

CHAPTER 158

WORKMEN'S COMPENSATION

Ordinances AN ORDINANCE TO PROVIDE FOR THE PAYMENT OF COMPENSATION TO WORKMEN WHO ARE INJURED IN THE COURSE OF THEIR EMPLOYMENT.

Nos. 19 of 1934, 3 of 1946, Acts Nos. 31 of 1957, 22 of 1959, 4 of 1966.

[1st August, 1935.]

PART I

PRELIMINARY

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

interpretation. 2. (1) In this Ordinance, unless the context otherwise requires—

" adult " and " minor " mean respectively a person who is not and a person who is under the age of fifteen years;

" Commissioner " means any person appointed under section 26 to be or to act as a Commissioner or as a Deputy Commissioner for Workmen's Compensation, and includes any person appointed under section 27 to be or to act as an Assistant Commissioner for Workmen's Compensation;

" compensation " means compensation as provided for in this Ordinance;

" dependant " means any of the following relatives of a deceased workman, namely:—

(a) a wife, a minor legitimate son, an unmarried legitimate daughter, or a widowed mother; and

(b) if wholly or in part dependent on the earnings of the workman at the time of his death, a husband, a parent other than

a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent;

" employer " includes the Republic of Sri Lanka and any body of persons whether corporate or unincorporate and any managing agent of an employer and the heirs, executors or administrators of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;

" local authority " includes a Municipality, an Urban Council established under the Urban Councils Ordinance, a Town Council, and a Village Council;

" managing agent " means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

" partial disablement " means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement;

" prescribed " means prescribed by this Ordinance or by any regulation made thereunder;

" registered medical practitioner " means a person registered as a medical practitioner under the Medical Ordinance, or under any enactment amending that Ordinance;

" registered ship " means any sea-going ship or boat of any description which is registered or required to be registered in Sri Lanka as a Sri Lanka ship;

" regulation " means a regulation made under this Ordinance;

" seaman " means any person forming part of the crew of any registered ship, but does not include the master of any such ship ;

" total disablement " means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries

specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred *per centum*;

" wages " includes the monetary value of any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

" workman " means any person who is employed on wages not exceeding five hundred rupees per mensem in any such capacity as is for the time being specified in Schedule II, whether the remuneration is calculated by time or by work done or otherwise, and whether the contract of employment or service was made before or after the commencement of this Ordinance, and whether such contract is expressed or implied, oral or in writing; but does not include—

(a) a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business;

(b) a person working in the capacity of a member of* the Armed Forces of Sri Lanka, other than a person employed in a civilian capacity in any of those forces;

(c) a member of the police force of Sri Lanka.

(2) A reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

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(3) The exercise and performance of the powers and duties of any department of the Government or of any local authority shall, for the purposes of this Ordinance, unless a contrary intention appears, be deemed to be the trade or business of that department or local authority.

(b) contracts an occupational disease described in the first column of Part B of the aforesaid Schedule whilst he is in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any process described in the corresponding entry in the second column of that Part,

PART II

LIABILITY To PAY COMPENSATION

Employer's liability to pay compensation for injury suffered by a workman.

3. If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Ordinance:

Provided that the employer shall not be so liable—

- (a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding seven days ;
- (b) in respect of any injury, not resulting in death, caused by an accident which is directly attributable to—
 - (i) the workman having been at the time thereof under the influence of drink or drugs, or
 - (ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
 - (iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen.

the contracting of the disease shall be deemed to be an injury by accident within the meaning of section 3, and unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

(2) For the purposes of this section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

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

Circumstances in which compensation is payable in respect of any disease.

PART III

AMOUNT OF COMPENSATION

6. (1) Subject to the provisions of this Ordinance, the amount of compensation shall be as follows, namely :—

(A) Where death results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and

(ii) in the case of a minor—two hundred rupees.

(B) Where permanent total disablement results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of

Employer's liability to pay compensation for certain diseases contracted by a workman. [§ 3, 31 of 1957.]

4. (1) If a workman-

(a) contracts an occupational disease described in the first column of Part A of Schedule III whilst he is employed in any process described in the corresponding entry in the second column of that Part or,

Schedule IV—the amount shown against such limits in the third column thereof, and

(ii) in the case of a minor—twelve hundred rupees.

(C) Where permanent partial disablement results from the injury—

(i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury:

Provided that in a case where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

(D) Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of seven days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV— of the sum shown against such limits in the fourth column thereof, and

(ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees :

Provided that—

(a) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be, and

(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

In a case where for the whole or any part of the period of disablement referred to in paragraph (a) of this proviso, a workman occupies any premises belonging to or provided by his employer and pays no rent to him for such occupation, the amount fixed by agreement between the workman and his employer or, failing such agreement, the amount determined by the Commissioner as a fair rental of the premises for the period of such occupation shall be deemed to have been received by the workman as an allowance by way of compensation from his employer for the purpose of computing the deduction to be made from any lump sum or half-monthly payments to which the workman is entitled.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

(3) The use in this section of the expression 'monthly wages' shall not exclude any workman from the right to compensation under this Ordinance by reason only of the fact that he is not paid at a monthly rate or that his remuneration is calculated by time or by work done or at a daily rate.

Method of calculating wages.

7. (1) For the purposes of this Ordinance the monthly wages of a workman shall be calculated as follows, namely :—

- (a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period ;
- (b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be deemed to be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;
- (c) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

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

Review of half-monthly payments.

8. (1) Any half-monthly payment payable under this Ordinance, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner on the application, either of the employer or of the workman accompanied by the certificate of a registered medical practitioner that there has been a change in the condition of the workman, or, subject to regulations made

under this Ordinance, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Ordinance, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

9. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amounts as may be agreed to by the parties or determined by the Commissioner, as the case may be.

Commutation of half-monthly payments.

PART IV

PAYMENT, DISTRIBUTION AND RECOVERY OF COMPENSATION

10. (1) The compensation shall be payable to or for the benefit of the workman, or, where death results from the injury, to or for the benefit of his dependants as provided by this Ordinance.

Persons entitled to compensation.

(2) Where a dependant dies before a claim under this Ordinance is made, or, if a claim has been made, before an agreement or award has been arrived at or made, the heirs, executors, or administrators of that deceased dependant shall have no right to payment of compensation, and the amount of compensation shall be calculated and apportioned as if that dependant had died before the workman.

(3) Where there are both total and partial dependants, nothing in this Ordinance shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

11. (1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the

Deposit of compensation with Commissioner in certain cases.

Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation :

fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid; but no such repayment shall be made until after the expiry of a period of twelve months reckoned from the date on which the money was deposited under section 11. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

[§4,31 of 1957.]

[§4,31 of 1957.]

Provided that, in the case of a deceased workman, an employer may make to one or more of the dependants advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to the dependant or dependants shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.

(4) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(5) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

(2) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under subsection (1), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

13. (1) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may in other cases, pay the money to the person entitled thereto.

Payment of compensation.

(2) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in that behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman.

Distribution of compensation.

12. (1) On the deposit of any money under section 11 as compensation in respect of a deceased workman, the Commissioner shall deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding twenty-five rupees and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant resident in Sri Lanka in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may

14. (1) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any

Variation of Commissioner's order of distribution, &c.

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

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

(2) Where the Commissioner varies any order under subsection (1) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 41.

Workman leaving Sri Lanka to reside elsewhere.

15. (1) If a workman receiving or entitled to receive a half-monthly payment intends to leave Sri Lanka in order to reside permanently in another country, he shall give the Commissioner ten days' previous notice of such intention; and the Commissioner shall forthwith inform the other party, who may agree with the workman to continue the payments in the country in which the workman intends to reside. If the parties cannot agree, either party may apply to the Commissioner for the redemption of such half-monthly payments and the Commissioner shall thereupon determine the amount of the lump sum which shall be payable in lieu of such payments.

(2) If a workman receiving or entitled to receive a half-monthly payment leaves Sri Lanka for the purpose of residing in another country without giving such notice as is required by the provisions of subsection (1), he shall, if the Commissioner after inquiry certifies in writing that he has left Sri Lanka for such purpose and without giving due notice, cease to be entitled to any benefits under this Ordinance during his absence from Sri Lanka; but he shall, for the

purpose of section 6 (1) (D), be deemed to have received half-monthly payments during such absence :

Provided that the Commissioner may revoke his certificate if he is satisfied that the workman had reasonable grounds for not giving such notice.

(3) A notice or application under this section may be given or made on behalf of any workman by the Commissioner.

16. (1) No proceedings for the recovery of compensation shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within one year of the occurrence of the accident or, in case of death, within one year from the date of death :

Procedure for recovery of compensation. Notice and claim.

[§5,31 of 1957.]

[§5,31 of 1957.]

Provided that, where the accident is the contracting of a disease in respect of which the provisions of section 4 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease;

Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the maintenance of proceedings—

(a) if the claim is made in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer is proved to have had knowledge of the accident from any other source at or about the time of the accident, or if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect or irregularity, or that such want, defect or irregularity was occasioned by mistake, absence from Sri Lanka, or other reasonable cause.

(2) The Commissioner may admit and decide any claim to compensation in any case notwithstanding that the notice required by subsection (1) has not been given, or that the claim has not been instituted in due time as required by that subsection, if he is satisfied that the failure so to give notice or to institute a claim, as the case may be, was due to sufficient cause.

Form of notice.

17. A notice under section 16 may be given either in writing or orally to the employer (or, if there is more than one employer, to one of such employers), or to any foreman or other official under whose supervision the workman is employed, or to any person designated for the purpose by the employer, and shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident occurred.

Notice-book.

18. (1) The Minister may by regulation require any specified class of employers to maintain at their premises at which workmen are employed a notice-book in the prescribed form which shall be readily accessible at all reasonable times to any workman who is injured while employed on the premises and to any person acting bona fide on his behalf.

(2) Any employer who acts in contravention of any regulation made by the Minister under subsection (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding fifty rupees.

Service of notice.

19. A notice under section 16 may be served by delivering it at, or sending it by

registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book.

20. (1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

Power of Commissioner to require statements from employers regarding fatal accidents.

(2) Where an employer is served with a notice under subsection (1), he shall, unless he disclaims liability to deposit compensation on any ground other than the ground that there are no dependants of the deceased workman, make the deposit within thirty days after the service of the notice.

[§6,31 of 1957.]

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other or further information as he may think fit.

21. (1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a registered medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Ordinance shall, if so required, submit himself for such examination from time to time:

Medical examination.

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with regulations made under this Ordinance, or at more frequent intervals than may be prescribed.

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

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

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

(5) Where under subsection (2) or subsection (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (D) of subsection (1) of section 6, the waiting period shall be increased by the period during which the suspension continues.

[§ 7,31 of 1957.]

(6) Where the employer of an injured workman offers to him the services of a registered medical practitioner free of charge and—

(a) the workman accepts such offer but deliberately disregards the

instructions of the registered medical practitioner, or

(b) the workman refuses to accept such offer and thereafter either fails to take treatment regularly from a registered medical practitioner or whilst being regularly attended by a registered medical practitioner deliberately disregards the instructions of such practitioner,

then, if the disregard referred to in paragraph (a) or the refusal and failure or disregard referred to in paragraph (b) is or are unreasonable in the circumstances of the case and the injury is aggravated thereby, the injury and the resulting disablement shall be deemed to be of the same nature and duration as they might reasonably be expected to be if the workman had been regularly attended by a registered medical practitioner and had not deliberately disregarded the instructions of such practitioner; and compensation, if any, shall be payable accordingly.

22. (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purpose of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Ordinance shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

Right of workman to recover compensation from principal of contractor under whom he is employed.

(2) Where the principal is liable to pay compensation under this section he shall be entitled to be indemnified by the contractor, or any other person from whom the workman could have recovered compensation and where a contractor who

is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation; and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Remedies of employer against third parties.

23. Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 22 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Insolvency of employer.

24. (1) Where any employer has entered into a contract with any insurer in respect of any liability under this Ordinance to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the

workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

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

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

(4) There shall be deemed to be included among the debts which—

- (a) under section 96 of the Insolvency Ordinance are to be paid out of the estate and effects of an insolvent before any other debts, and
- (b) under section 253 (1) (c) and (</) of the Companies Ordinance* are, in the distribution of the assets of any company being wound up, to be paid in priority to other debts,

the amount due in respect of any compensation or liability for compensation accrued before the following dates, that is to say:—

- (i) in the first case, the date of the adjudication of insolvency;
- (ii) in the second case, the date of the commencement of the winding up of the company;

* Repealed and replaced by the Companies Act, No. 17 of 1982.

and the provisions of the two Ordinances mentioned in this subsection shall apply accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 9, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

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

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

PART V

MASTERS AND SEAMEN

Special provisions relating to masters and seaman.

25. This Ordinance shall apply in the case of workmen who are masters of registered ships or seamen subject to the following modifications, namely :—

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

(b) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(c) Where an injured master or seaman is discharged or left behind in a foreign country, any depositions taken by any consular officer in the foreign country and transmitted by him shall, in any proceedings for enforcing the claim, be admissible in evidence—

- (i) if the deposition is authenticated by the signature of the consular officer before whom it is made ;
- (ii) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness ; and
- (iii) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(d) In the case of the death of a master or seaman leaving no dependants, the Commissioner shall, if the owner of the ship is under any law in force for the time being in Sri Lanka relating to merchant shipping liable to pay the expenses of burial of the master or seaman, return to the employer the full amount of the compensation deposited under section 11 without making the deduction referred to in section 12.

(e) No half-monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in Sri Lanka relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

PART VI

APPOINTMENT OF COMMISSIONER AND OTHER OFFICERS

Appointment of Commissioner and Deputy Commissioners. [§ 2, 22 of 1959.]

26. There may be appointed, by name or by office, a Commissioner for Workmen's Compensation for Sri Lanka and such number of Deputy Commissioners for Workmen's Compensation for the Island as may be necessary.

Appointment of Assistant Commissioners.

27. There may be appointed such number of Assistant Commissioners for Workmen's Compensation as may be necessary, for such local areas as may be specified in the respective notifications relating to their appointments.

All officers deemed to be public servants.

28. Any officer appointed under section 26 or section 27 shall be deemed to be a public servant within the meaning of the Penal Code.

Protection of public servants.

29. No action shall be maintained against any public servant for anything by him done or omitted to be done in good faith under this Ordinance.

PART VII

PROCEEDINGS BEFORE COMMISSIONERS

Disputes to be settled by Commissioner.

30. If any question arises in any proceeding under this Ordinance as to the liability of any person to any compensation (including any question as to whether a person injured is or is not a workman), or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), or as to the age of any workman or dependant, the question shall, in default of agreement, be settled and determined by a Commissioner.

Each Commissioner to deal with matters relating to accidents in his local area.

31. Where any matter is under this Ordinance required to be done by or before a Commissioner, the same shall, subject to the provisions of this Ordinance and to any regulations made thereunder, be done by or before a Commissioner entitled to function as such in the local area in which the accident took place which resulted in the injury:

Provided that, where the workman is the master of a registered ship or a seaman, any such matter may be done by or before a Commissioner entitled to function as such in the local area in which the owner or agent of the ship resides or carries on business.

32. Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Ordinance, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry, to assist him in holding the inquiry.

Commissioner entitled to assistance of experts.

33. (1) If a Commissioner is satisfied by any party to any proceedings under this Ordinance pending before him that such matter can be more conveniently dealt with by any other Commissioner, whether in the same province or not, he may, subject to regulations made under this Ordinance, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings.

Transfer of case from one Commissioner to another.

(2) The Commissioner to whom any matter is so transferred shall, subject to regulations made under this Ordinance, inquire thereinto, and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

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

34. (1) No application for the settlement of any matter by a Commissioner, other than an application by a dependant or dependants for compensation, shall be made unless and until some question has arisen between the parties in connexion therewith which they have been unable to settle by agreement.

Form of application to Commissioner for settlement of question in dispute.

(2) An application to a Commissioner may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely :—

- (a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims ;
- (b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission ;
- (c) the names and addresses of the parties ; and
- (d) except in the case of an application by dependants for compensation, a concise statement of the matters on which agreement has and of those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

Powers of Commissioner.

35. A Commissioner shall have all the powers of a civil court under the Civil Procedure Code, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects; and a Commissioner shall be deemed to be a civil court for all the purposes of section 135 and Chapter XXXII of the Code of Criminal Procedure Act.

Appearance of parties.

36. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by a representative authorized in writing by such person and approved -by the Commissioner.

37. The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be signed by the Commissioner and shall form part of the record:

Method of recording evidence.

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made from his dictation and shall sign the same, and such memorandum shall form part of the record ;

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

38. All costs incidental to any proceedings before a Commissioner shall, subject to regulations made under this Ordinance, be in the discretion of the Commissioner.

Costs.

39. A Commissioner may, if he thinks fit, submit any question of law for the opinion of the Court of Appeal, and, if he does so, he shall decide that question in conformity with such opinion.

Submission of question of law for opinion of Court of Appeal.

40. No civil court shall have jurisdiction to settle, decide or deal with any question which is by or under this Ordinance required to be settled, decided or dealt with by a Commissioner or, except as provided in section 41 (2), to enforce any liability incurred under this Ordinance.

Civil court has no jurisdiction over matters required to be dealt with by Commissioner. [§8,31 of 1957.]

41. (1) The Commissioner may recover any sum or amount due from or payable by any person under this Ordinance whether under an agreement or in terms of an award for the payment of compensation or otherwise, (including any sum payable by way of costs), as if it were a fine imposed by a Magistrate upon such person, and for the purposes of such recovery shall have all the powers conferred upon a Magistrate for the recovery of fines imposed by him.

Recovery of amounts due.

(2) If any sum referred to in subsection (1) cannot be recovered in the manner specified in that subsection within six months from the date on which such sum becomes due from the person liable to pay

[§9,3 of 1957.]

it, the Commissioner may make application, where such sum exceeds one thousand five hundred rupees, to the District Court or, where such sum does not exceed one thousand five hundred rupees, to the Primary Court, within whose jurisdiction such person resides, for the recovery of such sum by the seizure and sale of the immovable property of such person, and, upon such application being made, the court shall issue to the Fiscal a writ for the recovery of such sum by the seizure and sale of such immovable property. The provisions of the Civil Procedure Code relating to the seizure and sale of immovable property by the Fiscal in execution of a writ issued by a court and to the making and adjudication of claims in respect of immovable property seized by the Fiscal shall apply to the seizure and sale of immovable property for the recovery of the sum specified in the Commissioner's application and to the making and adjudication of claims in respect of immovable property seized for the recovery of such sum. For the purpose of the application of such provisions the sum so specified shall be deemed to be due on a decree entered by the court and the Commissioner shall be deemed to be the judgment-creditor and the person liable to pay such sum shall be deemed to be the judgment-debtor.

PART VIII

REGISTRATION OF AGREEMENTS

Memorandum of agreement to be sent to Commissioner.

42. Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman or a person under a legal disability, a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:

Provided that—

- (a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

- (b) the Commissioner may at any time rectify the register;

- (c) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

43. Where a memorandum of any agreement, the registration of which is required by section 42, is not sent to the Commissioner as required by that section, the employer shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to pay a fine not exceeding one thousand rupees, and shall also be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Ordinance, and notwithstanding anything contained in the proviso to subsection (1) of section 6, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

Effect of failure to send memorandum of agreement to Commissioner, [§ 10, 31 of 1957.]

44. The Commissioner may, within six months after the registration of any memorandum of agreement referred to in section 42, order that the registration shall be cancelled if it is proved to his satisfaction that the agreement has been obtained by fraud or undue influence or other improper means, and may make such order, including an order as to any sum or amount already paid under the agreement, and an order for the registration of a new agreement, as he thinks just in the circumstances.

Cancellation of registration of memorandum.

PART IX

INSURANCE

Licence to undertake insurance for the purposes of the Ordinance.

45. (1) It shall be lawful for the Commissioner on payment to him of the prescribed fees, to issue a licence to any person to undertake insurance against liabilities to workmen which may be incurred by employers under this Ordinance, if it is shown to his satisfaction, after such inquiry as he may think fit to make, that such person is financially able to undertake such insurance.

(2) Every person who undertakes any such insurance without being licensed for that purpose under subsection (1), and every employer who insures against any such liability with a person who has not been licensed under that subsection, shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding one thousand rupees.

(3) In this section, " person " includes the agent of a person who undertakes to insure an employer against his liability to pay compensation under this Ordinance.

(4) No prosecution shall be entered against any person for a breach of the provisions of this section except on the complaint of the Commissioner or with his written sanction.

Commissioner empowered to inspect accounts of licensee.

46. Every person licensed under section 45 shall produce for the inspection of the Commissioner at such times as the Commissioner may require, all the accounts of the insurance business which he undertakes for the purposes of this Ordinance, and in default of so doing shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable for each offence to a fine not exceeding one hundred rupees.

Suspension or cancellation of licence.

47. (1) It shall be lawful for the Commissioner to suspend or cancel any licence issued to any person under section 45—

(a) if he is satisfied that such person is no longer financially able to undertake

insurance against liabilities which may be "incurred by employers under this Ordinance; or

(b) if such person has been guilty of fraud, or has made undue delay in the payment or non-payment of claims arising out of such insurance; or

(c) if such person has been convicted under section 46.

(2) An order made under subsection (1) for the suspension or cancellation of a licence shall be subject to an appeal to the Court of Appeal in the manner hereinafter provided.

PART X

APPEALS

48. (1) An appeal on a point of law shall lie to the Court of Appeal against any order made by the Commissioner.

(2) No person shall appeal against an order made by the Commissioner unless such person is a party aggrieved by the order against which he appeals.

(3) For the purpose of disposing of any appeal on a point of law, the Court of Appeal may vary, modify or reverse the finding of the Commissioner on any question of fact.

(4) An employer shall not be entitled to appeal on a point of law against an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or against an order disallowing a claim in full or in part for a lump sum unless the petition of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(5) No appeal shall lie in any case in which the parties have agreed in writing to abide by the decision of the Commissioner or in which the order of the Commissioner gives effect to an agreement so made by the parties.

[§11, 31 of 1957.]

(6) Every petition of appeal shall be accompanied by a duplicate thereof, and the Registrar of the Court of Appeal shall transmit such duplicate to the Commissioner.

Time-limit for appeals.

49. (1) Every petition of appeal shall bear uncanceled stamps to the value of five rupees and shall be filed in the Court of Appeal within a period of thirty days reckoned from the date of the order against which the appeal is preferred.

(2) In computing the time within which an appeal must be preferred the day on which the order appealed against was made shall be included, but all public holidays shall be excluded.

Costs of appeal.

50. The Court of Appeal shall have power in all appeals under this Part to award such costs to be paid by or to the parties thereto as the court may consider just:

Provided that in no case shall an order for costs be made against the Commissioner.

Procedure in appeal.

51. Subject to the provisions of this Part, the provisions of Chapter XXVIII of the Code of Criminal Procedure Act, relating to appeals from Magistrates' Courts, shall apply *mutatis mutandis*, in regard to all matters connected with the hearing and disposal of an appeal preferred under section 48 and, for such purpose, the order of the Commissioner shall be deemed to be the order of a court.

Hearing of submission on question of law.

52. The Court of Appeal may hear the Commissioner or any party concerned, in person or by counsel, when any question of law is submitted for opinion under section 39.

Withholding of certain payments pending decision of appeal.

53. Where an employer prefers an appeal on a point of law against an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or against an order disallowing a claim in full or in part for a lump sum, the Commissioner may, and if so directed by the Court of Appeal shall, pending the decision of the appeal, withhold payment of any sum deposited with him:

Provided that the Commissioner may distribute, in such manner as he may think fit, out of any sum in deposit with him, a sum not exceeding one-tenth of the sum payable under his order, or fifty rupees, whichever is less, among persons entitled under his order to receive compensation who, in his opinion, are unable to support themselves, and in the event of the appeal being successful any sum so paid by the Commissioner to any person shall be deemed to be a debt due from that person to the employer and may be sued for and recovered by the employer in a civil court of competent jurisdiction.

PART XI

REGULATIONS

Regulations.

54. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters, namely:—

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 8 when not accompanied by a medical certificate;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under subsection (1) of section 21 ;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Ordinance and by the parties in such cases;
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases ;

- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of moneys so invested from one Commissioner to another;
- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered ;
- (h) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same ;
- (i) for regulating the scales of costs which may be allowed in proceedings and appeals under this Ordinance ;
- (j) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Ordinance;
- (k) for the maintenance by Commissioners of registers and records of proceedings before them;
- (l) for prescribing the classes of employers who shall maintain notice-books and the form of such notice-books;
- (m) for prescribing the form of statement to be submitted by employers under section 20;
- (n) all matters stated or required in this Ordinance to be prescribed ; and
- (o) generally for all matters incidental to or connected with the matters or subjects specifically mentioned in this subsection.

substitute a new Schedule for any Schedule herein enacted:

Provided that the provisions of Schedules II and III shall not be so modified, added to, altered or rescinded nor shall any new Schedule be substituted for either of those Schedules except after notification published in the Gazette declaring the intention of the Minister so to effect such modification, addition, alteration, rescission or substitution, as the case may be, at a date not earlier than three months from the date of the first publication of such notification in the Gazette.

(2) For the purpose of the application of the provisions of any Schedule at any particular time, a reference in this Ordinance to any Schedule shall be construed as a reference to the provisions of that Schedule which are in force at that time.

56. (1) No regulations shall have effect unless it has been approved by Parliament, Notification of such approval shall be published in the Gazette. Approval of regulations.

(2) Every regulation shall, upon the publication of the approval of that regulation as provided for in subsection (1), be as valid and effectual as if it were herein enacted.

PART XII

MISCELLANEOUS

57. (1) Where a workman has been injured as a result of an accident occurring on the business premises of his employer or arising out of and in the course of his employment, and either dies within a period of seven consecutive days next succeeding that on which the accident occurred or absents himself from work for that period, his employer shall report the occurrence and the particulars of such accident to the Commissioner in the prescribed form within a period of fourteen days reckoned from the date on which the accident occurred. Employer to report to Commissioner accidents to workmen in certain cases, and to send annual returns.

(2) Every employer shall before the prescribed date in every year send to the Commissioner a correct return in the prescribed form specifying—

Amendment of Schedules by regulation.

55. (1) The Minister may, by regulation modify, add to, alter or rescind any Schedule or part of any Schedule and may

- (a) the injuries in respect of which compensation has been paid by him or by any insurer with whom he has entered into a contract in respect of any liability under this Ordinance during the year preceding that in which the return is made; and
- (b) the amount of such compensation; and
- (c) such other particulars in respect of such compensation as the Commissioner may require:

Provided that any further particulars required by the Commissioner under paragraph (c) of this subsection may be furnished after the prescribed date and within such period as the Commissioner may appoint.

(3) Every employer who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding fifty rupees:

Provided that not employer shall be guilty of a breach of subsection (1) if he proves that he had no knowledge of the accident within the period of fourteen days mentioned in that subsection.

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

Compensation not to be assigned, attached or charged.

59. Any contract or agreement whether made before or after the commencement of this Ordinance whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Ordinance.

Contracting-out.

60. Nothing in this Ordinance contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a civil court an action for damages in respect of the injury against the employer or any other person; and no action for damages shall be maintainable by a workman in any court of law in respect of any injury—

Injured workman must elect between common law and statutory remedy.

- (a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or
- (b) if he has agreed with his employer to accept compensation in respect of the injury in accordance with the provisions of this Ordinance.

SCHEDULE I

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

[Section 2 (1).]

Injury	Percentage of loss of earning capacity
Loss of right arm above or at the elbow	70
Loss of left arm above or at the elbow	60
Loss of right arm below the elbow	60
Loss of leg at or above the knee	60
Loss of left arm below the elbow	50
Loss of leg below the knee	50
Permanent total loss of hearing	50
Loss of one eye	30
Loss of thumb	25
Loss of all toes of one foot	20
Loss of one phalanx of thumb	10
Loss of index finger	10
Loss of great toe	10
Loss of any finger other than index finger	5

Note.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

SCHEDULE II

[Section 2(1).] LIST OF PERSONS WHO, SUBJECT TO THE PROVISIONS OF SECTION 2 (i), ARE INCLUDED IN THE DEFINITION OF " WORKMAN " IN THAT SECTION

Subject to the provisions of section 2, the following persons are workmen within the meaning of subsection (1) of that section, that is to say, any person who is—

1. employed, otherwise than in a clerical capacity, in connexion with the operation or maintenance of any vehicle which is propelled by steam or other mechanical power or by electricity and is used for the carriage or conveyance of passengers or goods for hire, or for industrial or commercial purposes ; or

2. employed, otherwise than in a clerical capacity, in any premises wherein, or within the precincts whereof, steam, water or other mechanical power or electrical power is used in aid of any process for, or incidental to, the making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, for transport, or for sale, of any article or part of an article, and wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed in any such process; or

[§ 12, 31 of 1957.]

3. employed, otherwise than in a clerical capacity, in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been employed in any process for, or incidental to, the making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, for transport, or for sale, of any article or part of an article or in any kind of work whatsoever incidental to or connected with that process or with the article so made, altered, repaired, ornamented, finished or adapted by that process; or

4. employed, in any mine, in mining operation, or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground:

Provided that any excavation in which on no day of the preceding twelve months more than ten persons have been employed or explosives have been used, and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause; or

5. employed as the master of a registered ship or as a seaman; or

6. employed for the purpose of loading, unloading, fuelling, victualling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or in the handling or transport within the limits as defined under section 2 of the Masters Attendant Ordinance, or any port in Sri Lanka, of goods which have been discharged from or are to be loaded into any vessel; or

7. employed in the construction, repair, maintenance or demolition of—

[§ 12, 31 of 1957.]

(a) any building; or

(b) any dam or embankment which is twenty feet or more in height from its lowest to its highest point; or

(c) any road, bridge, or tunnel; or

(d) any wharf, quay, sea-wall or other marine work including any moorings of ships; or

8. employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard for the same; or

9. employed in the construction, repair, inspection, maintenance or demolition of any underground sewer; or

10. employed in the service of any fire brigade; or

11. employed in any occupation involving blasting operations; or

12. employed in the making of any excavation in which on any one day of the preceding twelve months more than ten persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet; or

13. employed in the operation of any ferry boat capable of carrying more than ten persons; or

14. employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing cacao, cardamoms, cinchona, coconuts, coffee, rubber or tea and on which on any one day in the preceding twelve months ten or more persons have been so employed ; or

15. employed, otherwise than in a clerical capacity, in the supplying, generating or transforming of electrical energy or in the generating or supplying of gas; or

16. employed on any boat, launch or vessel which ordinarily plies within the limits of any harbour of Sri Lanka or on any canal, river, lake or other inland navigable water and is propelled wholly or in part by steam or other mechanical power or by electricity; or
17. employed, otherwise than in a clerical capacity, in the Railway Department; or
18. employed, otherwise than in a clerical capacity, in the construction, working, repair, maintenance or demolition of any aerial ropeway, canal or pipe-line; or
19. employed in the training, keeping or working of elephants, race-horses or wild animals; or
20. employed as a diver; or
21. employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or
22. employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months five or more persons have been so employed ; or
23. employed in the tapping or coupling of palm trees, or the plucking of coconuts, or the felling or logging of trees, or the clearing of jungle, or the transport of timber by inland water-ways, or the control or extinguishing of forest fires, or any other work incidental to or connected with any of the operations enumerated in this clause; or
24. employed in operations for the catching or hunting of elephants or other wild animals; or
25. employed in the handling or transport of goods in or within the precincts of—
 - (a) a warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed; or
 - (b) any market or fair in which on any one day of the preceding twelve months ten or more persons have been so employed; or
26. employed in any occupation involving the handling or the manipulation of radio or X-ray apparatus, or contact with radio-active substances; or
27. employed as an inspector, mail guard, sorter or van peon in the mail service of the Railway Department; or
28. employed in a lighthouse; or
29. employed in any occupation ordinarily involving outdoor work; or
30. employed in the operation or maintenance of any lift, crane, tractor or excavator; or
31. employed in the salvaging of wrecks; or
32. employed in operations connected with electrical illuminations; or
33. employed in scavenging or conservancy or in any work connected with, or incidental to, scavenging or conservancy ; or
34. employed in any park or in any work connected with, or incidental to, the maintenance thereof; or
35. employed in any radio rediffusion service; or
36. employed as a carter; or
37. employed in, or in connexion with, the catching of fish; or
38. employed, otherwise than in a clerical capacity, on any premises wherein the business of maintaining or repairing any machinery or vehicles is carried on; or
39. employed as a performer in any circus or acrobatic show; or
40. employed in a meat stall; or
41. employed in the transport of fish; or
42. employed in a petrol depot.

[§ 12, 31 of 1957.]

[§ 12, 31 of 1957.]

Explanation.—In this Schedule, the expression " the preceding twelve months " relates, in any particular case, to the period of twelve months ending with the day on which the accident in that case occurred.

SCHEDULE III

OCCUPATIONAL DISEASES

PART A

[Section 4.]
[§ 13, 31 of
1957.]

Description of Occupational Disease	Description of Process
Anthrax infection	Any employment involving— (a) work in connexion with animals infected with anthrax; (b) handling of animal carcasses or parts thereof, including hides, hoofs and horns; and. (c) loading and un-loading or transport of merchandise.
Compressed air illness or its sequelae	Any process carried on in compressed air
Poisoning by lead tetra-ethyl	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes	Any process involving exposure to nitrous fumes.

PART B

Description of Occupational Disease	Description of Process
Arsenical poisoning or its sequelae	Any process involving the production, liberation or utilization of arsenic or its compounds.
Chrome ulceration or its sequelae	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium or their preparations.
Poisoning by lead, its alloys or compounds and their sequelae.	Handling of ore containing lead, including fine shot in zinc factories. Casting of old zinc and lead in ingots. Manufacture of articles made of cast lead or of lead alloys. Employment in the polygraphic industries. Manufacture of lead compounds. Manufacture and repair of electric accumulators. Preparation and use of enamels containing lead. Polishing by means of lead files or putty powder with a lead content. All painting operations involving the preparation and manipulation of coating substances, cement or colouring substances containing lead pigments.
Poisoning by mercury its amalgams and compounds and their sequelae	Handling of mercury ore. Manufacture of mercury compounds. Manufacture of measuring and laboratory apparatus. Preparation of raw material for the hat-making industry. Hot gilding. Use of mercury pumps in the manufacture of incandescent lamps. Manufacture of fulminate of mercury primers.
Pathological manifestations due to— (a) radium and other radio active substances; (b) X-rays	Any process involving exposure to the action of radium, radio-active substances, or X-rays.
Phosphorus poisoning or its sequelae	Any process involving the use of phosphorus or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelae of such poisoning	Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues.
Poisoning by nitro or amido derivatives of benzene and its homologues or the sequelae of such poisoning	Handling any nitro or amido derivatives of benzene or any of its homologues, or any process in the manufacture or involving the use thereof
Poisoning by the halogen derivatives of hydro-carbons of the aliphatic series	Any process involving the production, liberation or utilization of halogen derivatives of hydro-carbons of the aliphatic series
Primary epitheliomatous cancer of the skin	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances

WORKMEN'S COMPENSATION

[Cap. 158

SCHEDULE IV

[Section 6.]
[§ 3,4 of 1966.]

COMPENSATION PAYABLE IN CERTAIN CASES

Monthly wages of the workman injured		Amount of compensation for—		Half-monthly přivn"nř AS coni ill.n^, ilnin foi tL'mporary di'.ahiciiilt of adult	
		Death of adult	Permanent total disablement of adult		
(1)		(2)	(3)	(4)	
More than— Rs.	But not more than— Rs.	Rs.	Rs.	Rs.	
0	..	30	1,800	2,100	15 0
30	..	40	2,450	2,800	1750
40	..	50	2,800	3,200	20 0
50	..	60	3,080	3,520	22 0
60	..	70	3,360	3,840	24 0
70	..	80	3,780	4,320	27 0
80	..	90	4,200	4,800	30 0
90	..	100	4,550	5,200	3250
100	..	120	4,900	5,600	35 0
120	..	140	5,600	6,400	40 0
140	..	160	6,300	7,200	45 0
160	..	180	7,000	8,000	50 0
180	..	200	7,560	8,640	54 0
200	..	250	8,680	9,920	62 0
250	..	300	9,450	10,800	6750
300	..	400	11,200	12,800	80 0
400	..	500	12,900	14,750	92 0