principal, any worker engaged on such work shall be deemed to be the worker of the principal unless and until such contractor in respect of such work has been assessed as an employer and has paid all assessments due by him to the Fund for the current year, and any reference in this Act to the employer shall be deemed to be a reference to the principal:

Principals and
contractors

Provided that if compensation becomes payable to the worker under this Act, the amount of compensation shall be calculated with reference to the earnings of the worker under the employer by whom he is immediately employed.

(2) Where the principal has paid an assessment or compensation which, but for the provisions of sub-section (1), he would not have been liable to pay, he shall be entitled to reimbursement by the contractor to such extent as the Commissioner, on application made by the principal, finds that such contractor would have been liable had he been deemed under this Act to be the employer of the worker.

(3) It shall be the duty of the principal to ensure that any assessment for which the contractor is liable is paid and, if such principal fails to do so, he shall be personally liable to pay such assessment to the Commissioner and the provisions of this Act with regard to enforcing assessments shall apply to him, but such principal shall be entitled to reimbursement by the contractor of any sum paid out under this sub-section.

The Laws of Zambia

(4) Where a principal has paid to the Commissioner any assessment or compensation under the provisions of sub-section (2) or (3), he shall, unless he has been reimbursed by the contractor, be entitled to deduct an amount determined in accordance with sub-section (2) from any moneys due by him to the contractor.

(5) Notwithstanding anything contained in this section, the Commissioner shall first proceed against the contractor for the recovery of compensation instead of against the principal, and in the event of failure to recover fully from the contractor, may recover the balance from the principal.

(6) This section shall not be construed so as to impose any liability on the principal in respect of any accident which occurs elsewhere than on, in or about the premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

11. (1) Where an employer carries on business chiefly within Zambia and the usual place of employment of his workers is in Zambia and an accident happens to his worker while the worker is temporarily employed by him out of Zambia, the worker shall be entitled to compensation in the same manner as if the accident had happened in Zambia:

Workers employed
outside Zambia, etc.

Provided that the provisions of this sub-section shall cease to apply to a worker after he has been employed out of Zambia for a continuous period of twelve months unless the Commissioner has, before the end of such period, agreed with the worker and the employer concerned that those provisions should, subject to such conditions as the Commissioner may determine, continue to apply.

(2) Where an employer carries on business chiefly outside Zambia and an accident happens to his worker ordinarily employed outside Zambia but temporarily employed by him in Zambia at the time of the accident, such worker shall not be entitled to compensation out of the Fund unless the employer has previously agreed with the Commissioner that such worker shall be entitled to compensation, and has paid assessment:

Provided that any such worker so employed in Zambia for a continuous period of more than twelve months shall be deemed to be ordinarily employed by such employer in Zambia.

(3) Where, by the law of the country in which an accident happens, a worker in the circumstances described in sub-section (1) is entitled to compensation in respect of such accident, or where an accident happens to a worker in Zambia and he would be entitled to compensation under the law of any other country as well as under this Act, he shall, by notice to the Commissioner, elect to claim compensation either under this Act or under the law of the other country:

Provided that-

The Laws of Zambia

- (a) if such worker elects to claim compensation under this Act he shall-
 - (i) present a claim under this Act; and
 - (ii) cede to the Commissioner or the employer individually liable, as the case may be, his claim under the law of the other country, and if the amount recoverable under such other law exceeds the amount of the compensation under this Act, the cession shall be effective in respect of so much of the claim as equals the amount of such compensation;

- (b) if such worker elects to claim compensation under the law of another country-
 - (i) where the amount so recoverable is less than the compensation which would have been payable under this Act, the Commissioner or the employer individually liable, as the case may be, shall grant compensation not exceeding the amount of such difference; and
 - (ii) where the claim lies against an employer who has paid assessments, the Commissioner shall reimburse such employer to the extent of the compensation payable under this Act.

PART III

ADMINISTRATION

12. (1) (a) There is hereby established the Workers' Compensation Fund Control Board which shall consist of a Chairman and not more than eleven other members. The Chairman and the other members shall be appointed by the Minister.

Establishment and powers, of Worker's Compensation Fund Control Board

(b) Each member of the Board shall be appointed for a term not exceeding three years but, on the expiry of such term, shall be eligible for re-appointment.

(2) Subject to the provisions of this Act, the Board shall be responsible for the administration of the Fund and of this Act and for advising the Minister on any matters in connection with the Fund or this Act, and in particular, but without derogating from the generality of the foregoing, the Board shall-

- (a) give all necessary directions to the Commissioner for the effective administration of this Act;

- (b) after the conclusion of each financial year, report to the Minister upon the administration of the Fund and of this Act during that year.

(3) The Board may, subject to the approval of the Minister, promote, establish and subsidise out of the Fund any organisation or scheme the objects of which consist of or include one or more of the following:

The Laws of Zambia

- (a) the prevention of accidents or of any diseases which are due to the nature of any occupation;
- (b) the promotion of the health or safety of workers;
- (c) the provision of facilities designed to assist injured workers to return to work or to reduce or remove any handicap resulting from their injuries.

(4) The Board may guarantee loans made to employees of the Board to assist them acquire housing accommodation.

(5) A member of the Board shall cease to hold office if-

- (a) he dies; or
- (b) he resigns; or
- (c) he is adjudicated bankrupt or enters into any arrangement for the benefit of his creditors; or
- (d) he is adjudicated to be of unsound mind; or
- (e) he is convicted of an offence and sentenced therefor to imprisonment without the option of a fine; or
- (f) he is absent from four consecutive meetings of the Board without leave of the Chairman; or
- (g) his appointment is terminated by the Minister.

(6) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of suing and being sued and, subject to the provisions of this Act, of purchasing or otherwise acquiring, holding, charging and alienating property, real or personal, and of doing or performing such acts or things as bodies corporate may by law do or perform.

(7) The Board may meet together for the despatch of business, adjourn and otherwise regulate its meetings and proceedings as it thinks fit.

The Laws of Zambia

(8) A majority of members (not including members who have been given leave of absence by the Chairman) shall constitute a quorum of any meeting of the Board, and all acts, matters or things authorised or required to be done by the Board shall be decided by resolution of any meeting at which a quorum is present.

(9) At a meeting of the Board at which the Chairman is not present the members present, if they constitute a quorum, shall elect one of their number to be Chairman of that meeting.

(10) The common seal of the Board shall not be affixed to any instrument except by authority of a resolution of the Board, and the sealing of any instrument shall be authenticated by the signature of the Chairman or of the Commissioner and of such other person as the Board may appoint for the purpose.

(11) The members of the Board shall be paid out of the Fund such remuneration, and such travelling and subsistence allowances, as the Minister may direct.

*(No. 37 of 1969, No. 19 of 1976, No. 20 of 1979
and No. 24 of 1982)*

13. (1) The Minister shall appoint a person to be the Workers' Compensation Commissioner.

Appointment of
officers

(2) The Board may, subject to the approval of the Minister, appoint such other persons as, in its opinion, are necessary for the administration of this Act.

(3) The Commissioner may, subject to the general or special directions of the Minister, delegate any of his powers and functions under this Act to any person appointed under sub-section (2).

(4) The amount of remuneration and the terms and conditions of service of all persons appointed under this section shall, subject to the approval of the Minister, be determined by the Board and such remuneration shall be paid out of the Fund.

(No. 37 of 1969)

14. Subject to the provisions of this Act, the Commissioner shall-

Functions of
Commissioner

- (a) receive notices of accidents and claims for compensation;
- (b) inquire into or cause inquiry to be made into accidents;
- (c) adjudicate upon all claims and other matters coming before him for decision;
- (d) determine whether any person is a worker, employer, principal or contractor for the purposes of this Act;
- (e) pay compensation payable from the Fund under the provisions of this Act;
- (f) decide any question relating to-
 - (i) the right to compensation;
 - (ii) the submission, consideration and determination of claims for compensation;
 - (iii) computation of earnings;
 - (iv) the degree of disablement of any worker;
 - (v) the amount and method of payment of any compensation;
 - (vi) the withholding, revision, discontinuance or suspension of any compensation;
- (g) determine whether any person is a dependant under this Act and, if so, the degree of dependence, and where there is more than one dependant, which shall receive compensation and the allocation of compensation among them;
- (h) determine any question arising in respect of the necessity for, or the character or the sufficiency of, any medical aid;
- (i) determine any question relating to the rendering of statements of wages, liability for assessment, rates of assessment, amount of assessment and method of payment of assessment;
- (j) determine any other question falling within his purview in connection with the application of this Act or in respect of any employer or worker;
- (k) after the conclusion of each financial year, report to the Board upon the administration of this Act during that year;
- (l) collect, compile and maintain such statistics and information relating to the occurrence or cause of accidents and scheduled diseases and the grant of benefits to persons under this Act as he may deem necessary or as may be required by the Board;
- (m) investigate whether any disease should be included in or deleted from the Second Schedule and make recommendations to the Board in regard thereto;
- (n) make any investigations and perform such other functions and duties as may have been assigned to him or as he deems necessary for the administration of this Act.

(As amended by No. 22 of 1965 and No. 37 of 1969)

15. (1) The Commissioner may, in writing, authorise any competent person either generally or specially to investigate any matter falling within his purview and to report to him upon any such matter, and any person so authorised shall have the power to require and take affidavits or declarations as to any matter to which the investigation or report relates, or to take any other declarations required under this Act, and in all cases to administer oaths and attest declarations.

Inspection and
investigation

(2) Upon the production of the written authority referred to in sub-section (1), such person may, without previous notice and at all reasonable times, enter upon any land, works, premises or other place, and may question any employer or other person and inspect any part of the land, works, premises or other place or any books or documents which may contain information required for the purposes of this Act and take copies of or extracts from such books or documents.

(3) Any person who obstructs any person authorised under sub-section (1) in the lawful exercise of his functions under this section or who makes or subscribes to any statement, knowing it is false, or who refuses to answer any questions or produce any document, shall be guilty of an offence.

(4) The Commissioner may himself exercise any powers mentioned in this section, and whenever the Commissioner is exercising any such power, all the provisions of this section shall apply.

16. (1) If any person in the exercise of any powers conferred or in the performance of any duties imposed by or under this Act acquires information relating to the financial affairs of any other person, firm or business, or to any manufacturing or commercial secrets or working processes, he shall not, save for the purposes of legal proceedings under this Act, disclose such information to any other person, except-

Secrecy

- (a) to a court of law or to any person who by law is vested with the power to compel the disclosure of such information; or
- (b) to the Minister or to any person acting in the execution of this Act in so far as such information may be necessary for the execution thereof.

(2) Any person who wilfully contravenes the provisions of sub-section (1) shall be guilty of an offence.

17. (1) The Commissioner may, after giving notice in writing to the person concerned and giving him an opportunity to be heard, at any time review any compensation granted on any of the following grounds:

Revision of compensation by Commissioner

- (a) that the worker has not submitted himself for examination or has not submitted a medical report when required to do so under the provisions of this Act;
- (b) that the disablement which gave rise to the award is continued or aggravated by the unreasonable refusal or wilful neglect of the worker to submit himself to medical or surgical treatment;

The Laws of Zambia

- (c) that the worker has absented himself in such manner that no notice can reasonably be served on him;
- (d) that in the opinion of the Commissioner the degree of disablement has increased or diminished or that the worker is no longer permanently disabled;
- (e) that any compensation awarded is or has become either excessive or insufficient to meet the circumstances of the case;
- (f) that the award was based on a mistake or misrepresentation of fact, or that a different award might have been made if evidence presently available but which was not available when the Commissioner made the award had been produced.

(2) The Commissioner may, after giving notice in writing to any person concerned and after giving such person an opportunity to be heard, at any time review any decision, not being an award of compensation, given by him under this Act.

(3) The Commissioner, after making such inquiry or receiving such evidence as he deems necessary, may confirm the award of compensation or order the discontinuance, suspension, reduction or increase of any such compensation, or, in the case of any decision referred to in sub-section (2) confirm, set aside or vary that decision.

(4) For the purposes of this section, "compensation" shall include medical aid.

18. (1) The Commissioner may, and at the request of any interested party shall, summon any person who may be able to give material information concerning the subject of any investigation or formal inquiry held by him under this Act or whom he suspects or believes has in his possession or custody or under his control, any book, document or thing which has any bearing on the investigation or formal inquiry, to appear before him at a time and place specified in such summons, to be interrogated or to produce such book, document or thing, and the Commissioner may retain for further examination any book, document or thing so produced.

Powers of
Commissioner in
respect of witnesses,
etc.

(2) A summons under sub-section (1) shall be signed by the Commissioner.

(3) The Commissioner may call and administer an oath to any person present at an investigation who was or might have been summoned under the provisions of sub-section (1), and the Commissioner and any assessor may interrogate him and require him to produce any relevant book, document or thing in his possession or custody or under his control.

The Laws of Zambia

(4) If any person, having been duly summoned under sub-section (1), fails without sufficient cause to attend at the time and place specified in such summons, he shall be guilty of an offence.

(5) If any person, having been duly summoned under sub-section (1), or any person called under the provisions of sub-section (3), fails to remain in attendance until excused by the Commissioner from further attendance or refuses to be sworn as a witness or fails to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him, or to produce any book, document or thing in his possession or custody or under his control when lawfully required to do so, he shall be guilty of an offence.

(6) In connection with the interrogation of any person by, or the production of any book, document or thing before, the Commissioner, the law relating to privilege, as applicable to a witness summoned to give evidence or produce any book, document or thing before a court of law, shall apply.

(7) Any witness who knowingly gives false testimony touching any matter which is material to any question then pending in any investigation or formal inquiry or intended to be raised in the investigation or inquiry shall be guilty of an offence and liable to imprisonment for a period not exceeding two years. It shall be immaterial whether such testimony is given on oath or under any other sanction authorised by law.

(8) The interrogation of a witness shall be conducted in public unless the Commissioner otherwise decides.

(9) A person summoned to appear before the Commissioner may, if the Commissioner is satisfied that he has, by reason of such appearance, suffered any pecuniary loss or been put to any expense, be paid out of the Fund such allowances as may be prescribed or the amount of such loss and such expense, whichever is the less.

(10) Any person who wilfully hinders the Commissioner in the exercise of any of the powers conferred upon him by this section shall be guilty of an offence.

(11) In this section, "Commissioner" includes any person acting within the scope of any delegation made under the provisions of sub-section (3) of section *thirteen*.

(As amended by No. 37 of 1969)

19. (1) Any person affected by a decision of the Commissioner, or any trade union or employers' organisation of which the person in respect of whom such decision was given was at the relevant times a member, may, within thirty days of such decision, or within such further period as the Commissioner may on good cause shown allow, lodge with the Commissioner an objection against such decision.

Objections

(2) The Commissioner may consider an objection similarly lodged, as provided in sub-section (1), by a trade union or employers' organisation not falling within the provision of the said sub-section, if, in the opinion of the Commissioner, an important principle is involved.

(3) An objection under this section shall be in writing in the prescribed form, accompanied by particulars containing-

- (a) a concise statement of the circumstances in which the objection is made and the relief or order which the objector claims, or the question which he desires to have determined;
- (b) the full name and address of the objector and of any legal practitioner or other representative who is to represent such objector.

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

(5) If, owing to illiteracy, blindness or any other physical cause, an objector is unable to complete the prescribed form or to supply the information required, the Labour Officer or District Secretary of the District in which the objector resides shall fill in the objection and particulars in the prescribed form and shall lodge the objection with the Commissioner.

20. (1) If an objection under section *nineteen* arises out of a claim for compensation in respect of a worker's death, the objection made on behalf of the dependants shall be made by the representative of the deceased worker or, if there is no such representative, by a person appointed by the Commissioner to make such objection and in other respects to act as representative of the deceased worker for the purposes of this Act, and the Commissioner is hereby authorised to make such an appointment, and for the purposes of this sub-section, "dependants" includes persons who claim or may be entitled to claim to be dependants.

Objection on behalf of dependants

(2) A representative shall comply with the provisions of section *nineteen* as to the lodging of an objection and the particulars to accompany such objection.

21. An objection lodged under the provisions of section *nineteen* shall be considered and determined by the Commissioner in a formal inquiry in such manner as may be prescribed, and the Commissioner shall confirm any decision in respect of which the objection was lodged or give such other decision as in his opinion is equitable.

Formal inquiry by Commissioner

22. Any person affected by a decision referred to in section *twenty-one* may appeal to the Tribunal within twenty-one days of such decision or within such further period as the Tribunal may on good cause shown allow.

Appeal from decision

23. Except where the Commissioner otherwise orders, no obligation to pay any assessment, compensation or other amount to the Commissioner or the Fund, or any periodical payments to or in respect of a worker by reason of a decision of the Commissioner shall be suspended or deferred by reason of the fact that an objection has been lodged against such decision under sub-section (2) of section *nineteen*, or that an appeal has been lodged under section *twenty-two*, but if, as a result of any such objection or review, the amount payable by reason of the original decision is varied the person who made the payment shall be entitled to a refund or be liable to pay the additional amount, as the case may be.

Suspension of obligation

24. (1) The Commissioner may of his own motion and shall at the request of any interested party to any proceedings under this Act, state a special case on any question of law in connection with any matter arising in such proceedings, for the decision of the High Court.

Commissioner may state a case for High Court

(2) In any case so stated the Commissioner shall set forth-

- (a) the facts which were established; and
- (b) the view of the law which he has adopted in relation to those facts.

25. Whenever the Commissioner has any doubt as to the correctness of any decision given by the Tribunal on any question of law in connection with this Act, he may submit that decision to the High Court and cause the matter to be argued before it, in order that it may determine the said question for the future guidance of all courts.

Commissioner may submit Tribunal's decision to High Court

26. (1) The Commissioner may appoint as an assessor any person skilled in technical questions, other than medical, dental, or surgical questions, to sit with him and to act in an advisory capacity in a formal inquiry under the provisions of section *twenty-one*.

Technical assessors

(2) A person shall not be appointed as an assessor under this section or, if appointed, no person shall sit if-

- (a) he is an employee of, or associated in any pecuniary manner with, the employer of the worker concerned;

- (b) he has, in connection with the injury or death out of which the formal inquiry arises, given professional assistance or advice in regard to the accident or question in dispute to any party to the inquiry or to any person who may become liable for the payment of compensation under this Act to such worker.

(3) There shall be paid out of the Fund to any assessor, other than an assessor employed in the public service, such fees as may be prescribed.

PART IV

WORKERS' COMPENSATION APPEAL TRIBUNAL

27. (1) There is hereby established a Tribunal to be known as the Workers' Compensation Appeal Tribunal which shall consist of a Chairman, appointed by the Minister, and two other members.

Establishment of
Worker's
Compensation Appeal
Tribunal

(2) The Chairman shall be a barrister, solicitor, or advocate entitled to practice in Zambia or a person who holds or has held judicial office in any part of the Commonwealth.

(3) The other members of the Tribunal for any sitting thereof shall be chosen by the Chairman from a list of persons nominated by the Minister and considered by the Minister to be persons suitable to be members of the Tribunal, having regard to the functions thereof.

(4) A person shall not be chosen or, if chosen, shall not sit or act as a member of the Tribunal if he has, in connection with the injury or death out of which the matter in dispute arises, given professional assistance or advice in regard to the accident or the matter in dispute to any party to the dispute or to any person who may become liable for the payment of compensation under this Act to the worker.

(5) Any person chosen as a member of the Tribunal shall, while engaged in any sitting or any work of the Tribunal, receive from moneys appropriated by Parliament such remuneration as may be prescribed and his reasonable expenses for travelling and subsistence in accordance with such tariff as may be prescribed.

(6) There shall be a Secretary of the Tribunal appointed by the Minister.

The Laws of Zambia

(7) A record of the proceedings of the Tribunal shall be kept and filed in the office of the Secretary of the Tribunal, and the same may be inspected and copies obtained upon payment of the same fees as if they were civil records of a subordinate court.

*(As amended by G.N. No. 176 of 1964
and S.I. No. 156 of 1965)*

28. The functions of the Tribunal shall be-

Functions of Tribunal

- (a) to hear any appeal made to it under the provisions of this Act;
- (b) to deal with any other matter with which it is required or permitted to deal under this Act;
- (c) generally to deal with all matters necessary or incidental to the performance of its functions under this Act.

29. All questions or matters requiring to be decided by the Tribunal shall be decided by a majority:

Decisions of Tribunal

Provided that any matter of law arising for decision at any sitting of the Tribunal, and any question arising at any such sitting as to whether a matter for decision is a matter of fact or a matter of law, shall be decided by the Chairman, and no other member of the Tribunal shall have a voice in the decision of any such matter.

30. (1) The Chairman of the Tribunal shall make rules to regulate its procedure, which shall be as simple and informal as possible, and, in any case not covered by such rules, the Tribunal shall act in such manner and on such principles as it deems best fitted to do substantial justice and to effect and carry out the objects and provisions of this Act.

Procedure in Tribunal

(2) Rules made under this section may provide for the examination, at the instance of the Tribunal, in private by medical practitioners or dentists of a worker who is a party to the dispute.

31. (1) At any hearing before the Tribunal any party may appear-

Representation of parties

- (a) in person; or
- (b) by a legal practitioner; or
- (c) by a member of his family; or
- (d) by a person in the permanent and exclusive employment of such party; or

The Laws of Zambia

- (e) in the case of a worker, by an officer of a trade union, or of an organisation approved of by the Minister, or, in the case of an employer, by an officer of an employers' organisation; or
- (f) by an officer of the Labour Department; or
- (g) in the case of a company, by any director, secretary or other officer thereof, and, in the case of a corporate body which is not a company, by an officer thereof; or
- (h) by leave of the Chairman, by any other person.

(2) No person other than a legal practitioner shall be entitled to recover any fee or reward, other than necessary out-of-pocket disbursements and expenses, for appearing on behalf of any person before the Tribunal.

(As amended by G.N. No. 499 of 1964 and S.I. No. 156 of 1965)

32. The Tribunal may-

Powers of Tribunal

- (a) confirm, vary or reverse the decision appealed from as justice may require;
- (b) if the record does not furnish sufficient evidence or information for the determination of the appeal, remit the matter to the Commissioner with instructions in regard to the taking of further evidence or the setting out of further information;
- (c) order the parties, or either of them, to produce to the Tribunal at some convenient time such further proof as the Tribunal deems necessary or desirable; or
- (d) take any other course which may lead to the just, speedy and inexpensive settlement of the matter.

33. (1) The Tribunal shall have the power to summon witnesses, to call for the production of and grant inspection of books, documents and other things, and to examine witnesses on oath, and for such purpose the Chairman is hereby authorised to administer oaths.

Summoning, etc., of witnesses

(2) A summons for the attendance of witnesses or the production of books, documents or other things shall be signed by the Secretary to the Tribunal and served in the same manner as if it were a subpoena for the attendance of a witness at a civil trial in a subordinate court.

(3) Any person summoned to give evidence, or to produce any book, document or other thing, or giving evidence, before the Tribunal, shall be entitled to the same privileges and immunities as if he were summoned to attend or were giving evidence in civil proceedings before a subordinate court.

34. (1) If any person who has been summoned under the provisions of section *thirty-three*, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, or fails to remain in attendance until duly excused by the Tribunal from such further attendance, the Chairman of the Tribunal may, upon being satisfied on oath or by the return of the person charged with the service of such summons that the summons was duly served upon such person, and, in case no sufficient reason for such failure seems to him to exist, issue a warrant, signed by the Chairman, for the apprehension of such person who shall thereupon be apprehended by any police officer to whom such warrant is delivered and shall be brought before the Tribunal to give his evidence or to produce the book, document or other thing, and in addition such person shall be liable to be fined summarily by the Chairman of the Tribunal for his default such amount, not exceeding one penalty unit, as the Chairman may determine.

Witness failing to attend, etc.

(2) If any person who has been summoned under the provisions of section *thirty-three* refuses to be sworn as a witness, or having been sworn, refuses to answer fully and satisfactorily any question lawfully put to him, or refuses or fails to produce any book, document or other thing, and does not excuse his refusal or failure to the satisfaction of the Tribunal, the Chairman of the Tribunal may order that such person be detained in custody as if he were a prisoner awaiting trial for any period not exceeding eight days unless he sooner consents to do what is required of him, and if such person, upon being brought up before the Tribunal at any adjourned hearing, again refuses or fails to do what is required of him, the Chairman may, if he sees fit, again adjourn the proceedings and order that he be detained for a like period, and so again from time to time until such person consents to do what is required of him.

(3) A person mentioned in sub-section (2) shall, in addition to being detained in custody, as in such sub-section provided, be liable to be fined summarily by the Chairman of the Tribunal such amount, not exceeding one penalty unit, as the Chairman may determine.

(As amended by Act No. 13 of 1994)

35. Any person who knowingly gives false testimony touching any matter which is material to any question then pending in any proceedings before the Tribunal or intended to be raised in such proceedings shall be guilty of an offence and liable to imprisonment for a period not exceeding seven years. It shall be immaterial whether such testimony is given on oath or under any other sanction authorised by law.

False evidence

36. If any person wilfully insults the Tribunal or any member thereof during any sitting of the Tribunal or wilfully interrupts the proceedings of the Tribunal, or otherwise wilfully disturbs the peace or order of such proceedings, the Chairman of the Tribunal may order that person to be removed and detained in custody until the rising of the Tribunal, and every such person shall be liable, in addition to such removal and detention, to be fined summarily by the Chairman of the Tribunal such amount, not exceeding one penalty unit, as the Chairman may determine.

Contempt of Tribunal

(As amended by Act No. 13 of 1994)

37. A person summoned under the provisions of section *thirty-three* may, on the order of the Tribunal, be paid out of the Fund such allowances as may be prescribed.

Witnesses' expenses

38. (1) The Tribunal may make such order as to costs as it may deem just having regard to the means of the parties and the merits of the appeal. Costs

(2) Subject to the provisions of sub-section (1), the costs and charges in connection with proceedings before the Tribunal shall be payable in accordance with the scale of costs for the time being in use in subordinate courts in civil cases.

(3) Subject to the provisions of sub-section (1), payment of costs awarded by the Tribunal may not be enforced until they have been taxed by the clerk of a subordinate court of the first class of the District in which the appeal is heard.

39. Any decisions of the Tribunal shall, subject to the provisions of section *forty*, be final. Effect of decisions of Tribunal

40. (1) Any person who- Appeal to High Court

- (a) being a party to any appeal before the Tribunal is dissatisfied-
 - (i) with the determination of the Tribunal as being erroneous in point of law; or
 - (ii) with any decision of the Chairman of the Tribunal as to whether the matter for determination by the Tribunal is a matter of fact or a matter of law; or

(b) has been fined summarily by the Chairman of the Tribunal;
may appeal therefrom to the High Court within thirty days of such determination, decision or fine or within such further period as the High Court may on good cause shown allow.

(2) Upon the hearing of an appeal under this section, the High Court may-

- (a) confirm, vary or reverse the matter appealed against;
- (b) remit the matter to the Tribunal with instructions in regard to the taking of further evidence or the setting out of further information;
- (c) order the parties or any of them to produce at some convenient time before the High Court such further proof as may seem necessary or desirable;
- (d) take any other course which may lead to the just, speedy and inexpensive settlement of the matter;
- (e) make such order as to costs as may seem just.

(3) The decision of the High Court in any appeal under this section shall be final.

(4) Rules of court for regulating appeals to the High Court under this section and for the procedure on such appeals may be made under the provisions of the High Court Act: Cap. 27

Provided that until such rules are so made, the rules governing appeals in civil matters from subordinate courts to the High Court shall, *mutatis mutandis*, apply and be followed.

PART V

RIGHT TO COMPENSATION

41. (1) If an accident to a worker arising out of and in the course of his employment happens after the date of commencement and results in such worker's disablement or death, he, or if he dies, his dependants, shall become entitled to compensation in accordance with the provisions of this Act. Right to compensation

(2) Notwithstanding the provisions of sub-section (1), no compensation under this section shall be payable-

- (a) if the accident is attributable to the serious and wilful misconduct of the worker, unless the accident results in serious permanent disablement, or the worker has died in consequence of the accident, leaving as his dependant his widow or a child or any dependant wholly dependent upon him;
- (b) in respect of his death, if the worker dies more than twelve months after the accident, unless it is proved that the accident directly caused the death or was the principal contributory cause of death.

(3) For the purposes of this Act, an accident shall be deemed to arise out of and in the course of his employment notwithstanding that the worker was at the time when the accident happened acting in contravention of any law applicable to his employment or of any instructions issued by or on behalf of his employer, or that he was acting without instructions from his employer, if-

- (a) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and

- (b) the act was done for the purposes of and in connection with the employer's trade or business.

(4) An accident happening while a worker is travelling from his home to his place of work or from his place of work to his home, whether by a vehicle supplied by or on behalf of his employer or by any other means, shall be deemed to arise out of and in the course of his employment if the worker was, in the opinion of the Commissioner, so travelling by a reasonably direct route and with reasonable dispatch.

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

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

(As amended by No. 37 of 1969 and No. 19 of 1976)

42. When a worker meets with an accident-

- (a) while, with the consent of his employer, being trained in first aid, ambulance or rescue work or engaged in any competition in connection therewith; or
- (b) in, at or about any premises other than his employer's while, with the consent of his employer, engaged in any first aid, ambulance, or rescue work; or
- (c) in, at or about his employer's premises while engaged in any first aid, ambulance or rescue work;

Accident during first aid training or rescue work

whereby such worker sustains injury resulting in disablement or death, such injury shall, for the purposes of this Act, be deemed to arise out of and in the course of his employment.

43. (1) If a worker or any of his dependants who is entitled to compensation under this Act has received or will receive in respect of an accident any pension or gratuity from the employer of the worker, then, in determining the amount of such compensation, no reduction shall be made in respect of any amount paid or to be paid by the employer by way of such pension or gratuity.

Compensation not affected by other pension, etc.

(2) If a worker or any of his dependants who is entitled to compensation under this Act has received or will receive in respect of an accident any pension or gratuity from a pension, superannuation or provident fund to which the employer has contributed, then, in determining the amount of such compensation, no reduction shall be made in respect of the amount which has been received or will be received by the worker or any of his dependants from that fund.

44. (1) Subject to the provisions of section *forty-three*, the Commissioner may in his discretion, in awarding or revising the award of any compensation to a worker in respect of permanent disablement or to his dependants, have regard to-

Successive awards of compensation

- (a) in the case of a worker, any compensation for permanent disablement previously awarded to the worker under the workers' compensation law of any country, whether as the result of one or more than one accident or paid by one or more than one employer, or any benefit granted to the worker under any law on account of permanent disablement;
- (b) in the case of dependants, any benefits or settlements granted to them under any law on account of the death of the worker.

(2) The compensation payable to a worker, whether in respect of one or more than one accident, shall not, in any case, exceed the compensation payable in respect of one hundred per centum disablement:

Provided that, in determining such compensation, the calculation shall be based upon the earnings most favourable to the worker at the time of any such accident.

(3) For the purposes of this section, compensation payments made to a worker or his dependants under the provisions of the Pneumoconiosis Act or the Act repealed thereby shall not be deemed to be a benefit on account of permanent disablement or death.

Cap. 217

(4) Whenever a worker has received compensation for permanent disablement under this Act and subsequently meets with an accident resulting in further disablement in respect of which compensation is payable under this Act, the Commissioner may, if the worker shows to the satisfaction of the Commissioner that it would be to his advantage to do so, calculate his compensation in respect of the further permanent disablement on the earnings he was receiving when he met with any previous accident in respect of which compensation was paid.

(As amended by S.I. No. 156 of 1965)

45. (1) Save as is specially provided in this Act in respect of agreements, any provision in a contract existing at the commencement of this Act or thereafter entered into, whereby a worker or his dependants relinquish any right to compensation, whether for the worker or for any dependant, shall be null and void.

Contracting out prohibited

(2) Notwithstanding anything in this Act contained, where the Commissioner is satisfied that, by reason of old age or serious physical defect or infirmity or any previous injury, a person, if employed as a worker, is specially liable to meet with an accident, or, if he meets with an accident is specially liable to sustain injury, he may, in connection with any contract for such employment, authorise the worker and the employer to enter into an agreement in writing that less than the amount payable under this Act shall be paid in respect of the disablement or death of that person:

Provided that-

- (i) such agreement shall be effective only when the old age or serious physical defect or infirmity or previous injury has caused or contributed to the accident; and
- (ii) no such agreement shall be valid and effectual unless the amount agreed to be paid in respect of the disablement or death is at least one-half of the amount that would otherwise be payable as compensation under this Act and has been approved by the Commissioner.

46. (1) Any employer who withholds from any moneys due from him to any of his workers any part of any sum which the employer is or may become liable to pay as compensation or assessment under this Act, or who requires or permits any of his workers to contribute towards the cost of any liability which he has incurred or may incur under this Act, shall be guilty of an offence.

Deductions from earnings prohibited

(2) Any court convicting an employer of an offence under sub-section (1) may, in addition to imposing any other penalty upon him, order that he shall pay to the worker any sum which he has unlawfully required or permitted the worker to contribute and such order shall have the effect of a civil judgment of the court:

Provided that no order shall be made under the provisions of this sub-section unless and until the employer has been afforded an opportunity to show cause why the order should not be made against him.

47. Where a worker has received medical treatment in consequence of any accident arising out of and in the course of his employment and such treatment, whether through negligence or otherwise, results, through no wilful default on the part of the worker, in the death or disablement, or increased or continued disablement, of the worker, such death or disablement or increased or continued disablement, as the case may be, shall for the purposes of this Act, be deemed to have resulted from the accident, and the compensation payable under this Act shall be assessed accordingly:

Death or disablement attributable to effects of medical treatment

Provided that-

- (i) where a worker or any dependant of a worker as the case may be, has received any payment, not being compensation payable under this Act, in respect of any disablement, increased or continued disablement or death attributable to such medical treatment, then, in assessing any compensation payable under this Act, regard shall be had to such payment;

- (ii) where a worker or any dependant of a worker as the case may be, receives under the provisions of this Act, any compensation or increased compensation in respect of any disablement, increased or continued disablement or death which is attributable to any medical treatment received by the worker, any right of action of such worker or dependant, as the case may be, on account of such treatment shall, if not exercised by the worker or dependant, as the case may be, vest in and be exercisable by the Commissioner or by the employer individually liable.

48. Where under this Act there exists any right to compensation in respect of the death or disablement of any worker as a result of an accident, the Commissioner may in his discretion refuse to award the whole or a portion of such compensation and the Commissioner, or, if authorised thereto by the Commissioner, the employer individually liable, may further refuse to pay the whole or any portion of the cost of medical aid-

Circumstances precluding award of compensation

- (a) if such worker has at any time represented to the employer or the Commissioner that he was not suffering or had not previously suffered from a serious injury or a scheduled disease or a serious illness knowing that the representation was false, and the accident has been caused by or the death has resulted from or the disablement has resulted from or been aggravated by such injury, disease or illness; or
- (b) if, in the opinion of the Commissioner, the death was caused or the disablement was caused, continued or aggravated by an unreasonable refusal or wilful neglect of the worker to submit to medical or surgical treatment in respect of any injury, disease or illness whether caused by the accident or contracted before the accident concerned.

49. Subject to the provisions of section *fifty-six*, the right to periodical payments shall cease and the worker shall be entitled to compensation for any permanent disablement he may suffer-

Cessation and revival of periodical payments

- (a) when the worker is, in the opinion of the Commissioner, able to resume the work at the which he was employed at the time of the accident or other suitable work having the same or greater emoluments;
- (b) when, in the opinion of the Commissioner, the injury causing the disablement has become static and no further medical aid will be required by the worker in respect of the injury before the expiration of eighteen months from the commencement of the disablement:

Provided that the Commissioner may revive the right to periodical payments if-

- (i) the worker suffers further disablement as the result of the same accident; or
- (ii) the worker undergoes further medical, surgical or remedial treatment necessitating further absence from work, if, in the opinion of the Commissioner, the treatment will reduce the disablement from which the worker suffers; and any compensation for permanent disablement payable to the worker shall be suspended while the worker is entitled to periodical payments under this proviso.

- 50.** If a worker-
- (a) refuses or wilfully neglects to submit himself to medical examination or in any way wilfully obstructs or unnecessarily delays such examination; or
 - (b) to the prejudice and without the consent of the employer, absents himself in such a manner that any notice under this Act cannot be served upon him;
- his right to periodical payments, or the continuance of such payments, shall automatically be suspended during the period that the circumstances exist which gave rise to such suspension, and no payments shall be payable by the Commissioner or an employer individually liable in respect of the period of suspension:
- Provided that the Commissioner may, on good cause shown, condone the action of the worker and make or order to be made, such payment or partial payment of a periodical payment to the worker in respect of the period of suspension as in the circumstances he deems just.
- 51.** Save as is provided under this Act, there shall be no abatement of the amount of compensation which the Commissioner or the employer individually liable has to pay under this Act by reason of the fact that, in consequence of the accident causing disablement or death, money has become due to the worker or his dependants under an accident or life insurance policy effected by himself or by any other person.
- 52.** An employer shall not, without the consent of the Commissioner, terminate his contract of service with a workman who has suffered disablement in circumstances which entitle him to compensation under the provisions of this Act until either-
- (a) the worker has been certified by a medical practitioner to be fit to resume the work for which he was employed at the time of the accident; or
 - (b) compensation for permanent disablement becomes payable to the worker under the provisions of this Act.
- 53.** Notwithstanding any term, express or implied, in the contract under which a worker is employed that the worker is required to do an entire work for an entire sum, the worker shall, if he is disabled by an accident arising out of and in the course of his employment, be entitled to payment from his employer of such part of the entire sum as bears the same proportion to the entire sum as the work done up to the time of the disablement bears to the entire work.
- 54.** Where an employer, during the time a worker employed by him is disabled by accident arising out of and in the course of his employment, pays to the worker his full earnings, the worker shall not be entitled to any periodical payments and the employer shall be entitled to be reimbursed from the Fund to the extent of the periodical payments to which the worker would otherwise have been entitled:

Suspension of right to periodical payments

No abatement of compensation if worker insured

Contract of service not to be terminated during disablement

Wages for work done

Periodical payments in lieu of earnings

Provided that an employer shall not be entitled to be reimbursed as aforesaid if he is-

- (i) an employer individually liable;
- (ii) an employer who at the date of the accident was in default in complying with the provisions of section *one hundred and six*;
- (iii) an employer who at the date of the accident was in default in the payment of his assessment.

PART VI

LIABILITY FOR COMPENSATION AND AMOUNT AND PAYMENT OF COMPENSATION

55. Compensation shall be paid by either-

- (a) the employer individually liable; or
- (b) the Commissioner.

Liability to pay compensation

56. (1) Compensation in the case of total disablement shall be made by periodical payments during the period of disablement and shall be calculated at fifty per centum of the assessed earnings of the worker.

Amount of compensation for total disablement

(2) Periodical payment shall be made once a month:

Provided that, by agreement or by order of the Commissioner, such payments may be made at shorter intervals than one month, subject in such case to a proportionate reduction in the amount of such payments.

(3) (Repealed by 27 of 1994)

(As amended by Act No. 27 of 1994).

57. (1) Compensation in the case of partial disablement shall bear the same proportion to the periodical payments prescribed in section *fifty-six* as the partial disablement bears to total disablement.

Amount of compensation for partial disablement

(2) Where a worker who has been receiving compensation for total disablement returns to work with the employer for whom he was working at the time of the accident at a lower rate of earnings than he was receiving at the time of the accident, such employer shall forthwith notify the Commissioner of such fact and of the earnings at the time of the accident and the present earnings of the worker.

(3) The provisions of sub-section (2) of section *fifty-six* shall apply in respect of periodical payments for partial disablement.

(4) Subject to the provisions of section *fifty-eight*, periodical payments for partial disablement shall not be made for more than eighteen months.

(As amended by Act No. 27 of 1994)

58. If as a result of an accident a worker has received periodical payments for total disablement or partial disablement or total and partial disablement for a period of eighteen months from the date of the commencement of the disablement, then at the end of such period such worker shall no longer be entitled to periodical payments for total or partial disablement and shall be deemed to have suffered permanent disablement unless the contrary is proved, in which case the Commissioner may, in his discretion, direct the continuance of periodical payments during the continuance of any such disablement for a period not exceeding six months.

Limit of time for
periodical payments

59. (1) Compensation in the case of permanent disablement shall be according to the degree of disablement, and shall be calculated as follows:

Amount of
compensation for
permanent
disablement

- (a) where the degree of disablement is one hundred per centum, a monthly pension calculated at fifty per centum of the assessed earnings of the worker;
- (b) where the degree of disablement is under one hundred per centum but exceeds ten per centum, a monthly pension bearing the same proportion to the pension calculated in accordance with paragraph (a) as the degree of such disablement bears to one hundred per centum;
- (c) where the degree of disablement does not exceed ten per centum, a lump sum so calculated on such basis as the Ministry may prescribe:

Provided that in any case where the lump sum so calculated exceeds thirty-one thousand kwacha, compensation shall not be payable as such a lump sum, but shall be payable in accordance with paragraph (b), as though that paragraph applied to every degree of disablement under one hundred per centum.

(2) Repealed by Act No. 27 of 1994).

(3) Where a worker has sustained an injury specified in the First Schedule, he shall be regarded for the purposes of this Act as being permanently disabled at least to the degree set out for such injury in the said Schedule.

(4) Where the injury (including any injury to genital parts) is not specified in the First Schedule, a percentage of disablement which is not inconsistent with the provisions of such Schedule shall be regarded as the minimum degree of permanent disablement for the said injury.

(5) From any compensation payable under this section no deduction shall be made on account of any periodical payments in respect of total or partial disablement under section *fifty-six* or *fifty-seven*.

(6) In this section, "monthly pension" means a pension payable monthly during the lifetime of the worker.

(As amended by No. 22 of 1965, No. 37 of 1969
and 27 of 1994)

60. Notwithstanding anything in this Act contained, if a worker who is in receipt of a pension, after a period of eighteen months from the commencement of the disablement had expired, undergoes further medical, surgical or remedial treatment necessitating further absence from work and which, in the opinion of the Commissioner, will reduce the disablement from which the worker suffers, the Commissioner may suspend the entitlement to the pension and any children's allowances for such period as he considers equitable and in lieu thereof the worker shall be entitled to payments calculated in the same manner as periodical payments.

Further medical aid
while receiving
pension

61. (1) Where a worker dies as a result of an accident, compensation shall be determined as follows:

Amount of
compensation for
death of worker

- (a) if the worker leaves as a dependant a widow or invalid widower and no dependent children, there shall be paid to such widow or invalid widower a monthly pension equal to four-fifths of the monthly pension which the deceased worker had been receiving under paragraph (a) of sub-section (1) of section *fifty-nine*, or would have received if he had been entitled to a monthly pension under the said paragraph, in respect of such accident;
- (b) if the worker leaves as dependants a widow or invalid widower and one or more children, there shall, subject to the provisions of sub-section (3) of section *seventy-one*, be paid to such widow or invalid widower the monthly pension mentioned in paragraph (a), and there shall be paid in the manner provided in sub-section (3) of section *seventy-one* in respect of such children a monthly allowance in accordance with the Third Schedule based on the monthly pension which the deceased worker had been receiving under paragraph (a) of sub-section (1) of section *fifty-nine*, or would have received if he had been entitled to a monthly pension under the provisions of paragraph (a) of the said sub-section (1) in respect of such accident;

- (c) if the worker leaves no dependent spouse but one or more children as dependants, or if the widow or invalid widower referred to in paragraph (b) dies leaving dependent children of the worker, a monthly allowance in respect of the children shall be payable in accordance with the Fourth Schedule based on the monthly pension which the deceased worker had been receiving under paragraph (a) of sub-section (1) of section *fifty-nine*, or would have received if he had been entitled to a monthly pension under the said paragraph (a) in respect of the accident;
- (d) if the worker leaves no dependants of any class referred to in paragraph (a), (b) or (c), an amount not exceeding three years' earnings or thirty thousand kwacha whichever is the less, shall be paid to any other dependant wholly dependent upon him;
- (e) if the worker leaves no dependants of any class referred to in paragraph (a), (b), (c) or (d), but leaves a dependant partly dependent upon him, a sum equal to three times the amount or value of the benefits received by such dependant from the worker during the twelve months immediately preceding the accident, or which could, but for the death, have been reasonably expected to be received by such dependant from the worker during the twelve months immediately succeeding the accident, whichever can better be calculated to give the amount or value of the benefits:

Provided that the aggregate amount payable to dependants under this paragraph shall not exceed three years' earnings or thirty thousand kwacha, whichever is the less;

- (f) if the worker does not leave as a dependant a widow or invalid widower, but leaves as dependants one or more children to whom an allowance is payable under paragraph (c) and other dependants, and the total amount of the capitalised value of the allowances likely to be payable under paragraph (c) will be less than three years' earnings of the worker or thirty thousand kwacha, whichever is the less, then additional compensation shall be payable not exceeding the likely excess of the three years' earnings or thirty thousand kwacha, whichever is the less, over the total amount of the allowances likely to be payable under paragraph (c) and such additional compensation shall be paid to such other dependants in such proportions as the Commissioner may determine:

Provided that no dependant who was not wholly dependent upon the worker shall be entitled to receive a greater payment than that to which he would have been entitled under paragraph (e).

(2) The total compensation payable in respect of the death of a worker in accordance with the provisions of paragraphs (a), (e) and (f) of sub-section (1) shall in no case exceed thirty thousand kwacha or three years' earnings of the worker whichever is the less.

(3) Save as is provided in section *forty-four*, no deduction shall be made from the compensation awarded under this section in respect of any compensation awarded to the worker for the same accident.

(4) The right to any pension or allowance in respect of a deceased worker shall vest on the date of his death, and the amount of such pension or allowance shall be calculated from such date.

(5) Where a worker dies as a result of an accident and the funeral expenses of such worker have been or are to be paid by any dependant of such worker, there shall be paid to such dependant the total amount of the funeral expenses or ten thousand kwacha whichever is the less.

*(As amended by No. 22 of 1965, No. 37 of 1969,
No. 19 of 1976 and 27 of 1994)*

62. (1) If a worker who is in receipt of a pension under section *fifty-nine*, or who would have been entitled to a pension under that section but for his death, dies not as the result of the accident in respect of which he was receiving or would have been entitled to receive such pension, the widow or invalid widower of such deceased worker, if married to or living with such worker, as the case may be, at the time of the accident in respect of which he was receiving a pension and dependent on him at the time of his death, shall be paid a monthly pension equal to four-fifths of the monthly pension payable to the deceased worker at the time of his death, plus a monthly allowance for any dependent children of such deceased worker who were born or adopted before the time of such accident, or born within ten months after the time of such accident, calculated in accordance with the Third Schedule and based on the monthly pension payable to such deceased worker at the time of his death.

Compensation where
worker in receipt of
pension dies

(2) If a worker who is in receipt of a pension under section *fifty-nine*, or who would have been entitled to a pension under that section but for his death, dies not as the result of the accident in respect of which he would have been entitled to such pension, and leaves no widow or invalid widower entitled to a pension under sub-section (1), but leaves one or more children, born or adopted before the time of such accident, or born within ten months after the time of such accident, there shall be paid for the benefit of such child or children a monthly allowance in accordance with the Fourth Schedule based on the monthly pension that would have been payable to such deceased worker.

(3) If a widow or invalid widower who is in receipt of a pension under sub-section (1) dies and leaves dependent children of the worker born or adopted before the time of the accident or born within ten months after the time of the accident, there shall be paid for the benefit of such children the allowances prescribed under sub-section (2).

*(As amended by No. 22 of 1965, No. 37 of 1969
and No. 27 of 1994)*

63. If owing to age, marriage or death any child ceases to fall within the definition of the term "child", the allowance for children prescribed in this Part shall, subject to the provisions of section *sixty-four*, be diminished or cease accordingly.

Diminution of
children's allowances

64. If, in the opinion of the Commissioner, any son or daughter of a deceased workman or a pensioner who does not fall within the definition of the term "child" is unable by reason of mental or physical disability to earn an income, or is attending a full-time educational course, he shall, upon the application of any interested person, declare that such son or daughter shall be deemed to be a child for the purpose of determining the allowances for children under the provisions of this Part for so long as it might reasonably have been expected that the worker would have continued to contribute towards his or her support.

Child over seventeen may continue to receive allowances

(As amended by No. 19 of 1976)

65. (1) If any worker who is in receipt of a pension under this Act resides outside the Commonwealth or such other states and territories as the Commissioner may from time to time prescribe without the written permission of the Commissioner, or outstays the period laid down in such permission, the worker shall at his own expense furnish such proof of the continuance of the degree of disablement in respect of which compensation was awarded and such other particulars as the Commissioner may require, and, if he fails to do so, the Commissioner may discontinue, suspend, or reduce the pension.

Pensioner absent from or resident out of Commonwealth

(2) If a dependant of a worker resides outside the Commonwealth or such other states and territories as the Commissioner may from time to time prescribe at the time of the death of such worker and continues so to reside without the written permission of the Commissioner, or if any such dependant is absent from the Commonwealth without the written permission of the Commissioner, or outstays the period laid down in any such permission, the Commissioner may, in his discretion, in lieu of any pension payable to such dependant under this Act, award a lump sum of such amount as he may deem equitable in the circumstances.

(As amended by S.I. No. 156 of 1965)

66. (1) If a widow or invalid widower who is receiving a pension under the provisions of this Act as a dependant marries, the pension payable to her or him shall cease with effect from the date of her or his marriage:

Pension to cease on remarriage and gratuity to be payable on the remarriage of a widow

Provided that any allowance payable in respect of children of the deceased worker to whom such widow or widower was married shall continue to be payable.

(2) Where the pension payable to a widow ceases by virtue of the provisions of sub-section (1), there shall be paid to her an amount equal to twenty-four times the amount of her monthly pension.

66A. (1) On the death of a pensioner, his widow or her widower shall, within one month of such death notify the Commissioner thereof.

Commissioner to be informed of death of pensioner, etc.

(2) If a widow or widower who receives or is entitled to receive a pension in respect of the death of her husband or wife marries, such widow or widower shall, within one month of the date of such marriage, notify the Commissioner thereof.

(3) Any person who receives an allowance in respect of any son, daughter or other child of a deceased worker or of a pensioner shall, within fourteen days of the happening of any of the following events, notify the Commissioner thereof:

- (a) the death of such son, daughter or other child;
- (b) the marriage of such son, daughter or other child;
- (c) the cessation of the conditions in respect of which the Commissioner has made a declaration under section *sixty-four*.

(4) Any person who fails to comply with this section shall be guilty of an offence.

(As amended by Act No. 19 of 1976)

67. (1) (a) For the purpose of this Act, the earnings of a worker shall be computed in such manner as is best calculated to give the monthly rate at which such worker was remunerated by his employer at the time of the accident concerned, disregarding temporary absence from work during sickness, holiday, leave or unemployment. Such earnings shall also include twelve and one half per centum of the worker's basic wages or basic salary but shall not include any-

Method of calculating earnings.

- (i) remuneration of intermitten overtime;
- (ii) casual payments of a non-recurrent nature;
- (iii) sum paid by an employer to a worker to cover any special expenses incurred by the worker on account of the nature of his work;
- (iv) *ex-gratia* payments, whether made by the employer or other person,
- (v) sum paid under any provident fund;
- (vi) payment by way of pension;
- (vii) special cash payment, other than normal leave pay made when the worker is going on leave;
- (viii) housing allowance or the cost of any food or quarters supplied by the employer; or

(ix) cost of living allowance.

(b) Any employer who supplies food or quarters or both food and quarters to a worker is entitled to receive periodical payment and shall be entitled to be refunded by the worker the cost, as determined by the Commissioner, of such food or quarters or food and quarters; and the Commissioner may deduct from any moneys payable to the worker an amount equal to such cost and pay such amount to the employer.

(As amended by Act No. 19 of 1976)

(2) Where a worker's remuneration is fixed at a rate calculated upon work performed or is subject to fluctuation by reason of the terms or nature of the employment, his earnings shall be taken to be his average monthly remuneration for similar work upon the same terms of remuneration for as long a period as possible before the accident but not exceeding twelve months.

(3) Where, by reason of the shortness of time during which a worker has been in the employment of his employer, it is impracticable to arrive at a fair computation of his average monthly earnings in such employment, the earnings shall be computed, if possible, upon the basis of the amount which the worker earned at work on the same terms of remuneration with another employer during the twelve months immediately preceding the accident concerned or upon the basis of the amount which, during the twelve months immediately preceding such accident, has been earned by other worker with the worker's employer at similar employment on the same terms of remuneration or would have been earned by the worker during such preceding twelve months had he been so employed.

(4) Where a worker has entered into concurrent contracts of service with two or more employers, and has worked under those contracts at one time for one employer and at another time for another employer, his 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.

(5) Nothing in this section shall be construed so as to prevent the computation of earnings on a weekly basis, and, where earnings are so computed, the monthly earnings shall be calculated as equal to four and one-third times the amount of such weekly earnings.

(As amended by Act No. 19 of 1976)

68. Where a worker who has suffered permanent disablement was, at the date of the accident concerned, under twenty-one years of age or was employed under a contract of apprenticeship or learnership, the amount of his compensation for such permanent disablement shall be based on the earnings which, had he not met with the accident, he would, in the opinion of the Commissioner, probably have been receiving at the end of three years after the accident, or as a journeyman or operator upon completion of his apprenticeship or learnership, whichever calculation is more favorable to the worker.

Calculation of earnings of permanently disabled worker under twenty-one

69. (1) Where a pension under section *fifty-nine* does not exceed such amount as may be prescribed, the Commissioner may, in his discretion, upon the application of the worker, pay or order the payment of a lump sum in lieu of a portion or the whole of such pension.

Payment of lump sum
in lieu of pension

(2) Where such pension exceeds the prescribed amount, the Commissioner may, in his discretion, on the application of the worker, in lieu of a portion of such pension, pay or order the payment of a lump sum not exceeding the maximum sum which, in the opinion of the Commissioner, would have been payable under sub-section (1) had the pension not exceeded the prescribed amount:

Provided that if the balance of the pension payable is less than three hundred kwacha per month, the Commissioner may pay or order the payment of a lump sum in lieu of the whole of such pension.

(3) Any lump sum under this section shall be calculated on a basis prescribed by the Minister and payment thereof shall be subject to the control of the Commissioner as provided in section *seventy-one*.

(4) Where the Commissioner pays or orders the payment of a lump sum in lieu of the whole of a pension he may also, in his discretion, pay or order the payment of a lump sum in lieu of any children's allowances which the Commissioner has, under the provisions of sub-section (3) of section *seventy-one*, determined shall be paid to the pensioner.

(As amended by No. 19 of 1976 and 27 of 1994)

70. (1) Where the injury in respect of which compensation is payable causes disablement of such a nature that the worker is unable to perform the essential actions of life, without the constant help of another person, the Commissioner may from time to time in his discretion grant an allowance in addition to any other benefits under this Act, or require an employer individually liable to pay such an allowance, towards the cost of such help as may be required for a specified period.

Worker requiring
constant attendance

(2) The Commissioner may in his discretion revise any order made under the provisions of sub-section (1).

71. (1) Where compensation is payable in the form of a lump sum by an employer individually liable, such sum shall, unless the Commissioner otherwise directs, be paid to the Commissioner to be dealt with by him in the manner provided in this section and the receipt of the Commissioner shall be a sufficient discharge in respect of the amount paid.

Control of payment of
compensation

(2) Any compensation payable in the form of a lump sum to a worker or dependant may, in the discretion of the Commissioner and for reasons deemed by him to be sufficient, be-

The Laws of Zambia

- (a) paid to the worker or dependant in the form of a lump sum or in instalments, or to or on behalf of persons dependent for maintenance on such worker or dependant;
- (b) invested or applied from time to time, as the Commissioner may deem to be to the advantage of the worker or dependant, or those dependent on either of them for maintenance;
- (c) paid to a trustee or other person to be used subject to such conditions as may be imposed by the Commissioner;
- (d) dealt with partly in one and partly in another or in more than one of the ways mentioned in paragraphs (a), (b) and (c), as the Commissioner may determine.

(3) Any children's allowance payable under the provisions of this Act shall be paid to the parent, step-parent, adoptive parent or such other person on behalf or for the benefit of the child as the Commissioner may determine, and where a children's allowance is payable in respect of both legitimate and illegitimate children, the Commissioner shall determine how such allowance shall be apportioned.

(4) Where a worker dies leaving dependants and there remains unpaid to him any amount due under the provisions of this Act, the provisions of section *one hundred and sixteen* shall apply and the Commissioner shall distribute the amount concerned among the dependants of such deceased worker, in such proportions as he may deem fit, and if such worker dies otherwise than as a result of the accident concerned, the Commissioner may pay the funeral expenses of the deceased worker from such unpaid amount.

(5) Where a dependant dies and there remains unpaid to him any amount due to such dependant under the provisions of this Act, such amount shall not form part of the estate of the deceased dependant, but shall be paid to the Commissioner for distribution or shall be distributed by him amongst such other dependants in such proportions as he may deem fit, and the Commissioner may pay the funeral expenses of the deceased dependant from such unpaid amount, and, where there are no such dependants, any unpaid amount remaining after the payment of the funeral expenses, if any, shall in the case of an amount paid to him by an employer individually liable be repaid by the Commissioner to the employer individually liable.

72. Where a pension or children's allowances are payable by an employer individually liable, the payments shall be made-

Where employer is liable to pay pension

- (a) by such employer; or
- (b) by agreement with the Commissioner, by the Commissioner from funds furnished by such employer for this purpose.

73. In anticipation of the award of compensation, the Commissioner may, where, in his opinion, the interest or pressing need of the worker or of a dependant warrants it, make an advance not exceeding twenty thousand kwacha to or on behalf of the worker or a dependant on such conditions as the Commissioner may determine:

Advances against compensation

Provided that any moneys so advanced shall be recovered, in such instalments and in such manner as the Commissioner may decide, from any amounts awarded as compensation to the worker or his dependants.

(As amended by Act No. 27 of 1994)

73A. With the consent of the Minister, the Board may, not more than once in each calendar year, review any amount payable under this Part as pension or children's allowance and may increase such amount so as to compensate fully or partly for the increase in the cost of living according to the official cost of living index of the Republic.

Review of pensions or allowances

(As amended by Act No. 19 of 1976)

PART VII

PROCEDURE FOR OBTAINING COMPENSATION

74. (1) In order that compensation may be obtained under this Act-

Notice of accident to be given

- (a) notice of an accident causing disablement or death of a worker shall be given by or on behalf of the worker, or a dependant of such worker, as soon as reasonably possible after the happening of the accident, to the employer;
- (b) save as is otherwise provided in this Act, a claim for compensation shall, in the case of disablement, be lodged with the Commissioner or the employer individually liable, within twelve months after the date of the accident or, in the case of death, within twelve months after the date of the death:

Provided that where a worker has been receiving periodical payments, a claim for compensation for permanent disablement in respect of the same accident shall be lodged within twelve months after the date on which such periodical payments finally cease to be payable.

(2) The provisions of paragraph (b) of sub-section (1) shall not be construed as enabling a claim to be made for compensation in respect of a death which occurred more than twelve months after an accident causing injury, if no claim for compensation has been made by the worker within twelve months after the date of such accident.

(3) Notwithstanding anything contained in this section-

- (a) failure to give such notice shall not bar the right to compensation if it be proved that the employer had knowledge of the accident from any other source at or about the time of the accident;

The Laws of Zambia

- (b) failure to give such notice or to make a claim within the period of twelve months mentioned in this section or any defect or inaccuracy therein shall not bar the right to compensation if, in the opinion of the Commissioner-
- (i) the Fund or the employer individually liable is not or would not be, if notice or an amended notice were then given, seriously prejudiced by such failure, defect or inaccuracy; or
 - (ii) such failure, defect or inaccuracy was occasioned by a mistake, absence from Zambia, or other reasonable cause.

(4) No claim for compensation under this Act shall be considered unless it is lodged with the employer individually liable or the Commissioner in the manner prescribed within twelve months after the date of the accident or, in the case of death, within twelve months after the death:

Provided that the provisions of paragraph (b) of sub-section (3) shall apply *mutatis mutandis* to this sub-section.

75. (1) Every employer shall, within three days after having-

Employer to give
notice of accident to
Commissioner

- (a) gained knowledge of the happening of an accident to a workman, report such accident to the Commissioner in such form as may be prescribed; and
- (b) received written notice of an accident to a worker, forward such written notice to the Commissioner;

and any employer who fails without reasonable excuse to comply with the provisions of this sub-section shall be guilty of an offence.

(2) A report made by an employer to the Commissioner under the provisions of sub-section (1) shall constitute a claim for compensation by the worker notwithstanding that it may contain information which, if correct, would negative such claim.

(3) Notwithstanding the provisions of sub-section (1), an employer may, if specially authorised by the Commissioner, report accidents at such intervals and in such manner as the Commissioner may approve.

(4) Every employer shall keep a register in such form as may be prescribed, or in such other form as the Commissioner may, in any particular case, allow, in which he shall, within three days of the happening of an accident, record the happening thereof.

(5) For the purposes of this section, "accident" includes any personal injury sustained by a worker and damage to or destruction of any artificial aid used by him and reported by him to his employer, if in making the report the worker alleges that such injury, damage or destruction arose out of and in the course of his employment.

76. (1) A worker shall supply such further particulars of any accident and any injury to such worker arising therefrom as his employer, whether individually liable or not, or the Tribunal or the Commissioner, may require.

Additional information to be supplied

(2) An employer shall supply such further particulars as the Tribunal or the Commissioner may require of any accident to any worker, the injuries and earnings of such worker and such other matters as are within the knowledge of the employer concerning such worker and such accident.

(3) A worker or employer who fails to comply with the provisions of this section shall be guilty of an offence.

76A. (1) Where an employer is convicted of the contravention of sub-section (1) of section *seventy-five* or sub-section (2) of section *seventy-six*, the court before which such employer is convicted shall, on the application of the Commissioner and in addition to imposing any penalty, enter judgment, and civil jurisdiction is hereby conferred upon it for that purpose, in favour of the Commissioner for a sum equal to the loss suffered by the Board on account of such employer's default:

Entry of judgment in favour of Commissioner

Provided that such sum shall not exceed the full amount of the compensation payable on account of the accident in respect of which such employer was in default.

(2) Any sum ordered by the court under sub-section (1) shall be recoverable by the Commissioner as a civil debt.

(3) In this section "compensation", in the case of a continuing liability, includes any sum determined by the commissioner as the capitalised value of the pension (whether or not a lump sum is paid at any time in lieu of the whole or part of such pension), periodical payment or allowance, as the case may be, which constitutes liability.

(As amended by Act No. 19 of 1976)

77. (1) A worker who claims compensation shall, when so required by the Commissioner or employer individually liable, furnish a certificate from a medical practitioner or dentist, according to the nature of the injury, showing the nature and extent of the worker's injury or illness, whether or not he is fit for work and the reason for such unfitness, if any, and the period of likely temporary disablement.

Worker to furnish medical certificates

(2) Where any such certificate is forwarded to an employer, he shall forthwith forward such certificate to the Commissioner.

78. The Commissioner may at any time require any worker who has suffered any injury to obtain and furnish to the Commissioner such medical reports concerning the condition of, and the extent of the injury to, such worker, and any other matter as may be necessary to enable the Commissioner to carry out his functions in respect of such worker, and any fee payable for any such report shall be payable out of the Fund.

Commissioner may require medical reports

79. In the case of the death of a worker as a result of an accident or where any person who is in receipt of compensation dies, the Commissioner may call for such evidence of the death of such worker or person as he may require for the purposes of this Act.

Commissioner may call for evidence of death

80. (1) A worker who claims compensation or to whom compensation has been paid or is payable shall, when so required by written notice given by his employer individually liable or the Commissioner, and after reasonable notice, submit himself for examination by a medical practitioner nominated by such employer or the Commissioner, as the case may be, at the time and place notified, provided such time and place are reasonable, and any necessary expenses incurred by the worker in complying with the provisions of this section as determined by the Commissioner shall be paid by the employer or by the Commissioner, as the case may be.

Worker claiming compensation to submit to medical examination

(2) In the event of a worker being, in the opinion of any medical practitioner, not in a fit state to attend on the medical practitioner named in any notice given under sub-section (1), such worker, or some person on his behalf, shall notify the employer or the Commissioner, as the case may be, of the fact, and may require the medical practitioner so named to attend on the worker at a reasonable time and place to be agreed upon.

(3) A worker shall be entitled, at his own expense, to have a medical practitioner nominated by himself present at any examination made under the provisions of this section.

81. Whenever it comes to the notice of the Commissioner that an accident has happened to a worker which might result in a claim under this Act, the Commissioner shall-

Procedure upon information of accident

- (a) make or cause to be made such inquiry or take or cause to be taken such other steps as he may deem necessary to enable him to decide on any claim or question of liability under this Act;
- (b) at the request of an injured worker or of his employer, supply such information as the Commissioner considers necessary to enable the worker or his employer to comply with the requirements of this Act.

82. (1) Upon receipt of any claim for compensation the Commissioner shall, after making or causing to be made such inquiries as he may deem necessary, determine such claim in part or in whole as is appropriate at the time.

Procedure on presentation of claim

(2) Where it appears to the Commissioner from any certificate submitted to him that the worker has suffered permanent disablement and that the worker's injury is static, the Commissioner shall determine the degree of disablement of such worker in relation to all the circumstances of the case.

(3) The Commissioner shall, as soon as he has made a determination under the provisions of this section, by notice in writing, inform the claimant and the employer individually liable, if such employer is concerned, of the result of the determination.

83. Notwithstanding anything contained in this Act, the Commissioner may authorise an employer individually liable, subject to such conditions as the Commissioner may determine, to make provisional settlements of claims for compensation with a worker:

Provisional settlement of claim by employer individually liable

Provided that such employer shall report such provisional settlements to the Commissioner with such particulars and at such intervals as the Commissioner may determine, and the Commissioner shall either confirm any such provisional settlement or proceed to determine such claim in the manner provided in this Part as if such provisional settlement had not been made.

84. (1) The Commissioner may require an employer, other than an employer individually liable, to make periodical payments of compensation in cash or in kind or both in cash and in kind to a disabled worker.

Commissioner may require employer to make periodical payments

(2) The Commissioner shall refund to an employer such periodical payments as the employer has made to a worker under the provisions of sub-section (1):

Provided that, before making any refund in respect of payments in cash, the Commissioner may require the transmission to him of a certificate, in the form prescribed, of such payment.

PART VIII

MEDICAL AID

85. (1) An employer shall provide and maintain such appliances and services for the rendering of first aid to his workers in case of any accident to them as may be prescribed in respect of the trade or business in which he is engaged:

First aid

Provided that this sub-section shall not apply in any case where appliances and services for the rendering of first aid are provided and maintained in accordance with the provisions of any other law.

(2) Any employer who fails to comply with the provisions of sub-section (1) shall be guilty of an offence.

86. (1) In the event of an accident happening to a worker in the course of his employment which necessitates his removal to a hospital or his residence, the employer of such worker shall forthwith provide the necessary conveyance therefor.

Conveyance of injured worker

(2) The Commissioner or the employer individually liable, as the case may be, shall defray the reasonable expenses (as determined by the Commissioner) incurred by an employer or any other person in complying with the provisions of sub-section (1).

(3) Any employer who fails to comply with the provisions of sub-section (1) shall be guilty of an offence.

87. (1) Subject to the provisions of this section, the Commissioner or an employer individually liable, as the case may be, shall defray any expenses reasonably and necessarily incurred by a worker as the result of an accident arising out of and in the course of his employment in respect of the following matters, that is to say:

Medical aid expenses

- (a) dental, medical, surgical or hospital treatment;
- (b) skilled nursing services;
- (c) the supply of medicines and surgical dressings;
- (d) travelling and subsistence in connection with the worker's journey to and from and treatment in a place either within or outside Zambia where he was directed by his medical practitioner to go for treatment; or for the obtaining of any artificial limb or apparatus referred to in paragraph (e);
- (e) the supply, maintenance, repair and renewal of artificial limbs and apparatus necessitated by the accident and the repair or replacement of artificial limbs or apparatus used by a worker in the course of his employment and damaged or destroyed as the result of an accident.

(2) The liability of the Commissioner or an employer individually liable, as the case may be, shall be limited-

- (a) in the case of the matters mentioned in paragraphs (a) to (d) inclusive of sub-section (1), to an amount not exceeding thirty thousand kwacha; and
- (b) in the case of the matters mentioned in paragraph (e) of sub-section (1), to an amount not exceeding twenty thousand kwacha:

Provided that if the Commissioner is satisfied on a medical certificate that the injury to the worker was of a serious nature, the Commissioner may determine that such additional amount as he considers just in the circumstances shall be paid by him or the employer individually liable, as the case may be.

(3) The Commissioner or an employer individually liable shall only be liable in respect of travelling and subsistence expenses in connection with a worker's journey to and from and treatment in a place outside Zambia if the Commissioner has approved of such journey.

(4) For the purposes of this section, hospital treatment shall include the maintenance of a worker detained in hospital.

(As amended by No. 19 of 1976 and No. 27 of 1994)

88. All disputes as to liability for or the necessity for or the character or sufficiency of any medical aid provided or to be provided under this Part shall be determined by the Commissioner.

Decisions of
Commissioner in
regard to medical aid

89. The fees and charges for medical aid to workers shall be in accordance with such scale as the Minister may prescribe after consultation with such associations or bodies representing medical practitioners or dentists entitled to practise in Zambia as the Minister may think fit, and no claim for an amount in excess of a fee in accordance with that scale shall lie against any worker, the Commissioner or an employer individually liable in respect of any such medical aid.

Power to prescribe
fees for medical aid

(As amended by No. 37 of 1969)

90. *(Repealed by No. 19 of 1976)*

PART IX

DISEASES

91. (1) Where a medical practitioner grants a certificate-

Compensation in
respect of diseases

(a) that a worker is suffering from a scheduled disease causing disablement or that the death of a worker was caused by a scheduled disease; and

- (b) that such disease was due to the nature of the worker's employment;

the worker or, if he is deceased, his dependants shall be entitled to claim compensation under this Act as if such disablement or death had been caused by an accident and the provisions of this Act shall, subject to the provisions of this Part, *mutatis mutandis*, apply unless at the time of entering into the employment the worker wilfully and falsely represented in writing in reply to a specific question that he had not previously suffered from the disease:

Provided that-

- (i) where the worker was not, at the date of the disablement or death, employed in the occupation to the nature of which the disease is due, the earnings of the worker shall be calculated on the basis of his earnings when he was last employed in such occupation; and
- (ii) in no case shall the worker or his dependants be entitled to compensation in respect of any causation or aggravation of the disease which was due to employment outside Zambia except in the case of a worker ordinarily resident in Zambia employed outside Zambia by his employer within Zambia.

(2) If the Commissioner is satisfied that the allegations in a certificate mentioned in sub-section (1) are correct, the worker or his dependants, as the case may be, shall be entitled to compensation under this Act, as if the contracting of the disease were an injury by accident arising out of and in the course of the worker's employment.

92. Where any of the provisions of this Act relating to an accident are applied to disablement or death of a worker caused by a scheduled disease, an accident shall be deemed to have happened-

Fixing date of accident

- (a) in the case of a scheduled disease causing disablement, on the date of the certificate mentioned in section *ninety-one*;
- (b) in the case of death from such disease, on the date of the death of the worker.

93. If a worker who becomes disabled by or dies of any scheduled disease was, within the period of twenty-four months immediately preceding the disablement or death, employed in any occupation mentioned in the Second Schedule opposite such disease, it shall be presumed, unless or until the contrary is proved, that the disease was due to the nature of such employment.

Presumption as to cause of disease

94. The Minister may, by regulation-

Minister may amend Second Schedule

- (a) amend the description of work in the Second Schedule;
- (b) add to the Second Schedule the description of further diseases and, in relation to those further diseases, the description of the work for the purposes of section *ninety-three*.

95. (1) In relation to pneumoconiosis to which this section applies, the provisions of this section shall prevail over any other provisions of this Act, but such provisions of this Act as are not inconsistent with the provisions of this section shall apply to pneumoconiosis.

Special provisions in respect of pneumoconiosis

(2) This section shall apply only in relation to pneumoconiosis in respect of which compensation is not payable under the provisions of the Pneumoconiosis Act.

Cap. 217

(3) Where any person has contracted pneumoconiosis in respect of which he is not entitled to compensation under the provisions of this Part and thereafter works in an occupation which may give rise to pneumoconiosis owing to the presence of dust, he shall not be entitled to any compensation under this Act for or by reason of or on account of any work in such occupation.

(4) Any person who has worked or is working in an occupation which, in his opinion, may give rise to pneumoconiosis owing to the presence of dust, and who considers that he is disabled by pneumoconiosis as a result of such work, may apply in person or in writing to the Bureau for an examination to determine whether or not he is suffering from pneumoconiosis and any disablement caused by such pneumoconiosis so as to entitle him to compensation under this Act.

(5) Any person applying for an examination under the provisions of this section shall deliver to the Bureau full and correct particulars of all work performed by him, and on receipt of such particulars the Director, or any person authorised by him in that behalf, shall, if he is of the opinion that the applicant is working or has worked in an occupation which may give rise to pneumoconiosis, notify him of a time and place at which he may present himself for examination.

(6) On presenting himself for examination at the time and place specified under sub-section (5), and on payment of a fee of twenty fee units the applicant shall be clinically and radiologically examined:

Provided that the fee of twenty fee units shall not be payable if the applicant produces before the examination a medical certificate to the effect that the examination is desirable.

(7) After an examination under the provisions of this section, the Director shall provide the person examined, or cause him to be provided, with a certificate stating whether such person is or is not suffering from pneumoconiosis, and, if he or she is so suffering, whether or not such pneumoconiosis results in his or her disablement.

(8) The Director shall, when required by the Commissioner or the Tribunal so to do, and on consideration of all the evidence in his possession, whether submitted to him by the Commissioner or the Tribunal or otherwise, certify-

The Laws of Zambia

- (a) the amount, expressed as a percentage, of disablement suffered by a claimant by reason of pneumoconiosis;
- (b) the proportion of pneumoconiosis suffered by the claimant which is attributable to work entitling such claimant to compensation under the provisions of this Act.

(9) A certificate issued under the provisions of this section shall be accepted by the Commissioner or by the Tribunal, as the case may be, as *prima facie* evidence of the facts therein certified.

(10) If the claimant is entitled to compensation for pneumoconiosis under this Act, the fee of twenty fee units paid by him for the examination shall be refunded to him by the Commissioner or the employer individually liable, as the case may be.

(11) For the purposes of this section-

Cap. 217

"Bureau" means the Pneumoconiosis Medical and Research Bureau established under the provisions of the Pneumoconiosis Act;

"Director" means the Director of the Bureau.

(As amended by No. 27 of 1994 and Act No. 13 of 1994)

96. In the case of an employer individually liable, compensation in respect of a scheduled disease shall be paid by the employer who last employed the worker in the occupation to the nature of which the disease is due:

Liability to pay compensation

Provided that, if the Commissioner is satisfied that the worker contracted the disease while in the employment of any previous employer or that the disease was partly attributable to such employment, he may, after due notice to that employer, direct that the compensation, or such part thereof as he deems equitable, shall be paid by such employer if he is individually liable, or out of the Fund, as the case may be.

PART X

COMPENSATION FUND

97. (1) There shall, on the commencement of this Act, be established and maintained a fund to be known as the Worker's Compensation Fund which shall be vested in the Board.

Establishment of Fund

(2) The Fund shall consist of-

The Laws of Zambia

- (a) the assessments paid by employers under this Act;
- (b) any moneys paid by employers to the Commissioner under this Act;
- (c) any moneys paid as penalties imposed under this Act, other than penalties imposed by a court of law;
- (d) interest from investments of the Fund;
- (e) any moneys transferred under the provisions of paragraph (c) of section *one hundred and twenty-three*;
- (f) any moneys paid to the Board under the provisions of section *ninety-nine*;
- (g) any payments made to the Commissioner by employers individually liable under the provisions of this Part;
- (h) any other sums to which the Fund may become entitled.

98. (1) The moneys of the Fund shall be applied by the Commissioner for the purposes of this Act and in payment of the expenses of the due administration thereof. Application of Fund

(2) Any surplus in the Fund may, with the approval of the Minister after consultation with the Minister responsible for finance, be applied by the Board in the reduction of future assessments or may be transferred to reserves or may be allowed to remain in the Fund, and any deficiency in the Fund may be made good by an increase in the amount of any future assessment.

(3) There may be established within the Fund such reserve funds as the Board, with the approval of the Minister after consultation with the Minister responsible for finance, considers necessary for the purposes of this Act.

99. (1) Save as is provided in sub-section (2), the obligations and liabilities of any insurer under any contract of insurance made in pursuance of sub-section (1) of section *ninety* of the *Act* repealed by this Act shall remain in full force. Provisions relating to the liability of insurers and certain employers

*See section 127 of this Act.

(2) Any insurer may, with the approval of the Board, pay to the Board the capitalised value of any pension, or children's allowance, as determined by the Board in respect of which he is liable to indemnify the employer of a worker under a contract of insurance made in pursuance of sub-section (1) of section *ninety* of the *(2)Act repealed by this Act and, upon such payment, the obligations of the insurer under such contract and the obligations of the employer under the *(3)Act repealed by this Act, other than any obligation arising out of an arrangement made by the employer for furnishing medical aid to his workers under section *seventy-two* of the repealed Act, shall cease and be transferred to the Board.

*See section 127 of this Act. *See section 127 of this Act.

(3) Any employer to whom an exemption was granted by the Governor of the former Protectorate of Northern Rhodesia, in the exercise of the powers conferred upon him by sub-section (2) of section *ninety* of the *(4)Act repealed by this Act, from the operation of sub-section (1) of that section and whose exemption was in force immediately before the commencement of this Act (hereinafter in this section referred to as an exempted employer) may, with the approval of the Board, pay to the Board the capitalised value of any pension or children's allowance as determined by the Board which he is liable to pay to any worker or to the dependants of any worker and, upon such payment, the obligations of that employer under the *(5)Act repealed by this Act shall cease and be transferred to the Board.

*See section 127 of this Act. *See section 127 of this Act.

(4) Any insurer or exempted employer who has not transferred the obligations referred to in sub-section (2) or (3) to the Board in accordance with the provisions of those sub-sections shall-

- (a) furnish to the Commissioner such information as the Commissioner may, from time to time, require in relation to the compensation paid by such insurer or exempted employer;
- (b) pay to the Board such amount as may be prescribed not exceeding one per centum of the compensation including medical aid paid by such insurer or exempted employer within the period of twelve months ending on-
 - (i) the 31st March, 1965; and
 - (ii) the 31st March in every succeeding year.

*See section 127 of this Act.

Any payments required to be made in terms of paragraph (b) shall be made in the case of payments referred to in sub-paragraph (i) not later than the 1st June, 1965, and in the case of payments referred to in sub-paragraph (ii) not later than the 1st June in every succeeding year:

Provided that in any particular case the Board may on good cause shown extend the time within which the aforesaid payments shall be made.

(As amended by No. 22 of 1965)

100. (1) Where under the provisions of the *⁽⁶⁾Act repealed by this Act a worker has become entitled to compensation from an employer who was required by the repealed Act to be insured, but who was not so insured, and from whom no or insufficient compensation has been recovered by the Commissioner, the Commissioner may, with the approval of the Minister and the Board and notwithstanding anything to the contrary contained in this Act, pay to such worker from the Fund the amount of such compensation or, where insufficient compensation has been recovered, the amount by which such compensation is deficient.

Payment of compensation by Commissioner in respect of accidents arising under repealed Act

*See section 127 of this Act.

(2) Any sum paid by the Commissioner to a worker under the provisions of sub-section (1) shall be a debt due to the Fund by the employer of such worker and may be recovered from such employer by the Commissioner as a civil debt.

(No. 22 of 1965)

101. The Board may-

Powers of Board

- (a) with the approval of the Minister responsible for finance, borrow money for all or any of the purposes of this Act, or in order to meet any unforeseen contingency or expenditure incurred in connection with the administration of this Act, or to meet any liquid deficiencies in the Fund;
- (b) with the approval of the Minister, purchase or otherwise acquire property required wholly or partly for the purposes of this Act and alienate any property so acquired, and properties so acquired shall be held in the name of the Board in trust for the Fund;
- (c) with the approval of the Minister responsible for finance, pledge such portion of the assets of the Board as may be necessary to provide security for loans received.

102. (1) All moneys received by the Board or by the Commissioner on behalf of the Fund shall be paid into a banking account and no money shall be withdrawn therefrom except by means of cheques signed by such person or persons as may be authorised by the Board in that behalf.

Holding of assets of Fund

*See section 127 of this Act.

(2) A proportion of the Fund shall be held in liquid form and such proportion may be determined and varied from time to time by the Board, having regard to the due execution of the provisions of this Act, and such liquid portion of the Fund may be held in the banking account or on deposit with banks or registered building societies or in Treasury bills of the Government.

(3) The Board shall hold the remainder of the Fund in investments approved, either generally or specially, by the Minister responsible for finance.

103. (1) The Commissioner shall cause to be kept proper books of account, and other books and records in relation thereto, in which shall be recorded all the financial transactions of the Fund.

Accounts and audit

(2) The accounts of the Fund shall be audited by such person as the Board, with the approval of the Minister, may appoint.

(3) Such auditor as shall be appointed by the Minister responsible for finance shall at all times have the right to inspect the accounts of the Fund on behalf of that Minister.

(4) The Minister shall, as soon as possible after the completion and auditing of the balance sheet and statements of the transactions of the Fund under this Act, lay copies thereof before the National Assembly.

(As amended by G.N. No. 176 of 1964)

PART XI

ASSESSMENTS

104. Every employer, other than-

Liability to assessment

- (a) the State; and
- (b) any employer exempted by the Minister under the provisions of section *one hundred and five* during the period of such exemption;

shall be liable to assessment under this Part.

(As amended by S.I. No. 156 of 1965)

105. (1) The Minister may, by writing under his hand, exempt from the payment of assessments for such period and subject to such conditions as he may specify, any employer who proves to the Minister's satisfaction that he has established and made provision for the maintenance of a fund for insurance against any liability which may arise under this Act in respect of all workers employed by him, and who has deposited with the Board sufficient security to meet all claims for compensation which may be due or become due under the provisions of this Act:

Exemption

Provided that the Minister may, after consultation with the Minister responsible for finance, dispense with the obligation of depositing such securities in the case of any body incorporated directly by any law.

(2) Any employer to whom exemption was granted under the provisions of the ^{*}(7)Act repealed by this Act, and whose exemption was in force immediately before the commencement of this Act shall be deemed to have been exempted under the provisions of sub-section (1).

*See section 127 of this Act.

(3) The Board may, upon the application of an employer referred to in this section, permit such employer to pay assessments in respect of his workers, and any such employer shall, from a date to be fixed by the Board, cease to be individually liable to pay compensation except in respect of accidents which occurred before such date.

(As amended by No. 37 of 1969)

106. (1) Subject to the provisions of section *one hundred and nine*, every employer liable to assessment shall, before a date prescribed by the Minister in each year, or if the employer becomes liable to be assessed after that date, within fourteen days after having become so liable, transmit to the Commissioner a statement in the prescribed form, certified by him as true, showing-

Employers to submit information

- (a) the amount of earnings of each of his workers during the past financial year;
- (b) an estimate of the earnings for which he expects to become liable during the current financial year; and
- (c) such other information as may be prescribed, or as the Board may require from him, in respect of his workers or their earnings:

Provided that in any particular case the Commissioner may on good cause shown extend the time within which the aforesaid statement shall be transmitted to him.

(2) Where an employer carries on a business in more than one place or carries on more than one class of business, the Board may require from him a separate statement in respect of each such place or class of business.

(3) If in any statement submitted under the provisions of sub-section (1), the amount of earnings alleged to have been due and paid during any period is less than the amount actually due and paid, the Board may impose upon the employer who transmitted such statement, as a penalty, such proportion, not exceeding ten per centum, of the difference between the amount stated and the correct amount, as the Board may determine.

*See section 127 of this Act.

(4) If in any statement submitted under the provisions of paragraph (b) of sub-section (1), the estimate of earnings for which the employer expects to become liable during any period is, in the opinion of the Board, too low, the Board may direct the Commissioner to estimate the earnings for which the employer will probably become liable during that period and inform the employer of such estimate.

(5) An employer who fails to comply with the provisions of this section or with any requirement of the Board under sub-section (2) shall be guilty of an offence.

(6) Any employer aggrieved by the imposition of a penalty under the provisions of sub-section (3) may, within twenty-one days of such imposition or within such longer period as the Tribunal may on good cause shown allow, appeal to the Tribunal.

(As amended by No. 4 of 1966)

107. (1) The Commissioner shall, as soon as practicable after receipt of the statement referred to in section *one hundred and six*, assess the employer concerned on the basis of the rates fixed under the provisions of sub-section (2) and shall give notice to the employer of such assessment and of the date on or before which such assessment shall be paid.

Assessments on
employers

(2) (a) Save as is otherwise provided under this Act, the rates of assessment payable by any employer or class of employers shall be fixed from time to time by the Board in its discretion according to the estimated requirements of the Fund and to the risk and costs of compensation payable, and the Board may direct that a minimum assessment may be levied on any employer.

(b) The Board shall cause notice of the rate of assessment fixed by it under paragraph (a) to be published in the *Gazette*.

(c) Any employer who objects to the rates of assessment fixed may, within thirty days of their publication, make representations in writing to the Minister stating his objections.

(d) After considering any such objections as aforesaid, the ⁽⁸⁾Minister may confirm, amend or vary such rates of assessment.

*See S.I. No. 222 of 1969.

(3) The rates of assessment fixed in accordance with sub-section (2) shall not have effect unless and until the Minister has confirmed, amended or varied them as aforesaid and the rates of assessment as so confirmed, amended or varied have been published in the *Gazette* and, unless the Board otherwise specifies, shall apply to assessments in respect of earnings for the financial year in which they are so published.

*See S.I. No. 222 of 1969.

(4) In estimating the rates of assessment deemed to be necessary for the requirements of the Fund, the Board shall make provision for the capitalised values of pensions and other liabilities due or likely to become due in respect of accidents during the year of assessment.

(5) For the purpose of assessment, earnings shall be determined in such manner as may from time to time be prescribed.

(6) When the earnings actually paid by an employer during any period have been ascertained, the assessment in respect of that period shall be adjusted accordingly.

(7) If the annual assessment is less than the adjusted assessment, the employer shall pay the difference when called upon to do so, and if the annual assessment is more than the adjusted assessment, the Commissioner shall refund the difference to the employer or credit him therewith in respect of his following annual assessment.

(8) If an employer has failed to transmit before the prescribed date, a statement of wages and earnings as required by section *one hundred and six* in respect of any period, the Commissioner may estimate the amount of wages paid or payable by such employer and earnings for which such employer will probably become liable and assess him accordingly:

Provided that if it is subsequently ascertained that the amount assessed would have been greater had the employer transmitted the statement before the prescribed date, the employer shall pay to the Commissioner the difference between the amount assessed and the amount which would have been assessed had the statement been available.

(9) If an employer liable to assessment who, in respect of any period, has transmitted to the Commissioner the statement referred to in sub-section (1) of section *one hundred and six* has not been assessed in respect of that period, he shall nevertheless be liable at any time thereafter to be assessed.

(10) An employer shall pay his assessment on or before the date specified in the notice of assessment:

Provided that the Commissioner may, on the application of the employer, agree to accept payment by instalments on such conditions as he may specify, and where payment is made by instalments, the instalments shall be paid at the times specified by the Commissioner.

108. (1) If, during any period, the claims and accident experience of an employer are, in the opinion of the Board, more favourable than the claims and accident experience of employers in his class of business, the Board may, in its discretion, award such employer as a bonus a special rebate on any assessment payable or paid by him.

Assessment variations

(2) If, during any period, the claims and accident experience of an employer are, in the opinion of the Board, less favourable than the claims and accident experience of employers in his class of business, the Board may, in its discretion, assess such employer at a higher rate than that fixed under section *one hundred and seven*.

109. (1) This section shall apply to every employer who employs one or more than one private domestic servant whose earnings do not in the aggregate exceed sixty thousand kwacha a year.

Assessment of employers of private domestic servants whose aggregate earnings do not exceed K60,000 per annum

(2) The rate of assessment payable by every employer to whom this section applies in respect of private domestic servants employed by him shall be such sum as the Minister may, after consultation with and acting on the advice of the Board, prescribe.

(3) The assessment payable under this section by an employer to whom this section applies shall become due and payable by him on the 30th April in each year, or, if the employer becomes liable to assessment on a later date, within a period of not more than thirty days from such later date.

(4) The provisions of sections *one hundred and six*, *one hundred and seven* and *one hundred and eight* shall not apply to any employer to whom this section applies in relation to any private domestic servant employed by him.

(5) The Minister may, by statutory instrument, make regulations prescribing-

- (a) the rate of assessment payable under this section;
- (b) the procedure to be followed and the form to be used in connection with the payment of such assessment.

(As amended by No. 4 of 1966 and No. 27 of 1994)

110. (1) Notwithstanding anything contained in this Act, an employer individually liable shall, subject to the provisions of sub-section (2), pay annually to the Commissioner in such manner and at such time as the Commissioner may determine and notify to him, such contributions towards the expenses incurred by the Commissioner in the administration of this Act as the Board may deem equitable.

Contributions by employers individually liable

(2) Any employer aggrieved by-

- (a) his liability to pay contributions;
- (b) the amount of contributions payable by him; or

- (c) the manner or time of payment of contributions;

may, within thirty days of the notification to him of the manner and time of payment, appeal to the Minister whose decision shall be final.

PART XII

MISCELLANEOUS

111. (1) Every employer carrying on business in Zambia shall, within fourteen days of the commencement of this Act, or of the date on which he commences business, whichever date is the later, in the prescribed manner, furnish the Commissioner with the prescribed particulars of his business, and thereafter, within such period as may be fixed by the Commissioner, with such additional particulars as the Commissioner may from time to time require.

Employers to supply
particulars of business

(2) The particulars required by sub-section (1) shall be furnished separately in respect of each business conducted by the employer, and every such employer shall inform the Commissioner of any change in such particulars within fourteen days of such change.

(3) The chief representative present in Zambia of any non-resident employer-

- (a) shall, within fourteen days after the date of commencement or after the date on which such employer commences business in Zambia, whichever is the later, notify to the Commissioner in writing the following particulars:
- i(i) the name and address of such chief representative; and
 - (ii) the address of the chief office or place of business of such employer in Zambia; and
- (b) shall, in the same manner, notify any change in such particulars within fourteen days after such change; and
- (c) shall, for all the purposes of this Act, be deemed to be the employer of all workers employed within Zambia by such non-resident employer.

(4) For the purposes of sub-section (3), "non-resident employer" means any person who is not resident or, in the case of a company or other body of persons, whose registered office is not situate in Zambia, and who carries on any business in connection with which any worker is employed in Zambia.

(5) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(6) Where under the provisions of this section the Commissioner is to be furnished with, informed or notified of any particulars within a fixed time, the Commissioner in any particular case may on good cause shown extend the time so fixed.

112. (1) Every employer shall in respect of all his workers keep records of wages paid, time worked and payment made for piece-work and overtime and of any other particulars prescribed, and he shall at all reasonable times produce such records for inspection on demand by any person authorised thereto under this Act. Employers to keep records

(2) An employer who fails to comply with the provisions of sub-section (1) or who knowingly makes a false entry in such records shall be guilty of an offence.

113. Any person who by threat or in any other manner whatever compels or attempts to compel any worker to do or omit to do any act, the doing or omission of which deprives or is intended to deprive him or his dependants of any right to compensation, shall be guilty of an offence and liable to a fine not exceeding two thousand five hundred penalty units or to imprisonment for a period not exceeding six months, or to both. Threats and compulsion

(As amended by Act No. 27 of 1994 and Act No. 13 of 1994)

114. Any person who, in a claim for compensation under this Act, or in any notice, report or statement required to be given, made or furnished under the provisions of this Act, knowingly makes or causes to be made a statement which is false in a material particular shall be guilty of an offence. False statements

115. (1) If an assessment or any instalment thereof is not fully paid by an employer at the time when it becomes payable, the defaulting employer shall be liable to pay, in addition to such assessment or instalment thereof, as a penalty for his default such percentage, not exceeding ten per centum per annum, of the amount unpaid as the Commissioner may determine: Failure to pay assessments, etc.

Provided that the Commissioner, if satisfied that the default was due to inadvertence or to some other cause over which the employer had no control, may waive the provisions of this sub-section in whole or in part or accept payment as the Commissioner may determine.

(2) Any employer who fails to pay his assessment or to render within the prescribed period the returns referred to in section *one hundred and six* shall, in addition to any other penalty, pay to the Commissioner a penalty, as determined by the Commissioner, not exceeding the full amount of the compensation payable in respect of any accident to a worker in his employment during the period of such default:

Provided that the Commissioner, if satisfied that the default was due to inadvertence or to some cause over which the employer had no control, or that the payment of the full amount of the capitalised value would be likely to result in the bankruptcy of such employer or, where the employer is a company, the winding-up thereof, may waive the provisions of this sub-section in whole or in part or accept payment in instalments or otherwise as the Commissioner may determine.

(3) Any employer who fails to pay any assessment or any penalty imposed by, or other payment due to, the Commissioner under the provisions of this Act shall be guilty of an offence.

(4) Whenever an employer fails to pay to the Commissioner any money due, the Commissioner may recover such money from such employer as a civil debt.

(5) For the purposes of this section, "compensation" includes, in the case of a continuing liability, also the capitalised value, as determined by the Commissioner, of the pension (irrespective of whether a lump sum is at any time paid in lieu of the whole or a portion of such pension), periodical payment or allowance, as the case may be, which constitutes the liability.

116. (1) Compensation recovered or recoverable in respect of the death of a worker shall not form part of the deceased worker's estate for the purposes of the law relating to the administration of estates or the law relating to estate duty.

Compensation not to form part of deceased worker's estate

(2) Where such compensation is payable by any person other than the Commissioner, it shall, unless the Commissioner otherwise directs, be paid to the Commissioner.

(3) The provisions of section *seventy-one* shall, *mutatis mutandis*, apply in respect of any compensation mentioned in sub-section (1).

117. If any benefits have been paid which were not due under the provisions of this Act, the Commissioner may recover the amount of such benefits by civil action, or by deduction from any benefits to which the worker or any dependant has or may become entitled under this Act.

Recovery of benefits paid in error

118. (1) In the event of an employer becoming bankrupt or, if the employer is a company, in the event of the company having commenced to be wound up, the amount of any assessment, penalty or other payment due to the Commissioner as compensation due to any worker or his dependants, by such employer-

Priority of payments

(a) at the date of the receiving order; or

(b) at the date of the commencement of the winding-up;

Cap. 83

shall, notwithstanding anything to the contrary contained in any other law, be included in the debts which under section *three* of the Preferential Claims in Bankruptcy Act are in the distribution of the property of a bankrupt and in the distribution of the assets of a company being wound up to be paid in priority to all other debts.

(2) When the compensation is in the form of a pension, children's allowance or periodical payment, the amount thereof shall, for the purposes of this section, be taken to be the capitalised value of such pension, allowance or payment as determined by the Commissioner.

119. Compensation shall not-

Compensation not to be assigned, etc.

- (a) be capable of being assigned or charged;
- (b) be attached by the order of any court;
- (c) be set off against any debt by the person entitled to such compensation:

Provided that the Commissioner or the employer individually liable, as the case may be, may, out of any compensation payable to a worker, recover either wholly or partly any amount which, with the approval of the Commissioner or of such employer, has, after the occurrence of the accident in respect of which such compensation is payable, been advanced to such worker subject to repayment out of such compensation.

120. Notwithstanding anything to the contrary in any law in force relating to stamp duty, any affidavit, certificate, receipt or other document required or issued under any provision of this Act shall be exempt from stamp duty.

Stamp duty

121. (1) Every insurance company licensed under sub-section (1) of section *ninety-one* of the *(9)Act* repealed by this Act shall, notwithstanding the repeal of the said Act, furnish to the Commissioner, in the manner prescribed and on or before a specified date, the prescribed particulars in regard to the employers insured with them immediately prior to the date of commencement, and such other matters as may be prescribed.

Insurance companies to furnish particulars of employers

*See section 127 of this Act.

(2) Failure to comply with the provisions of this section shall constitute an offence punishable by a fine not exceeding one thousand penalty units.

(As amended by Act No. 27 of 1994 and Act No.13 of 1994)

122. (1) Every record of a decision or award made by the Commissioner and every copy of or extract from an entry in any book or record kept by the Commissioner, and of any document filed with the Commissioner, purporting to be certified by the Commissioner to be a true copy or extract, shall upon production be received in any court as *prima facie* evidence of the matters so certified without proof of the Commissioner's signature.

Evidence

(2) In any proceedings under this Act, in any court, an affidavit purporting to be made by the Commissioner, or by a person to whom powers have been delegated under sub-section (3) of section *thirteen*, in which it is stated-

*See section 127 of this Act.

- (a) that any person or body of persons is an employer, principal, contractor, worker or dependant under this Act; or
- (b) that any person is or has been lawfully required under this Act to pay any amount to the Commissioner, or to a worker or other person named in such affidavit; or
- (c) that any amount referred to in paragraph (b) or any portion thereof had or had not been paid on a date specified in such affidavit; or
- (d) that any decision has been taken by the Commissioner or by such person in pursuance of the powers so delegated to him, as the case may be;

shall, on its mere production in those proceedings by any person, but subject to the provisions of sub-section (3), be *prima facie* proof of the facts stated therein.

(3) The person presiding over the proceedings in which any document or affidavit referred to in sub-section (1) or (2) is adduced in evidence, may cause the Commissioner or other person making the affidavit, as the case may be, to be summoned to give oral evidence, or may cause written interrogatories to be submitted to him for reply and such interrogatories and any reply on oath purporting to be a reply from such person shall in like manner be admissible as evidence in such proceedings.

(As amended by No. 37 of 1969)

123. The President may, by statutory instrument, make rules for the purpose of giving effect to any convention with a foreign state or with the government of any member of the Commonwealth providing for reciprocity in matters relating to compensation to workers for accidents causing disablement or death, and, without prejudice to the generality of such power, such rules may contain provision-

Reciprocal
arrangements

- (a) for determining in any case where a worker is entitled to compensation both under this Act and under the law of any such country with which the convention is made, under the law of which party to the convention such worker or his dependants shall be entitled to recover compensation;
- (b) for conferring on the Commissioner and the Tribunal powers for the admission of evidence taken in any such country and the procuring and taking of evidence for use in any such country or otherwise for the purpose of facilitating proceedings for the recovery of compensation under the respective laws of any such country;
- (c) whereby compensation awarded in any such country to persons resident or becoming resident in Zambia may be transferred to and administered by the Commissioner, and whereby compensation awarded under this Act to persons resident or becoming resident in any such country may be transferred to and administered by a competent authority in that country.

(As amended by G.N. No. 176 of 1964 and S.I. No. 156 of 1965)

124. (1) Every employer, when so required by the Commissioner, shall cause to be affixed and at all times to be kept affixed in a conspicuous place at any place where his workers are employed a clearly printed summary, in such form and language as the Commissioner may require, of the procedure laid down in this Act for the recovery of compensation in the event of an accident.

Summary of procedure for recovery of compensation to be displayed by employer

(2) Any employer who fails to comply with the provisions of sub-section (1) shall be guilty of an offence.

125. The Minister may, by statutory instrument, make regulations as to all or any of the following matters:

Regulations

- (a) the procedure to be followed in connection with claims for compensation of applications under this Act;
- (b) the forms to be used in connection with such procedure or which may be used for any other matter dealt with by this Act;
- (c) the fees which may be charged by medical practitioners, dentists and technical assessors in respect of anything done under or for the purposes of this Act;
- (d) prescribing any matter which by this Act is required or permitted to be prescribed, not being a matter which this Act provides shall be prescribed by a specific person;

and generally for the better carrying out of the objects and purposes of this Act.

126. Any person guilty of an offence under this Act in respect of which no special penalty is provided shall be liable upon conviction to a fine not exceeding one thousand penalty units or to imprisonment for a period not exceeding three months, or to both.

Penalty

(As amended by No. 27 of 1994 and Act No. 13 of 1994)

127. (1) The Workmen's Compensation Act, Chapter 188 of the 1961 Edition of the Laws, is hereby repealed.

Repeal and saving

(2) A claim for compensation in respect of-

- (a) an accident which happened; or
- (b) a scheduled disease in respect of which a death occurred or a certificate was granted under the provisions of the Act hereby repealed;

before the commencement of this Act shall, except as is otherwise provided in section seven of this Act, be dealt with under the Act hereby repealed as if this Act had not been enacted, and the Commissioner appointed under the provisions of this Act shall be the Commissioner for the purpose of dealing with any such claim or with any question arising therefrom.

128. Notwithstanding anything contained in this Act, the Board may, with the approval of the Minister, enter into arrangement with the Zambia National Provident Fund Board established under section *five* of the Zambia National Provident Fund Act, under which any or all the functions of the Commissioner or the Board in relation to receipt and disbursement of assessment, and pension or other benefit under this Act may be carried out by the Director of the Zambia National Provident Fund Board as the agent of the Board or the Commissioner, as the case may be.

Arrangement with
Zambia National
Provident Fund Board
Cap. 273

(As amended by Act No. 19 of 1973).

The Laws of Zambia

FIRST SCHEDULE

(Section 59)

MINIMUM DEGREES OF DISABLEMENT

<i>Injury</i>	<i>Minimum degree of disablement per centum</i>
Loss of two limbs	} 100
Loss of both hands or of all fingers and thumbs.	
Total paralysis	
Injuries resulting in being bedridden permanently.	
Any other injury causing permanent total disablement	
Loss of remaining arm by one-armed worker	
Loss of remaining leg by one-legged worker.	

The Laws of Zambia

Loss of arm at shoulder	70
Loss of arm between elbow and shoulder	68
Loss of arm at elbow	67
Loss of arm between wrist and elbow	60
Loss of hand at wrist	60
Loss of four fingers and thumb of one hand	60
Loss of four fingers	35
Loss of thumb-both phalanges	25
one phalanx	10
Loss of index finger-three phalanges	10
two phalanges	8
one phalanx	4
Loss of middle finger-three phalanges	6
two phalanges	4
one phalanx	2
Loss of ring finger-three phalanges	5
two phalanges	4
one phalanx	2
Loss of little finger-three phalanges	4
two phalanges	3
one phalanx	2
Loss of metacarpals-first or second (additional)	3
third, fourth or fifth (additional)	2
Loss of leg-at hip joint	75
below hip with stump not exceeding 13 centimetres in length	70
below hip with stump exceeding 13 centimetres in length but not beyond middle thigh	65
below middle thigh to 9 centimetres below knee	60
below knee with stump exceeding 9 centimetres but not exceeding 13 centimetres	55
below knee with stump exceeding 13 centimetres	50
Loss of foot-result in end bearing stump	45
above the junction of the foot with the toes	40
Loss of toes-all	15
great, both phalanges	5
great, one phalanx	2
other than great, if more than one toe lost each	1
Loss of hearing-both ears	50
one ear	7
Injury to eyes:	
1. Total loss of sight	100
2. Loss of remaining eye by one-eyed worker	100
3. Loss of one eye, the other being normal	30
4. Total loss of vision of one eye, the other being normal	30
5. Other degrees of defective vision based on the visual defect as measured after correction with glasses:	
<i>When best visual acuity is in one eye</i>	
<i>Other eye</i>	
6/6 or 6/9	15
6/6 or 6/9	20
6/6 or 6/9	20
6/6 or 6/9	20
6/12	30
6/18	15
6/18	30
6/18	40
6/18	40
6/18	40
6/18	50
6/24	30
6/24	40
6/24	50
6/24	50
6/24	70
6/36	50
6/36	60
6/36	60

The Laws of Zambia

The Laws of Zambia

SECOND SCHEDULE

(Sections 2, 93 and 94)

SCHEDULED DISEASES

The Laws of Zambia

<i>Description of Disease</i>	<i>Description of Work</i>
Poisoning by:	Any occupation involving:
1. Lead or a compound of lead	The use or handling of, or exposure to the fumes, dust or vapour of, lead or a compound of lead, or a substance containing lead.
2. Manganese or a compound of manganese.	The use or handling of, or exposure to the fumes, dust or vapour of, manganese or a compound of manganese, or a substance containing manganese.
3. Phosphorus or phosphine or poisoning due to the anti-cholinesterase action of organic phosphorus compounds.	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.
4. Arsenic or a compound of arsenic.	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.
5. Mercury or a compound of mercury.	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.
6. 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.
7. Benzene or a homologue	The use or handling of, or exposure to the fumes of, or vapour containing, benzene or any of its homologues.
8. A nitro- or amino- or chloro-derivative of benzene or of a homologue of benzene or poisoning by nitrochlorobenzene.	The use or handling of, or exposure to the fumes of, or vapour containing, a nitro- or amino- or chloro-derivative of benzene or a homologue of benzene or nitrochlorobenzene.
9. Dinitrophenol or a homologue or by substituted dinitrophenols or by the salts of such substances.	The use or handling of, or exposure to the fumes of, or vapour containing, dinitrophenol or a homologue or substituted dinitrophenols or the salts of such substances.
10. Tetrachlorethane	The use or handling of, or exposure to the fumes of, or vapour containing, tetrachlorethane.
11. Tri-cresyl phosphate	The use or handling of, or exposure to the fumes of, or vapour containing, tri-cresylphosphate.
12. Tri-phenyl phosphate	The use or handling of, or exposure to the fumes of, or vapour containing, tri-phenyl phosphate.
13. Diethylene dioxide (dioxan).	The use or handling of, or exposure to the fumes of, or vapour containing, di-ethylene dioxide (dioxan).
14. Methyl bromide	The use or handling of, or exposure to the fumes of, or vapour containing, methyl bromide.
15. Chlorinated naphthalene	The use or handling of, or exposure to the fumes of, or dust or vapour containing, chlorinated naphthalene.
16. Nickel carbonyl	Exposure to nickel carbonyl gas.
17. Nitrous fumes	The use or handling of nitric acid or exposure to nitrous fumes.
18. Gonioma kamassi (African boxwood).	The manipulation of gonioma kamassi or any process in or incidental to the manufacture of articles therefrom.
19. Anthrax	The handling of wool, hair, bristles, hides or skins or other animal products or residues, or any work in connection with animals, animal carcasses or parts of such carcasses, including the loading, unloading and transport of merchandise.
20. Glanders	Contact with equine animals or their carcasses.
21. (a) Infection by leptospira icterohaemorrhagiae.	Work in places which are, or are liable to be, infested by rats.
(b) Infection by leptospira canicola.	Work at dog kennels or the care or handling of dogs.
22. (a) Ulceration of the corneal surface of the eye.	The use or handling of, or exposure to arsenic, tar, pitch, bitumen, mineral oil (including paraffin), soot or any
(b) Localised new growth of the skin, papillomatous or keratotic.	
(c) Squamous-celled carcinoma of	

The Laws of Zambia

The Laws of Zambia

THIRD SCHEDULE

(Section 61 and 62)

MONTHLY ALLOWANCES IN RESPECT OF CHILDREN

	<i>Percentage of Worker's Pension</i>
In respect of one child	15
In respect of two children	20
In respect of three children	25
In respect of four children	30
In respect of five children	35
In respect of six children	40
In respect of seven children	45
In respect of more than seven children	50

(As amended by Act No. 27 of 1994)

The Laws of Zambia

FOURTH SCHEDULE

(Section 61 and 62)

MONTHLY ALLOWANCES IN RESPECT OF CHILDREN

	<i>Percentage of Worker's Pension</i>
In respect of one child	30
In respect of two children	40
In respect of three children	50
In respect of four children	60
In respect of five children	70
In respect of six children	80
In respect of seven children	90
In respect of more than seven children	100

(As amended by Act No. 27 of 1994)

SUBSIDIARY LEGISLATION

SECTION 109-THE WORKERS' COMPENSATION (PRIVATE DOMESTIC SERVANTS)
REGULATIONS

*Statutory Instrument
197 of 1973*

*Regulations by the Minister after consultation with the Workers' Compensation Fund
Control Board*

1. These Regulations may be cited as the Workers' Compensation (Private Domestic Servants) Regulations.

Title

2. The rate of assessment payable by an employer in respect of every private domestic servant employed by him shall be ten ngwee for every month during which he employs such domestic servant in his private dwelling house for a period exceeding thirteen days (including Sundays and public holidays).

Rate of assessment

3. Every employer to whom section *one hundred and nine* of the Act applies shall pay the assessment with the domestic contribution to the Zambia National Provident Fund in accordance with the provisions of the Zambia National Provident Fund (Domestic Servants) Regulations, 1973.

Payment of
assessment
*Statutory Instrument.
194 of 1973*

THE WORKERS' COMPENSATION REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Title
2. Interpretation
3. Objections
4. Formal inquiry by Commissioner
5. Expenses of assessors
6. Expenses of members of Tribunal
7. Expenses of witnesses
8. Agreements
9. Prescribed amount of pension
10. Report of accident by employer
11. Register of accidents
12. Prescribed amount of payments to Board
13. Exemption
14. Statement by employer
15. Particulars of business
16. Particulars of employers
17. Early payment to be made

FIRST SCHEDULE-Prescribed forms

SECOND SCHEDULE-Expenses of assessors

THIRD SCHEDULE-Expenses of members of Tribunal

SECTION 125-THE WORKERS' COMPENSATION REGULATIONS

Regulations by the Minister

Government Notices
182 of 1964
381 of 1964
497 of 1964
Statutory Instruments
143 of 1965
156 of 1965
230 of 1965
24 of 1970
31 of 1995
Act No.
13 of 1994

1. These Regulations may be cited as the Workers' Compensation Regulations. Title

2. (1) In these Regulations, unless the context otherwise requires-

Interpretation

"notice" means notice in writing;

"party" means any person who is a party to any proceedings under the Act, and includes a person appearing for a party;

"send" means to post by prepaid registered post;

"sign" includes the making by a person of a mark, attested by two competent witnesses testifying that such mark was made by such person in their presence, and "signature" includes a mark so made.

(2) Where in these Regulations reference is made to a particular form or forms, such reference shall be to be the form or forms contained in the First Schedule.

3. An objection, in terms of section *nineteen* of the Act, shall be in the form and contain the information required in Form 1, and shall be deemed to have been lodged on the date of receipt by the Commissioner of the said form, duly completed in respect of every relevant item.

Objections

4. (1) Where it is proposed to hold a formal inquiry to consider and determine an objection, in accordance with the provisions of section *twenty-one* of the Act, the Commissioner shall ascertain the material questions in dispute, and shall reduce such questions into writing and shall fix a time and place for the holding of a formal inquiry into such questions.

Formal inquiry by
Commissioner

(2) The Commissioner shall thereupon cause a notice in the form and containing the information set out in Form 2 to be sent by prepaid registered post to the parties. Such notice shall state the material questions in dispute and the time and place fixed by the Commissioner for the holding of a formal inquiry.

(3) Every party to a formal inquiry may appear in person or may be represented-

(a) by a legal practitioner; or

(b) by a member of his family; or

(c) by a person in the permanent and exclusive employment of such party; or

(d) in the case of a worker by an officer of a trade union or of an organisation approved by the Minister or, in the case of an employer, by an officer of an employers' organisation; or

(e) by an officer of the Labour Department; or

The Laws of Zambia

(f) in the case of a company, by any director, secretary or other officer thereof, and, in the case of a body corporate which is not a company, by an officer thereof; or

(g) by leave of the Commissioner, by any other person.

(4) No person other than a legal practitioner shall be entitled for so appearing to recover any fee or reward except necessary out-of-pocket expenses.

(5) Upon the holding of the inquiry the Commissioner shall receive any evidence presented by the parties which he deems relevant to any question which he has to determine and may call for and receive any evidence which he deems necessary. The Commissioner may receive and have regard to a report of a medical or surgical practitioner registered in the Commonwealth or in the Republic of South Africa as to the mental or physical condition of any person in respect of whom the dispute exists or the application for revision of any award or agreement has been made.

(6) The Commissioner may from time to time adjourn or postpone any inquiry for such periods and for such reasons as he may think fit.

(7) The Commissioner shall keep or cause to be kept a true record of any proceedings before him upon any formal inquiry and upon payment of a fee to be fixed by the Commissioner any person may at any time obtain copies of the record or any part thereof.

(8) The Commissioner may appoint any person to take down in shorthand a note of oral evidence and proceedings; and such appointment may be made either generally for the purposes of all formal inquiries held by the Commissioner or specially for the purposes of any particular formal inquiry. Such person shall take an oath to the satisfaction of the Commissioner for the accurate and faithful recording of such evidence.

(9) The Commissioner shall have the power to award costs at his discretion.

(10) All costs awarded by the Commissioner shall be taxed and recoverable in manner prescribed by the law or rules governing costs in civil actions in the subordinate courts of Zambia. For the purpose of the taxation of costs, the clerk of a subordinate court (Class I) shall be the Taxing Master. Any costs awarded against a worker on any issue on which he has been unsuccessful may be set off by the Commissioner or by the exempted employer, as the case may be, by order of the Commissioner, in paying any compensation awarded to that worker:

Provided that if compensation is payable monthly or weekly the maximum amount that may be set off in respect of any one month or week shall not exceed one-quarter of the monthly or weekly payments due to the worker.

(11) The fees and expenses payable to witnesses in connection with a formal inquiry shall be as set out in the Third Schedule to the Subordinate Courts (Civil Jurisdiction) Rules. Cap. 28

(12) (a) The findings of the Commissioner shall be pronounced by him either immediately after the conclusion of the inquiry or as soon as is reasonably practicable thereafter at some subsequent date.

(b) As soon as practicable after the conclusion of the formal inquiry the Commissioner shall send by prepaid registered post to the parties a copy of his decision and order, which shall be in the form and contain the information required in Form 3.

(13) If any party does not appear at the time and place fixed for the formal inquiry, the Commissioner may in his discretion proceed with the inquiry and may determine the matters in dispute and make an order, or he may postpone or adjourn the inquiry and cause a notice to be sent by prepaid registered post to the parties notifying them of the postponement or adjournment and of the time and place he had fixed for the holding or continuing of the inquiry:

Provided that, if the Commissioner has in terms of this regulation determined the matters in dispute and has made an order, he may set aside the order and reopen the inquiry on good cause shown within fourteen days of the date on which the order was made and may make such further orders as he deems fit.

(As amended by No. 381 of 1964 and No. 156 of 1965)

5. The remuneration, travelling and subsistence expenses payable to an assessor appointed in terms of section *twenty-six* of the Act shall be in accordance with the scale prescribed in the Second Schedule. Expenses of assessors

6. The remuneration, travelling and subsistence expenses payable to any person chosen as a member of the Workers' Compensation Appeal Tribunal, in terms of section *twenty-seven* of the Act, shall be in accordance with the scale prescribed in the Third Schedule. Expenses of members of Tribunal

7. The scale of fees and expenses payable to witnesses, in terms of section *thirty-seven* of the Act, shall be as set out in the Witnesses and Assessors Allowances Rules. Expenses of witnesses Cap. 27

8. (1) Any agreement made, in terms of sub-section (2) of section *forty-five* of the Act, shall be in writing and signed by the parties thereto, and shall contain the particulars set out in Form 4. Agreements

The Laws of Zambia

(2) The employer shall submit such agreement not later than fourteen days after the making thereof, together with a registered medical practitioner's certificate containing the particulars set out in Form 5.

9. For the purposes of section *sixty-nine* of the Act, the prescribed amount shall be one thousand kwacha per month. Prescribed amount of pension

(As amended by S.I. no. 31 of 1995)

10. A report of an accident to a worker made by an employer to the Commissioner, in terms of sub-section (1) of section *seventy-five* of the Act, shall be in the form and contain the information set out in Form 6. Report of accident by employer

11. The register of accidents which an employer is required to keep, in terms of sub-section (4) of section *seventy-five* of the Act, shall contain the particulars set out in Form 7. Register of accidents

12. The prescribed amount for the purposes of paragraph (b) of sub-section (4) of section *ninety-nine* of the Act to be paid by an insurer or exempted employer shall be one per centum of the compensation, including medical aid, paid by such insurer or exempted employer who has not transferred the obligations referred to in sub-section (2) or (3) of section *ninety-nine* to the Board within the period specified in the said paragraph (b) of sub-section (4) of section *ninety-nine*. Prescribed amount of payments to Board

(No. 230 of 1965)

13. (1) Every employer desiring to be exempted, in terms of section *one hundred and five* of the Act, from the necessity of paying assessments, shall apply to the Commissioner for a certificate of exemption. The application shall be in the form and contain the information required in Form 8. Exemption

(2) Every such employer shall, before a certificate of exemption is granted to him, furnish the Commissioner with full information in regard to the fund to be established and maintained by him, in terms of sub-section (1) of section *one hundred and five* of the Act.

(3) For a certificate of exemption, or for the renewal thereof, such employer shall pay to the Commissioner before the said certificate is issued, the sum of seventy-five fee units.

(4) Every certificate of exemption shall expire on the 31st March in each and every year.

(5) Should an employer not wish to renew his certificate of exemption after its expiration, he shall give notice to that effect to the Commissioner not later than three months before the date of expiration.

(6) If at any time the Minister is satisfied that an exempted employer has failed to comply with any of the provisions of this regulation, he may cancel the certificate of exemption granted to such employer.

(7) After an employer has ceased to be exempted from the necessity of the payment of assessments, he shall still remain liable in respect of all obligations to his workers which have arisen, or which may arise, in respect of the period during which he was so exempt, and the amount of cash or securities deposited by him, in terms of sub-section (1) of section *one hundred and five* of the Act, will not be released unless in respect of reduction of liability of the employer proved to the satisfaction of the Commissioner. Any balance retained by the Commissioner will be released upon proof that all liabilities of the employer have been discharged.

(8) Whenever compensation is payable by an exempted employer, in terms of sections *sixty-one* and *sixty-two* of the Act, he shall forthwith notify the Commissioner of the fact, and shall furnish him with all available information in respect of each such case and shall await his directions in regard to the payment of such compensation.

(9) Every exempted employer shall transmit to the Commissioner on or before the 1st June in each year, a certified copy of his latest duly audited trading account, profit and loss account and balance sheet together with-

- (a) a statement of pensions payable by him under the Act as required in Form 9;
- (b) a statement of children's allowances payable by him under the Act as required in Form 10;
- (c) a statement containing details of outstanding claims as at the 31st March preceding, as required in Form 11;
- (d) a statement in the form and containing the information required in Form 12 of wages paid during the previous twelve months ending the 31st March.

(10) Every exempted employer shall transmit to the Commissioner, within thirty days after the end of each month, returns in the manner and containing the information required in Form 13, showing all claim payments made by him during such month.

(11) Should an exempted employer fail to meet any claim for compensation or medical aid for which he may have become liable under the Act, the Commissioner shall have the right to withdraw from the deposit made by such employer, in terms of sub-section (1) of section *one hundred and five* of the Act, sufficient money, and shall have the right to sell such securities forming part of the said deposit as will realise sufficient money, for the purpose described in this sub-regulation.

The Laws of Zambia

(12) An exempted employer shall not be entitled to a refund of any portion of the fee paid by him under sub-regulation (3) if, in terms of the provisions of sub-regulation (6), the Minister has cancelled the certificate of exemption granted to the employer.

(13) Every exempted employer shall keep all accounts and records of all payments by him in respect of workers' compensation under the Act separate from the records of his other business transactions.

(As amended by Act No. 13 of 1994)

14. A statement transmitted to the Commissioner by an employer in terms of sub-section (1) of section *one hundred and six* of the Act shall be in the form and contain the information set out in Form 14.

Statement by employer

(As amended by No. 143 of 1965)

15. The particulars of business which an employer is required to furnish to the Commissioner, in terms of sub-section (1) of section *one hundred and eleven* of the Act, shall be in the form and contain the information set out in Form 15.

Particulars of business

16. The particulars of employers required to be furnished by an insurance company, in terms of sub-section (1) of section *one hundred and twenty-one* of the Act, shall be in the form and contain the information set out in Form 16.

Particulars of employers

17. (1) All moneys payable under the Act to any person shall be paid as soon as possible after the date on which they become payable.

Early payment to be made

(2) If the Commissioner, or the employer individually liable, as the case may be, is unable to trace the payee, and any such moneys accordingly remain unpaid after the expiration of twelve months of the date on which they became payable, the following procedure shall be adopted:

- (a) Details of all such amounts payable to persons other than persons from outside Zambia shall be notified in the *Gazette* and in a local newspaper by the Commissioner, both in respect of moneys payable from the Fund and moneys payable by employers individually liable, who shall advise and pay to the Commissioner such moneys every quarter. Such notice shall call upon any person claiming payment of any such amount to lodge his claim with the Commissioner within a period of one month of the date thereof. If, at the expiration of the said period, no claim has been lodged, or if any claim has been lodged and rejected by the Commissioner, the amount shall be paid into the reserves of the Fund:

Provided that if at any subsequent date a claim is lodged with the Commissioner and proved to his satisfaction he shall pay the amount of the said claim.

The Laws of Zambia

- (b) Any such unpaid moneys payable to persons from outside Zambia shall be paid to the government of the country in which such person is domiciled, or to the local representative in Zambia of such government; and any subsequent claim for payment of any such amount shall be referred to the government concerned for consideration.

(As amended by No. 156 of 1965)

The Laws of Zambia

FIRST SCHEDULE

PRESCRIBED FORMS

FORM 1
(Section 19)
(Regulation 3)

THE WORKERS' COMPENSATION ACT

This objection must be lodged with the Workers' Compensation Commissioner, P.O. Box 71534, Ndola, within thirty days of the date of the Commissioner's decision. (NOTE.-"Lodged within thirty days" means that the objection must reach the Commissioner within thirty days of the date of his decision.)

NOTICE OF OBJECTION

The Laws of Zambia

Name of workman

Name of employer

1. Full name and address of objector

Full name and address of legal practitioner or other representative, if any

2. State whether objector is-

(a) the worker or

(b) the employer or

(c) an employer's organisation or trade union of which the person in respect of whom the decision was given, was at the relevant times a member

(NOTE.-The word "Yes" should be written against (a), or (b), or (c), whichever is applicable.)

3. Quote the reference number and date of the document containing the Commissioner's decision against which the objection is lodged

4. State fully what portion of the Commissioner's decision you object to

5. Give your reasons in full for lodging the objection

6. State the relief or order which you claim, or the question which you desire to have determined

7. Any documentary evidence (or copies thereof) which you wish to submit in support of your contentions as stated in paragraph 5 should be attached and enumerated hereunder:

<i>Number</i>	<i>Title or description of document</i>
(i).....
(ii).....
(iii).....
(iv).....

8. Give names and addresses of persons whom you wish to be called as witnesses to give evidence in support of your objection:

<i>Name</i>	<i>Address</i>
.....
.....
.....

9. On what points *briefly* will they give evidence?

(i).....
(ii).....
(iii).....
(iv).....

Place.....

Date

Signature of Objector

NOTE.-Where the objector is an employer individually liable, this form must be accompanied by a statement as to whether he admits his liability to pay compensation or denies such liability, and whether the admission or denial is total or partial, and if he admits or denies liability partially, a statement of the extent to which he admits or denies liability and, in the case of a denial of liability, the grounds thereof shall be stated.

THE WORKERS' COMPENSATION ACT

NOTICE OF THE COMMISSIONER'S INTENTION TO HOLD A FORMAL INQUIRY

Inquiry No.

In the matter of the dispute or application between:

.....Applicant

and

.....Respondent

Date

To

of

Take notice that the material questions in dispute between the parties are

The Commissioner will hold a formal inquiry at(time) on the (date) in the (place) to determine the questions in dispute and you should attend at that time and place together with your witnesses, if any, as to such questions.

Workers' Compensation Commissioner

THE WORKERS' COMPENSATION ACT

NOTICE OF ORDER MADE BY THE COMMISSIONER ON A FORMAL INQUIRY

Inquiry No.

In the matter of the dispute or application between:

..... Applicant

and

..... Respondent

Date

To

of

The material questions in dispute between the parties were

The decision of the Commissioner on these questions is

And the Commissioner orders that

.....
Workers' Compensation Commissioner

THE WORKERS' COMPENSATION ACT

AGREEMENT

MEMORANDUM OF AGREEMENT made and entered into between (1)
(hereinafter referred to as the employer) of the one part, and (2)
(hereinafter referred to as the worker) of the other part.

WHEREAS both the employer and the worker declare that they are acquainted with the liabilities, rights, privileges and benefits contained and set out in the Workers' Compensation Act:

AND WHEREAS the worker is specially liable to meet with an accident or if he meets with an accident, to sustain serious injury in his employment as a (3)
by reason of (4)
mentioned in the certificate by the registered medical practitioner annexed hereto, it is hereby agreed between the worker and the employer that in the event of the worker meeting with an accident whilst in the employ of the employer the rights of the worker or his dependants to compensation under the Workers' Compensation Act shall be limited to (5) per centum of the compensation which would otherwise be payable under the said Act.

Signed at this day
of 19

Witness:

.....
..... *Employer*

Witness:

.....
..... *Worker*

Approved under section 45 of the Workers' Compensation Act, this
day of 19

.....
Workers' Compensation Commissioner

NOTES

- (1) Full name of employer.
- (2) Full name of worker.
- (3) State nature of work on which worker is engaged.
- (4) State "old age", "serious physical infirmity", or "previous injury", as the case may be.
- (5) State percentage.

THE WORKERS' COMPENSATION ACT

CERTIFICATE OF REGISTERED MEDICAL PRACTITIONER

IT IS HEREBY CERTIFIED by me, pursuant to section 45 of the Workers' Compensation Act, that I have this day examined (1) and that by reason of (2)-

- (a) old age (state age)
- (b) serious physical infirmity (state nature of)
- (c) previous injury (state nature of)

he is specially (3) liable to meet with an accident or to sustain a serious injury if employed as a

I assess the degree of disability at per centum.

Dated this day of 19

.....
Registered Medical Practitioner

Address

NOTES

- (1) Full name of worker.
- (2) Strike out words not applicable.
- (3) Registered medical practitioners should note that section 45 (2) of the Act has used the words "specially liable" and not merely "more liable" and regard should be had before issuing the certificate, not only to the age, serious physical infirmity or previous injury of the worker, but also to the nature of the work in which he is employed at the time.

THE WORKER'S COMPENSATION ACT

For official use
Claim Number:

EMPLOYER'S REPORT OF AN ACCIDENT TO A WORKER

To be addressed to:

The Workers' Compensation Commissioner
P.O. Box 71534, Ndola

<p><i>Employer:</i> Name under which trade or business is carried on (block capitals):</p> <p><i>Worker:</i> Full name (block capitals) Residential address</p>	<p>Nature of business, trade or industry: No. Village (if applicable) Chief (if applicable) District (if applicable)</p>
---	---

Age	Sex	Married or single	Number of children under 17 years of age	Is worker right- or left-handed?

<p>1. (a) How long has he been in your employ? (b) If not in your direct employ, give the name and address of the sub-contractor (c) Prior to this accident had he, to your knowledge, any physical defect or did he suffer from any serious disease? If so, give details.</p>	<p>.....</p>
--	----------------------------------

2. Earnings:				
(a) Wages (excluding bonus, commission or allowances).				
Per Hour	or Per Shift	or Per Week	or Per Ticket	or Per Month

The Laws of Zambia

<p>(b) Normal working hours: per week or per shift</p> <p>(c) Monthly cost-of-living allowance</p> <p>(d) Monthly other allowances (specify)</p> <p>(e) Monthly value of free food supplied</p> <p>(f) Monthly value of free quarters supplied</p>		<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>		
<p>3. (a) Has he previously received compensation for permanent disablement?</p> <p>(b) If so, when and by whom employed?</p>		<p>.....</p> <p>.....</p>		
<p>4. Accident:</p> <p>(a) Where did it occur? (State site, e.g., workshop, underground, etc.)</p> <p>(b) When did it occur?</p> <p>(c) When did the worker report it?</p> <p>(d) If he failed to report it on the same day, what is his explanation?</p> <p>(e) What was the worker doing when it occurred?</p> <p>(f) Describe cause, mentioning contributory factors and any part of premises, plant or machinery connected with the accident.</p> <p>(g) Did it result from action properly within the scope of the worker's duties? If not, please attach explanatory statement.</p>		<p>.....</p> <p>At hours on 19</p> <p>Date Time</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>		
<p>5. Was the accident caused by-</p> <p>(a) deliberate violation of rules?</p> <p>(b) drunkenness?</p> <p>(c) deliberate contravention of any law made for the purpose of ensuring the safety of workers? (If reply is in the affirmative, please attach explanatory statement.)</p>		<p>.....</p> <p>.....</p> <p>.....</p>		
<p>6. Give the names and addresses of witnesses to the accident.</p>		<p>.....</p>		
<p>7. Was the accident caused by the action of a person other than the worker? If so, give his name and address</p>		<p>.....</p> <p>Name</p> <p>Address</p> <p>.....</p>		
<p>8. Has notice been received of any magisterial or other official inquiry? If accident was investigated by the Police, state name of Police Station</p>		<p>.....</p> <p>.....</p>		

The Laws of Zambia

9. *Particulars of disablement:*

- (a) Describe the nature and extent of the injuries sustained, mentioning parts of the body, and in the case of limb, or eye, stating right or left side.
- (b) When did the employee cease work as a result of the accident?
- (c) State probable period worker will be off duty
- (d) Name and address of doctor attending the worker
- (e) If in hospital, give name and address.

.....

At hours on

 19

.....

Name

Name

Address

I hereby certify that, to the best of my knowledge and belief, the particulars furnished in this report are true and correct.
 Date:

Employer's Signature

For Official Use Only

Date received	Employer's number	Premium checked by	Claim accepted by	Claim rejected by

THE WORKERS' COMPENSATION ACT

EMPLOYER'S REGISTER OF ACCIDENTS TO WORKERS

Name and address of employer.
.....

Accident No.	Date of accident	Name of worker	Residential address of worker	Village/ Chief/ District/ of worker if applicable	Cause of accident	Nature of injuries received	Date of reporting accident to Commissioner

THE WORKERS' COMPENSATION ACT

APPLICATION FOR EXEMPTION IN TERMS OF SECTION 105 OF THE ACT

1. Employer's name
2. Postal address
3. Address at which workers are to be engaged
4. Nature and particulars of work, trade or business of employer.....
5.

SCHEDULE

NOTES

- (1) Salaries and wages must include the value of house rent, food, commission, etc., paid or supplied by the employer. (See section 67 of the Act.)
- (2) Workers shown in one class must not be shown in another class.
- (3) Workers whose basic rate of pay exceeds K4,800 a year must not be included.
- (4) This application must be accompanied by a certified copy of the last balance sheet, and of the trading, profit and loss accounts.

Classification of Worker	Workers whose basic rate of pay does not exceed K4,800 a year	Estimated annual wages	For official use only
(a) Engaged with woodworking machinery		..	
(b) Engaged with machinery other than wood-working			
(c) Not engaged with machinery			
(d) Engaged with or handling explosives			
(e) Workers whose duties involve underground work			
(f) Clerical staff			
(g) Salesmen (in retail shops only)			
(h) Commercial travellers
(i) Drivers and wagon attendants			
(j) Workers making use of aircraft
(k)			
(l)			

The Laws of Zambia

6. Do you carry on more than one business in any one building? If so, specify
7. (a) Have you any machinery driven by electricity, steam, water, or any other mechanical power? If so, state particulars
- (b) Are your machinery, plant, and ways properly fenced and guarded and otherwise in good order and condition?
8. State what acids, chemicals or explosives will be used
9. State number of workers using motor-cycles in connection with your business
10. Has any company refused to accept any proposal for insurance, increased your premium on renewal, refused renewal, cancelled your policy? Give full particulars
11. Were you insured during the last ten years? State name(s) of companies
12. Give full particulars of all accidents to your workers during the last ten years; the extent and nature of the injuries and the compensation paid in each case
13. State any special circumstances in connection with your business which tend to make the risk more than usually hazardous
14. (a) What is the amount of the fund at present?
- (b) What will be the initial amount of the fund if exemption is granted?
- (c) What amount will be added annually?
- (d) In what securities will the fund be invested?
15. (a) What amount do you consider a fair estimate of the average annual expenditure on workers compensation under the Act?
- (b) Please give full particulars of how the estimate has been arrived at

I certify that the foregoing information is true and correct.
Date.....

.....
Signature of Employer

THE WORKERS' COMPENSATION ACT

To be completed by Exempted Employers

Statement of Capitalised Value of Pensions (1) as at 31st March, 19, by

Claim No	Name of pensioner	State whether Name of pensioner whether married, widow, widower, single, divorced	If pensioner is a male and has a wife dependent on him, give date of birth of wife	Sex	State whether pensioner is a workman or widow of a worker	Date from which pension is, or will be, payable	Age of pensioner at nearest birthday	Disabled of worker (2)	Monthly earnings of worker on which pension is, or will be, based	Gross annual pension	Amount annual pension commut (3)

Auditor Signature

Date Address

Date

Notes

This statement must be submitted to the Workers' Compensation Commissioner on or before the 1st June in each year.

Where the pension payable has been commuted in full and paid prior to the 31st March, the pension should not be included in this return.

- (1) A children's allowance is *not* a pension and a separate statement in respect of children's allowances must be rendered on Form 10.
- (2) State fatal or permanent. If permanent give degree of disablement. If a permanently injured worker in receipt of a pension dies and his widow becomes the pensioner state degree of disablement of the deceased worker and the date of his death.
- (3) Where part of a pension has been commuted, the commuted value should not be deducted unless payment thereof was made on or before the 31st March.

THE WORKERS' COMPENSATION ACT

To be completed by Exempted Employers

Statement of Capitalised Value of Children's Allowances as at 31st March, 19 by

Claim No.	Name of Worker in respect of whom children's allowance is payable	State whether married, widow, widower or divorced	Disability of Worker (1)	Amount of monthly pension on which allowance is based		State whether allowance is payable in accordance with Third or Fourth Schedule to Act	Date from which allowance is, or will be, payable	Names of child or children	Dates of birth of children	Age of child, nearest birthday	Nearest number of years allowance has to run. Annuity value (each child)	Annual amount of allowance
												Applicable each child

Auditor

Signature.....

Date

Address

Date.....

Notes

This statement must be submitted to the Workers' Compensation Commissioner on or before the 1st June in each year.
 (1) State if fatal or permanent. If permanent give degree of disablement. If a permanently injured worker in receipt of a pension dies and his children are in receipt of an allowance state, in addition to the degree of permanent disablement, the date on which the workman died.

THE WORKERS' COMPENSATION ACT

To be completed by Exempted Employers

Statement of Outstanding Claims as at 31st March, 19.....

To be completed in duplicate and forwarded to reach the Workers' Compensation Commissioner on or before the 1st June in each year.

Name and Address of Exempted Employer

Injured or deceased worker					Accident	Dependants (3)				
Name	Age (1)	Occupation	Earnings (2)	Date	Details (medical certificates must be enclosed showing nature and extent of injuries, probable result of accident, estimated cost of medical aid and estimated duration of disablement)	Name	Relationship to workman	Date of birth	Periodical payments	Lump s
Total . .										

I certify that the foregoing particulars are true and correct:

Date Signature of Employer

(1) If exact age not known, state estimated age.

(2) Specify weekly or monthly earnings and, if food and/or quarters are supplied, the value must be included.

(3) To be completed only in respect of workers fatally injured or permanently disabled.

From the foregoing information it is

is required in respect of outstanding

THE WORKERS' COMPENSATION ACT
ANNUAL RETURN OF WAGES PAID BY EXEMPTED EMPLOYER

To be completed by Exempted Employers Form 12

Exemption Certificate No.

Name, Address and Business of Employer

Notes-(1) Wages and salaries must include the full value of rent, food, etc., paid or supplied by the employer.

(2) This statement, duly completed in duplicate, must reach the Workers' Compensation Commissioner on or before the 1st June in each year.

(1) Classification of workers	Number of workers
(a) Engaged with woodworking machinery	
(b) Engaged with machinery other than woodworking	
(c) Not engaged with machinery	
(d) Engaged with handling explosives	
(e) Workers whose duties involve underground work	
(f) Clerical staff	
.. .. .	
(g) Salesmen (in retail shops only)	
.. .. .	
(h) Commercial travellers	
.. .. .	
(i) Drivers and wagon attendants	
(j) Amount paid to contractors (2) as wages of workers (see section 10 of the Act)	
.. .. .	
(k) Workers making use of aircraft	
.. .. .	
Workers not included in the above (specify):	
(l), (m), (n)	
Totals	

(1) The number of workers and wages paid in respect of the same class of work must not appear under more than one heading.	Amount of licence fee Licence
(2) If liability for work of contractors has been assumed, then item (j) must be completed, if not, please complete the following particulars: on K
Name of contractor	
Address	Total ..
Nature of work performed and period	
.....	
Amount paid to contractor.....	
	Date.....

Date Certified correct Signature of Employer

Date Signature of Auditor

THE WORKERS' COMPENSATION ACT

To be completed by Exempted Employers

Name and Address of Employer
 Return of Claim Payments in Respect of Worker During the Month of, 19

Particulars of workers									
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Claim No.	Settlement	Cause of accident	Nature and location of injury	Fatal	Site	Earnings	Transportation	Constant Attendance	Other Payments

Date Signature

- (1) Claims under which payments have been shown in previous returns should be prefixed by the letter "A" before the claim number, and the month made.
 - (2) State whether settlement has been arrived at by Agreement (A), Commissioner (C), or determined by Workers' Compensation Appeal Tribunal (T).
 - (3) State briefly cause of accident or cause of death naming the object which was the immediate cause of the accident. For example: "Struck by earth", "Slipped and fell from scaffolding", "Spanner slipped", "Splashed by copper", etc.
 - (4) Nature and location of injury should be described briefly in such terms as will convey full information, using such phrases as amputation, burns. The exact location must be indicated and in cases of all injuries to a member whether it is right or left member. For example: "Fracture of ti elbow", "Amputation two phalanges right index finger and one phalanx middle finger left hand", "Foreign body left eye", "Loss of use of right arm".
 - (5) State whether fatal, giving date of death; whether permanent, giving percentage of disablement; or total or partial, giving period of disablement.
 - (6) State site, e.g., workshop, yard, track, etc.
 - (7) Earnings means salaries, wages, commissions, cost-of-living allowances and other payments, including overtime if of a constant character or for value of food and quarters provided.
 - (8) This column is to be used to record payments in respect of transportation of injured workers, constant attendance (section 70), etc., and an appropriate payment, i.e., Transport (T); Burial Expenses (B); Constant Attendance (C); etc.
- The above statement, duly completed, must reach the Workers' Compensation Commissioner not later than thirty days after the last day of the month.

THE WORKERS' COMPENSATION ACT

ESTATE AND STATEMENT OF EARNINGS OF WORKERS

This form must be completed and returned to the Workers' Compensation Commissioner, P.O. Box 71534, Ndola, not later than 19, or within fourteen days of the commencement of business, whichever date is the later.

Separate Forms Must be used for Each Class of Business Carried on by Employer

<p>1. Is your name and address correctly shown above? If so, simply state "Yes"; if not, insert correct name and postal address in block capitals.</p> <p>2. State names and addresses of all branches, etc., covered by this return. If insufficient space, please answer fully on separate sheet ..</p> <p>3. Has there been any change in the nature of your trade or in the type of work in which your workers are employed since you completed and returned Form 15 ("Particulars of Business")? If so, please detail; if not, simply state "No".</p>	
--	--

<p>4. Estimate of Earnings Give an estimate to the nearest K of the total earnings which you expect to pay during the financial year 1st April, 19 to 31st March, 19 in respect of workers (male and female) whose basic rate of pay does not exceed K per annum. (For definition of "earnings", see section 2 of the Act.)</p> <p>Average number of workers likely to be employed <i>per month</i></p> <p>Average number of workers likely to be supplied with food and quarters <i>per month</i></p> <p>Total earnings of all workers during the year, excluding food and quarters</p> <p>Total cash value of food to be supplied by the employer to all workers <i>during the year</i></p> <p>Total cash value of quarters to be supplied by employer to all workers <i>during the year</i></p> <p>Total Earnings for Assessment</p>	
---	--

Average number of workers employed		
Average number of workers supplied with food and/or quarters		
Total earnings of all workers, excluding food and quarters		
Total cash value of food supplied by employer to all workers		
Total cash value of quarters supplied by employer to all workers		

<p>3. Is your name and address correctly shown overleaf? If so, simply state "YES"; if not, insert correct name and postal address in BLOCK CAPITALS.</p>	
<p>4. State names and addresses of all branches, etc., covered by this return. If insufficient space, please answer fully on separate sheet.</p>	

The Laws of Zambia

5. State the precise nature of your trade, work, business or profession.

Notes:

- (1) Earnings means salaries, wages, commissions, cost-of-living allowances and other payments (including overtime) to be paid during the financial year. (See section 67 of the Act.)
 - (2) All earnings paid or to be paid by sub-contractors not otherwise registered as employers with the Workers' Compensation Board.
 - (3) Intermittent overtime and sums paid or to be paid under any Provident Fund, or by way of pension, are not to be included.
-

I hereby certify that to the best of my knowledge all particulars in this return are true, correct and complete, and that the estimates are fair and reasonable.

Date.....
Signature.....

THE WORKERS' COMPENSATION ACT

Financial Year

PARTICULARS OF BUSINESS

This form must be completed and returned, not later than, or within fourteen days of the commencement of business, whichever date is the later, to the Workers' Compensation Commissioner, P.O. Box 71534, Ndola.

SEPARATE FORMS MUST BE USED FOR EACH CLASS OF BUSINESS CARRIED ON BY EMPLOYER

Note.-Replies to Questions 9 and 10 must give full details of all activities carried on, as this information determines the premium rating.

1. Employer's name (in full) (block capitals) . .	
2. Employer's postal address and telephone number	
3. Employer's business (street) address . .	
4. Name under which business is carried on (block capitals)	
5. Names of partners (if any) (block capitals) . .	
6. Registered name of company (limited liability companies only)	
7. State whether business commenced before 1st April, 1964	Yes/No
8. If business commenced on or after 1st April, 1964, state date on which business commenced	
9. State the precise nature of your trade, work, business or profession.....	
.....	
.....	
.....	
10. Give a general description of the various types of work in which your workers will be engaged (e.g., commercial travellers and warehousing; workshop and sales; soft goods only; machinery sales, installation and repairs)	
.....	
.....	
11. What type of business licence do you hold?	
.....	
12. State the names of all branches covered by this return, the nature of business of each branch and the town or suburb in which branch is situated. (Note.-Subsidiary limited liability companies must be registered on a separate form.)	
.....	
.....	
13. Have you previously been insured against Workers' Compensation risks? If so, state:	
(a) under what name	
(b) name of insurance company.....	

14. I hereby certify that, to the best of my knowledge, all particulars in this return are true.
Date

*Signature of employer or his duly
authorised agent*

THE WORKERS' COMPENSATION ACT

be completed by Insurance Companies

PARTICULARS OF EMPLOYERS

Policy No.

Employer's name

Employer's postal address

Classification and Code No. of trade or business carried on by Employer.....

Workers employed in such trade or business whose basic rate of pay does not exceed K4,800 (male or female)	Number employed	Remunera		
		A. If Wages Declaration Available		
		Earnings exclusive of food and quarters for period 1st April, 1962, to 31st March, 1963. (See Note 1)	Value of food and quarters supplied by employer for period 1st April, 1962, to 31st March, 1963 (See Note 2)	
Workers				

Earned premium if wages declaration available K

If no wages declaration available, premium paid on estimated earnings K

In each case, please state exact period covered by premium paid.

Note-1. If earnings declared do not cover period 1st April, 1962, to 31st March, 1963, please state period to which earnings declared relate.

- 2. If value of food and quarters supplied have been included in earnings, please so state.
- 3. Please state period covered by estimated earnings and amount of earnings.
- 4. If value of food and quarters supplied have been included in estimated earnings, please so state.

The Laws of Zambia

SECOND SCHEDULE

(Regulation 5)

EXPENSES OF ASSESSORS

Any person appointed as an assessor, in terms of sub-section (1) of section 26 of the Act, shall, whilst engaged in any sitting or work of a formal inquiry, under the provisions of section 21 of the Act, be paid out of the Fund remuneration and reasonable expenses for travelling and subsistence in accordance with the following tariff:

- (a) For every day or part thereof: K8.40 per day.
- (b) The cost of his air or train fare.
- (c) For each mile of any journey by motor transport, provided that the journey could not conveniently be undertaken by train or air: 15n per mile.
- (d) For each day he is absent from his town of residence and incurs expense: K8.00 per day.

The Laws of Zambia

THIRD SCHEDULE

(Regulation 6)

EXPENSES OF MEMBERS OF TRIBUNAL

Any person chosen as a member of the Workers' Compensation Appeal Tribunal shall, whilst engaged in any sitting or any work of the Tribunal, receive from moneys appropriated by Parliament, remuneration and reasonable expenses for travelling and subsistence in accordance with the following tariff:

- (a) For every day or part thereof: K20.00 per day.
- (b) The cost of his air or train fare.
- (c) For each mile of any journey by motor transport, provided that the journey could not conveniently be undertaken by train or air: 15n per mile.
- (d) For each day he is absent from his town of residence and incurs expense: K8.00 per day.

(As amended by No. 156 of 1965)

The Laws of Zambia

NOTICE AND RULES MADE UNDER THE WORKERS' COMPENSATION ACT
(Section 15 of the Interpretation and General Provisions Act)

Government Notice
194 of 1961

Exemption

The Railways in Zambia have been exempted from the operation of *(10)section ninety in Part VII of the Workers' Compensation Act.

*See sections 104 and 105 of the Act.

THE WORKERS' COMPENSATION RECIPROCAL ARRANGEMENTS (ZIMBABWE)
RULES

Government Notices
183 of 1957
497 of 1964
Statutory Instrument
156 of 1965

1. These Rules may be cited as the Workers' Compensation Reciprocal Arrangements (Zimbabwe) Rules. Title

2. In these Rules, unless the context otherwise requires-

Interpretation

"Zimbabwean worker" means a worker ordinarily resident in Zimbabwe

"Zambian worker" means a worker ordinarily resident in Zambia.

(As amended by No. 156 of 1965)

3. In any case where a worker is entitled to compensation both under the law of Zambia and under the law of Zimbabwe, such worker or his dependants shall be entitled to recover compensation under the law of one country only.

Compensation under
one law only

(As amended by No. 156 of 1965)

4. In the case of an employer carrying on business in Zambia whose Zambian worker is temporarily employed by such employer in Zimbabwe the law in respect of compensation applicable to such worker during the whole of any continuous period not exceeding twelve months during which he is so employed in Zimbabwe shall be the law of Zambia. If the employment in Zimbabwe continues after such period of twelve months, the law applicable after such period shall be the law of Zimbabwe

Law of Zambia to
apply to Zambian
worker temporarily in
Zimbabwe

(As amended by No. 156 of 1965)

The Laws of Zambia

5. In the case of an employer carrying on business in Zimbabwe whose Zimbabwean worker is temporarily employed by such employer in Zambia, the law in respect of compensation applicable to such worker during the whole of any continuous period not exceeding twelve months during which he is so employed in Zambia shall be the law of Zimbabwe. If the employment in Zambia continues after such period of twelve months, the law applicable after such period shall be the law of Zambia.

Zimbabwe law to apply to Zimbabwean workers temporarily in Zambia

(As amended by No. 156 of 1965)

6. In the case of an employer who ordinarily carries on business both in Zambia and in Zimbabwe and who transfers a worker temporarily from the one country to the other, the following provisions shall apply:

Rules where employer carries on business in both countries

- (a) in the case of a worker temporarily transferred from Zambia to Zimbabwe, the law in respect of compensation applicable to such worker during the whole of any continuous period not exceeding twelve months during which he is so employed in Zimbabwe shall be the law of Zimbabwe. If the employment in Zimbabwe continues after such period of twelve months, the law applicable after such period shall be the law of Zimbabwe.
- (b) in the case of a worker temporarily transferred from Zimbabwe to Zambia, the law in respect of compensation applicable to such worker during the whole of any continuous period not exceeding twelve months during which he is so employed in Zambia shall be the law of Zimbabwe. If the employment in Zambia continues after such period of twelve months, the law applicable after such period shall be the law of Zambia.

For the purposes of this rule, a worker shall not be considered to have been temporarily transferred but shall be considered to have been permanently transferred if, in the opinion of the Workers' Compensation Commissioner in Zambia or in Zimbabwe as the case may be, the transfer is made in accordance with the ordinary terms of the employment from a branch of the employer's business in the one country to a branch of the employer's business in the other country.

(As amended by No. 156 of 1965)

7. In any proceedings for the recovery of compensation the High Court or the magistrate or the Commissioner, as the case may be, may admit evidence taken in Zimbabwe before a magistrate in regard to any matter relating to compensation if such evidence is taken on oath and is certified by such magistrate as having been duly taken by him. Nothing in this rule contained shall be deemed to prevent the High Court or a magistrate from ordering the taking of evidence in any manner provided under any other law.

Admission of evidence in High Court

8. (1) A magistrate or the Commissioner, as the case may be, shall have the power to procure and take evidence for use in Zimbabwe or otherwise for the purpose of facilitating proceedings for the recovery of compensation under the laws of Zimbabwe.

Obtaining evidence from witnesses for use in Zimbabwe

(2) Whenever such evidence is required from a witness who resides or then is in Zambia and it is certified by the High Court or a Magistrate's Court of Zimbabwe to the Commissioner or, as the case may be, to the magistrate of the district in which such witness resides or then is, that the evidence of such witness is required for use in Zimbabwe for the purpose of facilitating proceedings for the recovery of compensation under the laws of Zimbabwe, and that interrogatories to be put to such witness have been duly framed, it shall be the duty of the Commissioner or, as the case may be, the magistrate of the district in which such witness resides or then is, upon the receipt of such interrogatories together with the reasonable expenses of such witness in accordance with the rates prescribed under the Subordinate Courts Act, to summon such witness to appear before him and upon the appearance of such witness to take his evidence as though such witness were a witness in an application under the Act, and to put to such witness the interrogatories aforesaid and all other questions calculated to obtain full and true answers to such interrogatories, and to take down or cause to be taken down in writing the evidence of such witness and to transmit the same certified as having been duly taken to the High Court or Magistrate's Court, as the case may be, in Zimbabwe.

Cap. 28

(As amended by No. 156 of 1965)

9. (1) Compensation awarded in Zimbabwe to any person resident or becoming resident in Zambia may be transferred to and administered by the Commissioner.

Compensation may be transferred

(2) Compensation awarded under the Act to any person resident or becoming resident in Zimbabwe may be transferred to and administered by the Workers' Compensation Commissioner of Zimbabwe.

(3) Where the Commissioner to whom compensation has been transferred in terms of sub-rule (1) is unable for any reason to pay such compensation to the person to whom it has been awarded within a period of twelve months from the date on which it was so transferred, then in such event the Commissioner shall refund such compensation to the Workers' Compensation Commissioner in Zimbabwe.

(As amended by No. 156 of 1965)

10. The obligation in regard to insurance imposed upon employers in regard to the workers to whom the provisions of rules 3, 4 and 5 apply, shall be determined by the law which is applicable to such workers by virtue of the provisions of the said rules.

Obligation to insure under the respective laws

SECTIONS 59, 125-THE WORKERS' COMPENSATION (LUMP SUM COMPENSATION CALCULATION BASIS) ORDER

*Statutory Instrument
146 of 1977*

1. This Order may be cited as the Workers' Compensation (Lump Sum Compensation Calculation Basis) Order.

Title

The Laws of Zambia

2. Where a worker suffers permanent disablement but the degree of disablement does not exceed ten per centum, the basis upon which the lump sum compensation payable to such worker shall be calculated shall be such proportion of the capitalised value as determined by the Commissioner of the pension and children's allowances which would have been payable had the worker suffered permanent disablement to a degree of one hundred per centum as the percentage of his permanent disablement bears to one hundred per centum.

Basis of calculation of lump sum in certain cases

SECTIONS 125 AND 107(5)-THE WORKERS' COMPENSATION (ASSESSMENT OF EARNINGS) REGULATIONS *Statutory Instrument 121 of 1992*

Regulations by the Minister

1. These Regulations may be cited as the Workers' Compensation (Assessment of Earnings) Regulations. Title

2. The Commissioner shall not assess an employer for any earnings in excess of K1,200,000 per annum of any worker in respect of the period to which the statement submitted under section *one hundred and six* relate. Earnings in excess of K1,200,000

3. The earnings for assessment purposes shall include-

Earnings for assessment

- (a) worker's annual basic wages or salary up to K1,200,000;
- (b) overtime payments;
- (c) shift differential payment;
- (d) leave pay if not included in (a) above;
- (e) payment made to casual workers employed in connection with employer's nature of business; and
- (f) add 12.5 per centum to the total of items (a) to (e) to cover food and quarters.

4. The Workers' Compensation (Assessment of Earnings) Regulations, 1994, are hereby revoked. Revocation of S.I. No. 39 of 1994

Endnotes

1 (Popup - Popup)

*See section 127 of this Act.

2 (Popup - Popup)

*See section 127 of this Act.

3 (Popup - Popup)

*See section 127 of this Act.

4 (Popup - Popup)

*See section 127 of this Act.

5 (Popup - Popup)

*See section 127 of this Act.

6 (Popup - Popup)

*See section 127 of this Act.

7 (Popup - Popup)

*See section 127 of this Act.

8 (Popup - Popup)

*See S.I. No. 222 of 1969.

9 (Popup - Popup)

*See section 127 of this Act.

10 (Popup - Popup)

*See sections 104 and 105 of the Act.