

Acts reprinted pursuant to the Amendments Incorporation
Act, 1937

BUILDING MATERIALS ACT, 1945-1947
WORKMEN'S COMPENSATION ACT, 1932-1947

With notes of judicial decisions affecting sections of the reprinted Acts



BUILDING MATERIALS ACT, 1945-1947.

BEING

BUILDING MATERIALS ACT, 1945, No. 41 OF 1945 [ASSENTED TO
24TH JANUARY, 1946.]

AS AMENDED BY

BUILDING MATERIALS ACT AMENDMENT ACT, 1946, No. 14 OF 1946
[ASSENTED TO 31ST OCTOBER, 1946.]

AND

BUILDING MATERIALS ACT AMENDMENT ACT, 1947, No. 21 of 1947
[ASSENTED TO 6TH NOVEMBER, 1947.]

An Act to provide for the regulation of the use of certain essential building materials, and for incidental purposes.

WHEREAS, by reason of conditions brought about by the war in which His Majesty has been engaged, the supply of certain essential building materials is insufficient to meet the demand therefor: AND WHEREAS it is necessary and desirable to regulate the use of those essential building materials during the period when the supply thereof is so insufficient: BE IT THEREFORE ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Building Materials Act, 1945-1947." Short title.

2. In this Act—

Interpretation.

"area", applied to a building or structure, means the superficies of a horizontal section thereof made at the point of its greatest surface inclusive of the external walls or if the building or structure consists of two or more stories the total superficies calculated as aforesaid in respect of each storey in the building or structure, together in every case with the superficies of every verandah, balcony, porch and similar structure attached to the building or structure:

Inserted by
21, 1947
s. 2 (a).

“essential building material” means—

- (a) any material described in the first schedule; and
- (b) any material which pursuant to section 3 is declared to be an essential building material:

“Minister” means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor:

“square” applied to the measurement of any area means the space of one hundred square feet.

Inserted by
21, 1947,
s. 2 (b).

Powers of
Treasurer to
provide
temporary
housing
accommoda-
tion.

Inserted by
14, 1946,
s. 2.

2a. (1) The Treasurer may, for the purposes of this section, arrange to borrow the sum of fifty thousand pounds in accordance with the Financial Agreement as set out in the schedule at the end of the Amending Financial Agreement Act, 1944.

(2) Without any further appropriation than this section, the Treasurer may expend any amounts borrowed as aforesaid for the purpose of providing temporary housing accommodation and the Treasurer is hereby authorized to provide such housing accommodation.

(3) Without any further appropriation than this section, the Treasurer may expend out of the general revenue any amounts necessary for the administration of any temporary housing accommodation so provided or for making good any losses of capital incurred in connection therewith and the general revenue is hereby appropriated accordingly.

(4) The Treasurer may let to persons in need of housing accommodation any temporary housing accommodation provided as aforesaid at such rentals and on such terms and conditions as are from time to time fixed by the Treasurer.

(5) For the purpose of providing such temporary housing accommodation the Treasurer may acquire either by agreement or compulsorily, any land upon which are situated any naval, military or air force encampments purchased or otherwise acquired by the Treasurer in order to be used as temporary housing accommodation, and any land adjacent thereto. For the said purpose the Compulsory Acquisition of Land Act, 1925, except sections 49, 79, 80, 81, and 82 of that Act, is incorporated with this Act, and the Treasurer shall be regarded as the promoter of an undertaking and this Act the special Act within the meaning of the said incorporated Act.

(6) The Public Supply and Tender Act, 1914-1940, shall not apply to anything done by the Minister in exercise of the powers conferred by this section.

3. (1) If satisfied that the supply of any building material (other than a material described in the first schedule) is insufficient to meet the demand therefor, the Governor may, by proclamation, declare that material to be an essential building material for the purposes of this Act.

Power to declare additional essential building materials.

(2) The Governor may by proclamation revoke or vary any such proclamation.

(3) Whilst any proclamation declaring a material to be an essential building material is in force, that material shall be an essential building material for the purposes of this Act.

4. (1) Any person who uses or causes to be used any essential building material for any purpose described in the second schedule shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds unless the use of the essential building material for the purpose for which it is used is authorized by a permit in writing issued by the Minister or by some person authorized by the Minister for the purpose.

Restriction of use of essential building materials to certain purposes.

(2) Any person who uses or causes to be used any essential building material contrary to any condition of a permit issued by the Minister or by some person authorized by the Minister for the purpose shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

(3) The Governor may by proclamation from time to time vary the provisions of the second schedule and may for that purpose amend any provision of that schedule or add any provision to that schedule or amend any provision so added and any variation of the said schedule so made shall have the same effect as if enacted in this Act.

(4) The Minister or any person authorized by the Minister for the purpose may issue to any person a permit to use or to cause to be used any essential building material for any purpose specified in the permit. Any such permit may be issued subject to such conditions as the Minister or person aforesaid considers necessary.

4a. (1) The Governor may by proclamation declare that cement shall not be used for any purpose specified from time to time by proclamation except pursuant to a permit issued under this section. The Governor may by proclamation revoke or from time to time vary any such proclamation.

Control of use of cement. Inserted by 14, 1946, s. 3.

(2) The Minister or any person authorized by the Minister for the purpose may issue to any person a permit to use or cause to be used cement for any purpose specified by any

such proclamation. Any such permit may be issued subject to such conditions as the Minister or person aforesaid considers necessary.

(3) Any person who uses or causes to be used any cement for any purpose specified by proclamation aforesaid shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds, unless the cement is used pursuant to a permit issued under this section.

(4) Any person who uses or causes to be used any cement contrary to any condition of any permit issued under this section shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

Prohibition of
demolition of
dwelling-
house.

Inserted by
21, 1947,
s. 3.

4b. (1) Any person who—

(a) demolishes any dwelling-house or any part thereof;
or

(b) makes any alteration to any dwelling-house so as to render it uninhabitable as a dwelling-house, shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

(2) It shall be a defence to any proceedings for an offence against this section if sufficient proof is given that the dwelling-house was demolished or altered—

(a) with the permit in writing of the Minister or some person authorized by the Minister for the purpose and in accordance with any conditions of such permit; or

(b) in compliance with an order or notice of a local board of health given pursuant to the Health Act, 1935-1943, or the Housing Improvement Act, 1940-1946.

(3) The Minister or any person authorized by the Minister for the purpose may issue to any person any permit as aforesaid. Any such permit may be issued subject to such conditions as the Minister or person aforesaid considers necessary.

(4) For the purposes of this section “dwelling-house” includes any building which at any time within twelve months before it is demolished or altered is occupied by some person as a place of habitation.

Officers.

5. The Minister may appoint any officers necessary for the administration of this Act. Any person so appointed shall not, by virtue of that appointment, be subject to the Public Service Act, 1936-1945.

6. (1) Any person who desires to acquire from any other person any essential building material to which this section applies may apply to the Minister for the issue of a priority certificate under this Act. The Minister or any person authorized by the Minister for the purpose may issue to the applicant a priority certificate for the acquisition of that material.

Issue of
priority
certificates.

Any priority certificate may be issued subject to such conditions as the Minister or person aforesaid considers necessary.

(2) The Minister may, from time to time, by notice published in the *Gazette*—

(a) set out the order of priority in which priority certificates will be issued;

(b) give directions as to the order in which the essential building materials to which this section applies are to be sold or otherwise supplied in accord with priority certificates issued under this Act.

(3) This section shall apply to the following essential building materials and no others, namely:—

Amended by
21, 1947,
s. 4.

- i. Roofing tiles of all kinds;
- ii. Corrugated and plain asbestos cement sheets;
- iii. Corrugated sheet and plain sheet galvanized iron;
- iv. Galvanized, black and cast iron water and gas pipes;
- ivA. Steel reinforcing rods of $\frac{1}{2}$ inch or $\frac{3}{8}$ inch gauge;
- ivB. Tongued and grooved flooring boards;
- v. Such other essential building materials as the Governor declares by proclamation.

The Governor may, by proclamation, declare that this section shall apply to any essential building material and may, by proclamation, revoke any such proclamation.

7. (1) Any person engaged in the business of selling any essential building material to which section 6 applies (hereinafter in this section referred to as "the seller") who has in his possession or disposition any essential building material to which section 6 applies, shall not sell or dispose of that building material except—

Control of sale
of certain
essential
building
materials.
Subsec (1)
substituted
by 21, 1947,
s. 5 (a).

- (a) to a person to whom a priority certificate for the acquisition of such material has been issued (which said person is hereinafter referred to in this section as the "authorized purchaser"); or

Building Materials Act, 1945-1947.

- (b) to a person authorized by the authorized purchaser to acquire or to secure the possession of the essential building materials under the priority certificate; or
- (c) in pursuance of a direction in writing given by the Minister or some person authorized by the Minister for the purpose.

Inserted by
21, 1947,
s. 5 (a).

(1a) The Minister or any person authorized by the Minister for the purpose may from time to time, by notice in writing given to any seller, direct that the seller may sell or dispose of any essential building materials to which section 6 applies other than to authorized purchasers. Any such direction may fix quotas of such essential building materials which may be so sold or disposed of or otherwise authorize the sale or disposal of such of the essential building materials as are not required for the purposes of authorized purchasers. Any such direction shall be in force for such period as is stated in the direction and the direction may be given subject to such conditions as the Minister or person authorized by the Minister deems necessary.

(2) Any seller who sells or disposes of any essential building material contrary to the provisions of subsection (1) of this section shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

Amended by
21, 1947,
s. 5 (b).

(3) Any seller who sells or disposes of any essential building material contrary to any direction of the Minister given in accordance with paragraph (b) of subsection (2) of section 6 or to any direction of the Minister or person authorized by the Minister given in accordance with subsection (1a) of this section shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

Substituted by
21, 1947,
s. 5 (c).

(4) If any building material to which section 6 applies is sold or supplied to an authorized purchaser by virtue of a priority certificate issued for the acquisition of that building material and if the authorized purchaser or any person who under the authority of the authorized purchaser has acquired or secured possession of that building material uses or disposes of or causes or permits to be used or disposed of the building material in any manner contrary to any condition of the priority certificate or for a purpose other than a purpose stated in the application for the permit or priority certificate, he shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds unless the building material was so used or disposed of after the completion

of the work in respect of which the priority certificate was issued and the building material was surplus material and unnecessary to be used for the purposes of the said work.

(5) If a priority certificate is issued to any authorized purchaser for the acquisition of any essential building material to which section 6 applies and if the authorized purchaser or any person authorized by the authorized purchaser to acquire or secure the possession of the essential building material to which the priority certificate relates, by reason of the exercise or the purported exercise of rights conferred by the priority certificate, acquires or obtains possession of essential building materials to a greater extent than authorized by the priority certificate or attempts so to acquire or obtain possession, he shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

Inserted by
21, 1947,
s. 5 (c).

7a. (1) If in any building or structure in course of construction or if in the carrying out of any repairs, alteration or addition to any building or structure any essential building material is used contrary to any of the provisions of this Act, the Minister or any person authorized by the Minister for the purpose may give notice to either or both the owner or the builder of the building or structure requiring him to cease carrying on the construction of the building or structure or, as the case may be, the carrying out of the repairs, alteration or addition. If after the giving of notice to any such person, the requirements of the notice are not complied with, that person shall be guilty of an offence and liable to a penalty not exceeding twenty pounds for every day during which the requirements of the notice are not complied with.

Notice to
cease unlawful
construction
of building
or structure.

Inserted by
14, 1946,
s. 4.

(2) Any notice under this section may be sent by post by letter addressed to the place of business or residence of the person to whom it is given.

8. (1) In any proceedings for an offence against this Act a certificate in writing purporting to be signed by the Minister or by the Director, Building Materials Office, and stating that a permit under this Act had or had not at any date specified in the certificate been issued to any specified person or stating the conditions upon which any such permit was issued shall, in the absence of evidence to the contrary, be sufficient evidence of the facts stated in the certificate.

Evidentiary
provision.
Amended by
14, 1946,
s. 5.

(2) In any proceedings for an offence against this Act where it is alleged that any essential building material has been used or caused to be used for any purpose described in

the second schedule, the court, upon view of the building or structure for which the proceedings relate or upon the consideration of any plan or specifications with respect to such building or structure or after hearing evidence as to probable cost of construction of the building or structure or the repair, alteration or addition to the building or structure, may find that the cost of construction of the building or structure or, as the case may be, of the repair, alteration or addition thereto, exceeds or if completed will exceed any amount specified in the second schedule, without further proof thereof being given on behalf of the prosecution.

Inserted by
21, 1947,
s. 6.

(3) In any proceedings for an offence against this Act, if evidence is given that any essential building material has been used upon any land for any purpose and if there is proof that any person is the owner or occupier of that land, then, in the absence of proof to the contrary, the essential building materials shall be deemed to have been used or, as the case may require, to have been caused to be used for that purpose by that person.

Conditions for
permits, etc.

Inserted by
21, 1947,
s. 7.

8a. Without limitation of any other power given by this Act with respect to any permits or priority certificates, the Minister or person authorized by the Minister for the purpose may, on the issue of a permit or priority certificate under this Act, issue the permit or priority certificate upon the condition that the cost of construction of or, as the case may be, of carrying out the work in respect of which it is issued is not more than a sum specified in the permit or priority certificate.

Duration of
permit or
priority
certificate.

Inserted by
21, 1947,
s. 7.

8b. (1) Every permit or priority certificate issued under this Act before the passing of the Building Materials Act Amendment Act, 1947, shall cease to have any force or effect after the expiration of twelve months after the said passing unless the work in respect of which it was issued was commenced before the expiration of the said period, in which event the permit or priority certificate shall continue in force until the completion of the work, or unless the duration of the permit or priority certificate is extended as provided by this section.

(2) Every permit or priority certificate issued under this Act after the passing of the Building Materials Act Amendment Act, 1947, shall cease to have any force or effect after the expiration of twelve months after the issue thereof unless the work in respect of which it was issued was commenced before the expiration of the said period, in which

event the permit or priority certificate shall continue in force until the completion of the work, or unless the duration of the permit or priority certificate is extended as provided by this section.

(3) The Minister or any person authorized by the Minister for the purpose may extend the duration of any permit or priority certificate issued under this Act.

8c. The Minister or any person authorized by the Minister for the purpose, if satisfied—

Revocation of permit or priority certificate. Inserted by 21, 1947, s. 7.

- (a) that any application for the issue of a permit or priority certificate and upon which a permit or priority certificate was issued under this Act contains any false or misleading statement; or
- (b) that any provision of or condition upon which any permit or priority certificate was issued under this Act or any provision of this Act relating to any permit or priority certificate has been broken or has not been observed,

may revoke or suspend the permit or priority certificate.

9. The Governor may make any regulations necessary or convenient for carrying this Act into effect and without limiting the generality of the powers hereby conferred may make regulations—

Regulations.

- (a) prescribing the form of permits to be issued under this Act and conditions upon which permits may be issued;
- (b) for enabling the Minister to ascertain what supplies of essential building materials are within the State and the extent to which those supplies are being used and for requiring any persons to supply information to the Minister for any such purpose;
- (c) for authorizing the Minister to make orders or to give directions as to the manner in which suppliers or sellers of essential building materials shall supply or sell the same to the intent that the supply or sale thereof shall be first made to persons who may under this Act use or cause the same to be used without permit under this Act or to whom permits under this Act have been issued, before being supplied or sold to other persons, and for authorizing the Minister to issue priority certificates for the purpose of giving effect to any

such orders or directions and requiring suppliers and sellers of essential building materials to supply or sell the same in accordance with any such priority certificates;

(d) prescribing penalties not exceeding one hundred pounds for the breach of any regulation.

Proceedings for offences.

10. (1) All proceedings for offences against this Act shall be disposed of summarily.

Inserted by 21, 1947, s. 8.

(2) The complaint in respect of an offence against this Act shall be made within twelve months from the time when the matter of complaint arose.

Duration of Act.

Amended by 14, 1946, s. 6 (a) and by 21, 1947, s. 9.

11. (1) This Act shall continue in force until the first day of November, nineteen hundred and forty-eight, or until such earlier date as may be declared by the Governor by proclamation.

(2) The Governor may by proclamation declare that this Act shall cease to operate as from any date specified in the proclamation and earlier than the date aforesaid and this Act shall cease to operate from the date so specified.

Inserted by 14, 1946, s. 6 (b).

(3) The provisions of subsection (1) and (2) of this section shall not apply to section 1 and section 2a of this Act and, notwithstanding the said subsections, the said section 1 and section 2a shall continue in force until Parliament otherwise provides.

SCHEDULES.

THE FIRST SCHEDULE.

Essential Building Materials.

Paragraph 1 amended by 14, 1946, s. 7 and by 21, 1947, s. 10 (a).

1. Building bricks of all kinds, bricks or blocks of cement concrete, and breeze blocks.

2. Roofing tiles of all kinds.

Paragraph 3 amended by 21, 1947, s. 10 (b).

3. Corrugated and plain asbestos cement sheets.

4. All timber of a kind usually used for the purposes of the construction of or alteration to buildings.

5. Galvanized, black, and cast iron water and gas pipes.

6. Corrugated sheet and plain sheet galvanized iron.

7. Cement and cement products.

Paragraphs 7 and 8 inserted by 21, 1947, s. 10 (c).

8. Steel reinforcing rods of $\frac{1}{2}$ in. or $\frac{3}{8}$ in. gauge.

THE SECOND SCHEDULE.

Purposes for which essential building materials described in the first schedule shall not be used except pursuant to permit issued under this Act.

1. The construction of any dwellinghouse (other than a dwellinghouse such as is referred to in paragraph 1a hereof) of which the total cost of construction (including any amount payable to any builder or contractor) exceeds or if completed will exceed £1,000, or the area of which when completed will exceed ten squares. **Substituted by 21, 1947, s. 11 (a).**

1a. The construction of any dwellinghouse if the dwellinghouse is intended for occupation by other than the owner thereof or if the dwellinghouse is intended for occupation by the owner for holiday purposes or for intermittent intervals and of which the total cost of construction (including any amount payable to any builder or contractor) exceeds or if completed will exceed £150. **Inserted by 21, 1947, s. 11 (a).**

2. The construction of any building or structure of any kind (other than a dwellinghouse) of which the total cost of construction (including any amount payable to any builder or contractor) exceeds or if completed will exceed £150.

3. The carrying out during any period of twelve months ending on the thirtieth day of June in any year of any repairs or alterations or additions to any building or structure if the total cost of carrying out all repairs, alterations and additions to the building or structure during that period (including any amount payable to any person for the purpose of carrying out any such repairs, alteration or addition) exceeds £100. **Substituted by 14, 1946, s. 8 (b).**

4. The carrying out during any period of twelve months ending on the thirtieth day of June in any year of any alterations or additions to any dwellinghouse for the purpose of subdividing the dwellinghouse into two or more occupancies if the total cost of carrying out all such alterations and additions to the dwellinghouse during that period (including any amount payable to any person for the purpose of carrying out any such alterations or additions) exceeds £200. **Substituted by 14, 1946, s. 8 (c).**

4a. If—

(a) a permit has been issued under this Act for the construction of any building or structure; or

(b) a priority certificate has been issued under section 6 of this Act for the supply of essential building materials to be used in the construction of any building or structure; or

(c) a permit has been issued under the Act for the carrying out of any alteration or addition to any building or structure; or

(d) a priority certificate has been issued under section 6 of this Act for the supply of essential building materials to be used for the purpose of carrying out any alteration or addition to any building or structure,

Inserted by 14, 1946, s. 8 (d) and amended by 21, 1947, s. 11 (b).

the carrying out, during the construction of the building or structure or the carrying out of the alteration or addition or within a period of twelve months after the completion of the building or structure or of the carrying out of the alteration or addition, of any alteration or addition to the building or structure or, as the case may be, of any further alteration or addition to the building or structure, and whether or not the cost thereof exceeds any amount mentioned in any other paragraphs of this schedule.

5. In this schedule, "cost," in relation to any building operation referred to in this schedule, includes wages paid or due to permanent or temporary employees, sums paid or due to contractors or sub-contractors, and the fair value of all materials used in connection with the building operation, including provisional and prime cost items, fixtures and installations incidental to the building operation (whether acquired for the purpose of the building operation in the course of which they are used or otherwise) and the fair value of all services rendered in connection with the building operation, but does not include the time or labour of the person for whom the building operation is carried out, unless it is within the business of that person to carry out that building operation and the time or labour is expended by him on the building operation within ordinary business hours.

Inserted by proclamation Gazette 14th February, 1946, p. 237.

[As reprinted pursuant to the Amendments Incorporation Act, 1937.]

The Workmen's Compensation Act, 1932-1958, including all amendments passed to the end of 1958 and notes of judicial decisions, is reprinted in the Annual Volume, 1958, at page 271.



WORKMEN'S COMPENSATION ACT, 1932-1947.

BEING

WORKMEN'S COMPENSATION ACT, 1932, No. 2103 OF 1932
[ASSENTED TO 30TH NOVEMBER, 1932.]

AS AMENDED BY

STATUTE LAW REVISION ACT, 1935, No. 2246 OF 1935
[ASSENTED TO 19TH DECEMBER, 1935.]

WORKMEN'S COMPENSATION ACT AMENDMENT ACT, 1938, No. 2427
OF 1938 [ASSENTED TO 22ND DECEMBER, 1938.]

WORKMEN'S COMPENSATION ACT AMENDMENT ACT, 1940, No. 65
OF 1940 [ASSENTED TO 5TH DECEMBER, 1940.]

WORKMEN'S COMPENSATION ACT AMENDMENT ACT, 1941, No. 50
OF 1941 [ASSENTED TO 27TH NOVEMBER, 1941.]

WORKMEN'S COMPENSATION ACT AMENDMENT ACT, 1943, No. 39
OF 1943 [ASSENTED TO 23RD DECEMBER, 1943.]

WORKMEN'S COMPENSATION ACT AMENDMENT ACT, 1944, No. 33
OF 1944 [ASSENTED TO 14TH DECEMBER, 1944.]

AND

WORKMEN'S COMPENSATION ACT AMENDMENT ACT, 1947, No. 52
OF 1947 [ASSENTED TO 11TH DECEMBER, 1947.]

An Act to consolidate certain statutes relating to compensation to workmen for injuries suffered in the course of their employment.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I.

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Workmen's Compensation Act, 1932-1947," and shall come into operation on a day to be fixed by proclamation.

(2) This Act is divided into Parts as follows:—

PART I.—Preliminary: Sections 1 to 3.

Short title, commencement, and divisions of Act.

s. 1. (2) In addition to the Parts mentioned in subsection (2), Part IXA (Silicosis), which was enacted by the Workmen's Compensation Act Amendment Act, 1938, is included in this reprint.

- PART II.—Right to compensation: Sections 4 to 15.
- PART III.—Amount of compensation: Sections 16 to 28.
- PART IV.—Conditions of compensation: Sections 29 to 37.
- PART V.—Procedure for determining compensation and settling questions: Sections 38 to 60.
- PART VI.—Payment and investment of compensation: Sections 61 to 68.
- PART VII.—Alternative remedies: Sections 69 to 78.
- PART VIII.—Application to special classes of persons: Sections 79 to 81.
- PART IX.—Industrial diseases: Sections 82 to 94.
- PART X.—Industrial diseases contracted at Port Pirie: Sections 95 to 104.
- PART XI.—Administrative and miscellaneous provisions: Sections 105 to 114.

2. This Act is a consolidation of the Acts mentioned in the first schedule, and the said Acts are hereby repealed. Repeal.

3. In this Act, unless inconsistent or repugnant to the context, or some other meaning is clearly intended— Interpreta-
tion.

“certifying medical practitioner” means a certifying medical practitioner appointed under this Act or any Act repealed by this Act: 1053, 1911,
s. 4.
1660, 1924,
s. 3 (a).

“employer” includes any body of persons, corporate or unincorporate, and the legal personal representative of a deceased employer: Of U.K.
15 & 16,
Geo. 5, c. 84,
s. 5.

“member of a family” means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, child adopted by the workman under the Adoption of Children Act, 1925-1934, father's sister, mother's sister: Of U.K.
15 & 16,
Geo. 5, c. 84,
s. 4 (3).
Amended by
65, 1940,
s. 3.

“outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale in his own home, or on other premises, not under the control or management of the person who gave out the materials or articles: Of U.K.
15 & 16,
Geo. 5, c. 84,
s. 48.

PART I.

Ibid.

“ship” means any ship, vessel, boat, or other craft:

any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependants or other person to whom or for whose benefit compensation is payable:

the exercise and performance of the powers and duties of a municipal corporation or district council or tramways trust or other statutory body shall, for the purposes of this Act, be treated as the trade or business of such municipal corporation or district council or tramways trust or other statutory body.

Inserted by
25, 1947,
s. 3.

In this Act the words “wife” and “widow” shall respectively include the husband or widower of a woman who is a workman within the meaning of this Act.

PART II.

PART II.

RIGHT TO COMPENSATION.

Liability of
employers to
workmen for
injuries.

1053, 1911,
s. 6 (1).
Cf. U.K.
15 & 16,
Geo. 5, c. 84,
s. 1.

4. If in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, subject as hereinafter mentioned, be liable to pay compensation in accordance with this Act.

s. 4. BROWN v. SOUTH AUSTRALIAN RAILWAYS COMMISSIONER (1914) S.A.L.R. 379. The court defined an accident as “an unlooked for mishap, an untoward event not expected or designed.”

In *re* an arbitration between POLLARD and the ADELAIDE ELECTRIC SUPPLY COMPANY LIMITED (1924) S.A.S.R. 396. Held, on the evidence, that an accident, caused by the deceased's doing while on duty, an act which was not inconsistent with his duty, and which it was not unreasonable for him to do but which was not done in obedience to any duty owed to his employer, arose out of, and in the course of his employment.

HOLDING AND ANOTHER v. THE SOUTH AUSTRALIAN RAILWAYS COMMISSIONER (1925) S.A.S.R. 92. Held, that an accident to a workman going to work on a vehicle which was owned by the employer but which the employer had not authorized the workman to use, did not arise in the course of the workman's employment.

HARSLETT v. TYLLBROOK AND ANOTHER (1929) S.A.S.R. 330. Where a carrier's labourer returning with an empty lorry, as required by his employer, stood up for an unknown purpose, without running any exceptional risk, and fell off the lorry and was killed, held that the accident arose out of and in the course of the employment.

CHAPLIN v. DUNSTAN LIMITED (1938) S.A.S.R. 245. Where the driver of a motor lorry diverted slightly from his route for the purpose of getting a drink from a hotel, held, in an action for negligence, that the act of obtaining a drink in the particular circumstances and of making a short detour to procure it, was reasonably incidental to the driver's employment.

SOUTH AUSTRALIAN STEVEDORING COMPANY LIMITED v. HOLBERTSON (1939) S.A.S.R. 257. Where a workman has acted reasonably in seeking medical treatment and, owing to the treatment falling in some degree below the standard of reasonable

5. No compensation shall be payable in respect of any injury—

- (a) unless the injury disables the workman for a period of at least one day from earning full wages at the work at which he was employed; and
- (b) if the injury is consequent on or attributable to the serious and wilful misconduct of the workman unless the injury results in the death or permanent total incapacity of the workman.

Circumstances where liability does not exist.

1053, 1911, s. 6 (2)
(a) and (c), 1722, 1925, s. 3.
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 1, proviso.

Amended by 65, 1940, s. 4.

6. (1) The compensation shall be payable to or for the benefit of the workman or if death results from the injury to or for the benefit of his dependants as provided by this Act.

Persons entitled to compensation.

Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 2.

(2) Where there are both total and partial dependants, nothing in this Act shall prevent the compensation being allotted partly to the total and partly to the partial dependants.

1053, 1911, First Schedule, 8 (part).

7. (1) In this Act unless the context otherwise requires—

“workman” means any person (including a domestic servant) who has entered into or works under a contract of service or apprenticeship or otherwise with an employer whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, or is oral or in writing.

Meaning of “workman.”

1660, 1924, s. 3 (b).
1053, 1911, s. 13 (4).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 3.

Amended by 52, 1947, s. 4.

s. 4. (contd.) skill and care, the injury has been aggravated and the process of treating unduly prolonged, the mistake in treatment is to be regarded as a sequel of the injury and the employer continues liable to pay compensation.

STAFFORD v. DOMAN (1940) S.A.S.R. 72. Deceased was employed by a building contractor by the day and at a daily wage at Penola and was instructed to report next day on a job at Mount Gambier (where deceased had his home) there being no promise by the deceased to start such work. Deceased travelled back to Mount Gambier on the motor lorry of a friend and was killed on the journey. Held that the accident did not arise out of and in the course of the employment of the deceased.

ADELAIDE STEVEDORING COMPANY LIMITED v. FORST (1940) 64 C.L.R. 538; 14 A.L.J. 332. Where a waterside worker and winchman, after performing two tasks requiring muscular exertion, collapsed and shortly afterwards died, the death being due to coronary thrombosis, held that, having regard to the probabilities, the proper conclusion was that his exertion was in fact the cause of the thrombosis and that the death was the result of an injury by accident arising out of and in the course of his employment.

FERRIS v. BUNGEY BROS. (1947) S.A.S.R. 138. When a driver unloaded goods from a trolley and after driving some distance had collapsed and died, and it was found that the driver had suffered from heart disease for some years, that the cause of death was coronary occlusion and that it had not been shown that the work of the deceased involved unusual strain or exertion or had resulted in or contributed to his death which probably would have occurred at the time in any event, held that the death was not the result of injury by accident arising out of and in the course of the employment.

s. 7. The amendments made to this section by section 4 of the Workmen's Compensation Act Amendment Act, 1947, apply only in relation to injury or death caused by an accident occurring after 11th December, 1947. See section 13 of that Act.

COPAS & Co. v. CHIERA (1929) S.A.S.R. 374. Held on the facts that respondent's

The term does not include—

- (a) a person whose average weekly earnings exceed fifteen pounds; or
- (b) an outworker; or
- (c) a member of an employer's family (dwelling in his house); or
- (d) a person whose employment is of a casual nature, and is not for the purposes of the employer's trade or business; or
- (e) a seaman where the injury occurs outside the territorial jurisdiction of South Australia; or
- (f) a member of the crew of a fishing vessel remunerated by a share in the profits or the gross earnings of the working of such vessel.

(2) In determining the average weekly earnings of any person for the purposes of this section there shall be excluded any wages allowances or other remuneration earned by him whether before or after the enactment of this section, for work done during overtime.

Inserted by
50, 1941,
s. 3, and
amended by
52, 1947,
s. 4.

Dependants
entitled to
compensa-
tion.
1053, 1911,
s. 4.
Of U.K.
15 & 16,
Geo. 5, c. 84,
s. 4.

8. The dependants of a workman entitled to claim compensation under this Act where the injury results in death are such members of the workman's family as were wholly or in part dependent upon the earnings of the workman at the time of his death, or would, but for the incapacity due to the accident, have been so dependent, and where a workman, being the parent of an illegitimate child in respect of which the workman has contributed maintenance in his lifetime or has signed any agreement for support or any maintenance or pre-maternity order has been made against the workman, dies leaving such child so dependent upon his earnings, or if an illegitimate child dies leaving the mother so dependent upon his earnings, such illegitimate child or mother shall be deemed a dependant of the workman.

s. 7.
(contd.)

employment was casual, but was for the purpose of the appellant's business. In determining whether employment is for the purposes of the employer's trade or business the court should treat each case as a question of fact.

HAUPT v. HAUPT (1929) S.A.S.R. 393. An employee, engaged to cut wood on piece-work, with some right of control in the employer, held to be a workman.

SILVER TOP TAXI SERVICE PROPRIETARY LIMITED v. BATEY (1939) S.A.S.R. 403. Where a person by agreement with a company had the use of a taxi-cab subject to certain arrangements for payment of rent to the company from the receipts from passengers and subject to certain control from the company's office of the use for hire by passengers of the taxi-cab, held that the *de facto* relation of the parties was equivalent to the *de jure* relation of master and servant. The definition of workman in section 7 includes any person working under contract with an employer whether the contract is one of service, strictly so defined, or not.

9. If 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, the latter shall for the purposes of this Act be deemed to continue to be the employer of the workman while he is working for that other person, but shall be entitled to be indemnified by that other person to the extent of compensation paid under this Act by the employer in respect of any injury received by the workman while he is working for that other person.

Provision where services of employee are lent by employer.
1053, 1911, s. 4.
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 5.

10. (1) Where any person (in this section referred to as the principal), in the course of 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 contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this Act which he would have been liable to pay if that workman had been immediately employed by him.

Sub-contracting.
1053, 1911, s. 9 (1) and (4).
U.K. 15 & 16, Geo. 5, c. 84, s. 6 (1), (4).

(2) Where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Act, references to the principal shall be substituted for references to the employer except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

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

11. Where the principal is liable to pay compensation under the last preceding section he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of that section, and all questions as to the right to and amount of

Indemnity of principal.
1053, 1911, s. 9 (2).
U.K. 15 & 16, Geo. 5, c. 84, s. 6 (2).

s. 10. NELSON v. BANKIE (1924) S.A.S.R. 370. Held, on the evidence, that a carpenter erecting cottages for himself as an investment, had "undertaken" work within the meaning of subsection (1), although he was under no contractual duty to do it. Held also that in contracting with a sub-contractor to assist in building them, the carpenter had contracted in the course of his business.

PEPAS v. MILMAN (1935) S.A.S.R. 257. Where a farmer employed an independent contractor to clear his land for the purpose of extending his farming operations, held that the farmer had not "undertaken" the work within the meaning of section 10.

any such indemnity shall, in default of agreement, be settled by arbitration under this Act.

12. Nothing in this Act shall be construed as preventing a workman from recovering compensation under this Act from the contractor instead of the principal.

Saving of right to recover from contractor.
1053, 1911, s. 9.
U.K. 15 & 16, Geo. 5, c. 84, s. 6 (3).

Provision as to liability of master or agent of ship.

Inserted by 50, 1941, s. 4.

12a. (1) Where a ship belongs to or is chartered by a person whose principal place of business is out of Australia and the master of the ship or any person acting on behalf of the owner or charterer thereof employs any workman to do work in, on, or about the ship (including loading or unloading) that master or other person shall for all purposes of this Act be deemed to be the employer of the workman as if he had acted as principal in employing the workman.

(2) Where a workman has recovered compensation under this Act against a person who, by virtue of this section, was liable to pay such compensation, the owner or charterer of the ship on whose behalf the workman was employed shall indemnify that person for the amount of such compensation and any costs incurred by that person in relation to the recovery of the compensation.

(3) This section shall not confer any right to compensation on any person who, if this section had not been enacted, would not have had that right.

13. (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, and becomes insolvent, or makes a composition or arrangement with his creditors, or, being a company, has commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding any Act relating to insolvency or to the winding-up of companies, be transferred to and vest in the workman.

Provision as to cases of insolvency of employer.

1053, 1911, s. 10 (1) and (2).

U.K. 15 & 16, Geo. 5, c. 84, s. 7(1), (2).

(2) 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, but shall not be under any greater liability to the workman than they would have been under to the employer.

(3) 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 or liquidation.

PART II.

14. (1) There shall be included among the debts which, under section 279 of the Companies Act, 1934, in the distribution of the assets of a company being wound up are to be paid in priority to all other debts, the amount, not exceeding in any individual case one hundred pounds, due in respect of any compensation the liability wherefor accrued before the date of the commencement of the winding-up (as the case may be), and those Acts shall have effect accordingly.

Amount due for compensation to be a preferential debt.
1053, 1911, s. 10 (3) and (4). Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 7 (3).
Amended by S.L.R. Act, 1935.

(2) Where the compensation is a weekly payment the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under section 28 of this Act.

(3) The provisions of this section shall not apply where the company has entered into such a contract with insurers as mentioned in the last preceding section.

15. The last two preceding sections shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

Sections not to apply to voluntary winding up for certain purposes.
1053, 1911, s. 10 (5). Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 7 (6).

PART III.

PART III.

AMOUNT OF COMPENSATION.

16. (1) Where a workman dies as the result of his injury and leaves dependants wholly dependent upon his earnings the amount of compensation shall, subject to the limits prescribed in this section, be a sum equal to his earnings in the employment of the same employer during the four years next preceding the injury, plus fifty pounds for each dependent child: Provided that the amount of compensation payable under this subsection shall be—

Amount of compensation when workman dies leaving dependants.
1053, 1911, First Schedule (1) pt. 1660, 1924, s. 8. Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 8.
Subsec. (1) substituted by 52, 1947, s. 5 (1).

(a) not less than five hundred pounds, plus fifty pounds for each dependent child;

s. 16. The amendments made to this section by section 5 of the Workmen's Compensation Act Amendment Act, 1947, apply only in relation to injury or death caused by an accident occurring after 11th December, 1947. See section 13 of that Act.

MANN v. ADELAIDE STEVEDORING COMPANY LIMITED (1935) S.A.S.R. 123. Held that the workman's mother who had a pension of £2 a week, and received from the workman occasional assistance, not capable of being valued in money, in the upkeep of the house, was not a dependant. Possible future benefits to the mother from contributions by a son are not to be taken into account in determining whether she is dependent on him.

(b) not more than nine hundred pounds, plus fifty pounds for each dependent child.

(2) Where a workman dies as the result of his injury and leaves dependants in part dependent upon his earnings, the amount of compensation shall be such sum not exceeding the amount payable under subsection (1) as is agreed upon, or in default of agreement is determined by arbitration under this Act to be reasonable and proportionate to the injury to the dependants.

Amended by
52, 1947,
s. 5 (2).

(3) The amount of any weekly payments made under this Act, and any lump sum in redemption thereof shall be deducted from the amount calculated under subsection (1) or (2): Provided that if the workman dies leaving a widow wholly dependent upon his earnings, or a dependent child, the amount payable under subsection (1) of this section, after deducting the weekly payments and the lump sum mentioned in this subsection, shall be not less than five hundred pounds, plus fifty pounds for each dependent child.

Amended by
52, 1947,
s. 5 (3).

(4) If the period of the workman's employment by the said employer has been less than four years, the amount of his earnings during the said four years shall be deemed to be two hundred and eight times his average weekly earnings during the period of his actual employment under the said employer.

Inserted by
52, 1947,
s. 5 (4).

(5) In this section "dependent child" means a child who was under the age of sixteen years at the time of the workman's death and who was at that time wholly dependent on the earnings of the workman.

Inserted by
56, 1947,
s. 5 (4).

(6) In determining, for purposes of this section, whether or to what extent a child is dependent on the earnings of a workman, no regard shall be paid to any payments which have been or may be paid in respect of the child under the Commonwealth Act known as the Child Endowment Act, 1941-1945, or any amendment thereof.

Amount of
compensation
where
workman
leaves no
dependants.
1053, 1911,
First
Schedule
(1) pt.

17. Where a workman dies as the result of his injury and leaves no dependants the compensation shall be—

(a) the expenses specified in section 18a of this Act, and

(b) the reasonable expenses of his burial not exceeding twenty pounds.

Amended by
33, 1944,
s. 3.

18. (1) Where total or partial incapacity for work results from the injury, the amount of compensation shall be a weekly payment during the incapacity not exceeding a sum equal to two-thirds of the average weekly earnings of the workman during the previous twelve months if the workman has been so long employed, but if not, then for any less period during which he has been in the employment of the same employer, plus ten shillings per week for each child under the age of sixteen years totally or mainly dependent upon the earnings of the workman and, if the workman at the time of the accident had a wife totally or mainly dependent upon his earnings, an additional sum of one pound a week.

Compensation for incapacity.
1053, 1911, First Schedule (1) pt. 1660, 1924, s. 9. 1746, 1926, s. 2. 2081, 1932, s. 2. Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 9. Cf. U.K. 21 & 22, Geo. 5, c. 18, s. 1.
Amended by 65, 1940, s. 6, by 39, 1943, s. 3, and by 52, 1947, s. 6.

(2) The weekly payment shall not exceed six pounds, and shall not exceed the average weekly earnings of the workman during the period aforesaid.

(3) The total liability of the employer in respect of payments under this section shall not exceed one thousand one hundred and fifty pounds.

(4) No workman shall receive during total incapacity a less sum per week than the following amount:—

Substituted by 52, 1947, s. 6.

- (a) if the workman is under twenty-one years of age and has no wife or child totally or mainly dependent on his earnings, and his average weekly earnings during the period mentioned in subsection (1) of this section were less than three pounds—the amount of those weekly earnings;

(b) in any other case—three pounds.

The minimum amount of compensation prescribed by paragraph (b) of this subsection shall be payable notwithstanding that it exceeds the average weekly earnings of the workman during the period mentioned in subsection (1) of this section.

(5) Where a workman was at the time of the injury working under an award, determination, or industrial agreement fixing his wages, his average weekly earnings during the period mentioned in subsection (1) of this section shall be deemed to be not less than the weekly wage to which the workman was at the time of the injury entitled under that award, determination or agreement.

Substituted by 52, 1947, s. 6.

s. 18. The amendments made to this section by section 6 of the Workmen's Compensation Act Amendment Act, 1947, apply only in relation to injury or death caused by an accident occurring after 11th December, 1947. See section 13 of that Act.
GREEN CIRCLE PRODUCTS v. BOWERS (1936) S.A.S.R. 66. The period of time laid down in section 18 for computing average weekly earnings is not affected by section 20.

PART III.

Additional compensation in respect of medical expenses.

Inserted by 33, 1944, s. 5, and amended by 52, 1947, s. 7.

18a. (1) Where a workman is entitled to compensation under this Act, the employer shall also be liable to pay to the workman a sum not exceeding thirty-five pounds in respect of all or any of the following expenses which are incurred by the workman as the result of his injury:—

- (a) the cost, not exceeding two pounds, of transporting the workman by any vehicle to a hospital or to any other place for medical examination or medical treatment:
- (b) any fees or other charges, not exceeding twenty pounds, payable for treatment administered by a legally qualified medical practitioner, or by a registered dentist, or by a registered physiotherapist on the prescription of a legally qualified medical practitioner, or for the supply, on the prescription of a legally qualified medical practitioner, of skiagrams, artificial limbs, eyes, or teeth, crutches, splints, or any other apparatus or appliances of a kind prescribed by the regulations:
- (c) any fees, not exceeding three pounds, payable to any registered nurse:
- (d) any charges, not exceeding ten pounds, payable to any hospital.

(2) If in respect of a matter specified in any paragraph of subsection (1) of this section a workman incurs expense (in this subsection called "the additional expense") in excess of the maximum amount specified in that paragraph, and if the sum paid by the employer under this section within six months after the accident causing the injury is less than thirty-five pounds, the employer shall pay to the workman the amount of the additional expense or the balance of the sum of thirty-five pounds, whichever is less.

(3) If the total of the sums paid under subsections (1) and (2) of this section is less than thirty-five pounds, and the workman has incurred expense not less than five shillings for medicines prescribed by a medical practitioner, the employer shall, upon production of a certificate by a medical practitioner certifying that such expense was incurred as a result of the injury, pay to the workman the amount of

s. 18a. The amendments made to this section by section 7 of the Workmen's Compensation Act Amendment Act, 1947, apply only in relation to injury or death caused by an accident occurring after 11th December, 1947. See section 13 of that Act.

HALL v. METROPOLITAN ABATTOIRS BOARD (1945) S.A.S.R. 193. Held that a workman who is entitled to compensation under the Act was entitled to the benefit of the section and to expenses thereby authorized and incurred subsequent to its enactment, notwithstanding that the section came into operation after the date of the accident.

such expense, or the balance of the sum of thirty-five pounds, whichever is less.

(4) The Governor may by regulation prescribe a scale of expenses, fees, and charges which may be charged for transport by ambulance, medical attention, nursing, and maintenance and treatment in hospital, of workmen entitled to compensation under this Act.

(5) The Minister may, by writing, exempt from this section any employer who proves to the satisfaction of the Minister that he has made adequate arrangements to provide gratuitous ambulance transport and medical and surgical treatment for any workman in his employment who becomes entitled to compensation under this Act.

Any such exemption shall be subject to such conditions and remain in force for such period as the Minister specifies and may be revoked by the Minister if in his opinion just cause exists for doing so.

* * * * *

S. 19 repealed by 52, 1947, s. 8.

20. Average weekly earnings on which the amount of any compensation is fixed shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated: Provided that where, by reason of the shortness of the time during which the workman has been in the employment of his employer, or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average weekly amount which, during the twelve months previous to the accident, was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district.

Computation of 'earnings' and 'average weekly earnings.' 1053, 1911, First Schedule (2), pt. Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 10 (i.).

21. Where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his average weekly 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.

Average weekly earnings where workmen employed by more than one employer. 1053, 1911, First Schedule (2), pt. Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 10 (ii.).

s. 19. The repeal of this section by section 8 of the Workmen's Compensation Act Amendment Act, 1947, has relation only to injury or death caused by an accident occurring after 11th December, 1947. See section 13 of that Act.
 s. 20. GREEN CIRCLE PRODUCTS v. BOWERS (1936) S.A.S.R. 66. The period of time laid down in section 18 for computing average weekly earnings is not affected by section 20.

PART III.

Meaning of employment by the same employer.

1053, 1911, First Schedule (2), pt. Of U.K. 15 & 16, Geo. 5, c. 84, s. 10. (iii.).

Special allowances.

1053, 1911, First Sch. (2) (part). Of U.K. 15 & 16, Geo. 5, c. 84, s. 10 (iv.).

Computation of average weekly earnings when workman under twenty-one or improver is permanently incapacitated.

1053, 1911, First Sch. (2) (part). 1660, 1924, s. 10.

Regard to be had to payments, allowances, etc., to workman.

1053, 1911, First Schedule (3). Of U.K. 15 & 16, Geo. 5, c. 84, s. 9 (3).

Amended by 65, 1940, s.8.

22. Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

23. Where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings.

24. When a workman is at the time of the accident under the age of twenty-one years, or is an indentured apprentice, or an apprentice or improver under an award, determination, or industrial agreement, and his incapacity, whether total or partial, is permanent his average weekly earnings at the time of the accident shall be deemed to be the weekly sum which he would probably have been able to earn if he had then attained the age of twenty-one years, or had completed his apprenticeship, or had ceased to be an improver, as the case may be, being in no case less than three pounds per week; and the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or able to earn in some suitable employment or business after the accident, shall be deemed to be the difference between the weekly sum aforesaid and the amount which the workman will probably be able to earn after attaining the age of twenty-one years, or after the expiration of the time when the apprenticeship would in the ordinary course of events have come to an end, or the workman would have ceased to be an improver, as the case may be.

25. (1) Subject to section 34a, in fixing the amount of the weekly payment, regard shall be had to any payment, allowance, or benefit which the workman may receive from the employer during the period of his incapacity.

(2) In the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in some suitable employment or business

s. 25. BROWN v. COMMISSIONER OF RAILWAYS (1942) S.A.S.R. 91. The Government's contribution to the pension payable to an employee of the South Australian Railways Commissioner under the provisions of the Superannuation Act, 1926, is a payment, allowance, or benefit within the meaning of subsection (1).

after the accident, but shall bear such relation to the amount of that difference as under the circumstances of the case may appear proper.

(3) A pension received by a workman on retirement from his employment shall not be regarded as a payment, allowance or benefit within the meaning of subsection (1) of this section.

Inserted by
39, 1943,
s. 5.

26. (1) Notwithstanding anything in this Act the compensation payable for the injuries mentioned in the first column of the table hereinafter set forth shall be assessed in the manner indicated in the second column of that table.

Fixed rates of
compensation
for certain
injuries.
1660, 1924,
s. 12, and
Schedule.
1722, 1925,
ss. 5 and 6.

(2) Nothing in the said table shall limit the amount of compensation payable for any such injury during any period of total incapacity resulting from that injury, but any sum so paid shall be deducted from the compensation payable in accordance with the said table.

(3) Section 28 of this Act shall not apply to any payment made under this section: Provided that any such payment may by agreement or by order of a special magistrate be invested or otherwise applied for the benefit of the person entitled thereto.

(4) For the purposes of this section an eye or foot or other member shall be deemed to be lost if it is rendered permanently and wholly useless, and a finger shall be deemed to be lost if two joints thereof are severed from the hand or rendered permanently and wholly useless.

(4a) Where a workman suffers injury to any limb, member, or faculty mentioned in the said table so that the

Inserted by
52, 1947,
s. 9 (a).

s. 26. The amendments made to this section by section 9 of the Workmen's Compensation Act Amendment Act, 1947, apply only in relation to injury or death caused by an accident occurring after 11th December, 1947. See section 13 of that Act.

GATES v. WILLIAMS (1928) S.A.S.R. 252. Proof that two fingers of a hand are useless for a particular trade is not sufficient to show that they are permanently and wholly useless.

COPAS & Co. v. CHIARA (1929) S.A.S.R. 374. The amounts specified in subsection (6) are not maxima, but an arbitrary assessment of the workmen's pecuniary loss.

POOL v. SOUTH AUSTRALIAN RAILWAYS COMMISSIONER (1945) S.A.S.R. 22. Where a workman entered into an agreement under section 19 (since repealed) limiting the amount of compensation in any event, held that, notwithstanding the agreement, the scale of compensation under section 26 applied.

HALL v. METROPOLITAN ABATTOIRS BOARD (1945) S.A.S.R. 193. Where a workman sustained an injury by accident whereby in the first instance the nail was torn off the big toe of his right foot and subsequently gangrene set in and the leg was amputated 5in. above the knee joint, held that he was entitled to compensation on the basis of the total loss of a leg.

workman permanently has less than the full efficient use thereof, the workman shall be entitled to a percentage of the compensation payable under this section for the total loss of that limb member or faculty, equal to the percentage of the full efficient use thereof lost by the workman.

Amended by
65, 1940,
s. 9 (a), and
by 52, 1947,
s. 9 (b).

(5) Where a workman suffers by the same accident from more than one of the injuries mentioned in the said table, he shall not be entitled in any case to receive more than one thousand one hundred and fifty pounds.

(6) The Governor may by proclamation add to the said table by assigning specified amounts of compensation as payable for additional specified injuries; and the table in force for the time being as so added to shall be deemed to be the table referred to in this section.

Inserted by
65, 1940,
s. 9 (b).

(7) Where a workman habitually uses his left hand and arm to perform work usually performed by a workman with his right hand and arm—

(a) the compensation payable to the workman for total loss of the left arm, or of the greater part of the left arm, or of the left hand, or of five fingers of the left hand, or of the lower part of the left arm, or of the thumb or forefinger of the left hand, shall be the amount which would have been payable under the table set out in this section for similar losses of or injuries to the right arm or hand or the fingers or thumb of the right hand; and

(b) the compensation payable to the workman for total loss of the right arm, or of the greater part of the right arm, or of the right hand, or of five fingers of the right hand, or of the lower part of the right arm or of the thumb or forefinger of the right hand, shall be the amount which would have been payable under the said table for similar losses of or injuries to the left arm or hand or the fingers or thumb of the left hand.

Amended by
65, 1940,
s. 9 (a), and
by 52, 1947,
s. 9 (b).

TABLE.

Nature of Injury.	Ratio which the fixed sum payable as compensation under this section bears to one thousand one hundred and fifty pounds. Per centum.
Loss of both eyes	100
Loss of an only eye	100
Loss of both hands	100
Loss of both feet	100
Loss of a hand and foot	100
Total and incurable loss of mental powers involving inability to work	100
Total and incurable paralysis of the limbs or of mental powers	100
Total loss of the right arm or of the greater part of the arm	80
Total loss of the left arm or of the greater part of the arm	75
Total loss of the right hand or of five fingers of the right hand or of the lower part of the right arm	70
Total loss of the same for the left hand and arm	65
Total loss of a leg	75
Total loss of a foot or the lower part of the leg	60
Total loss of the sight of one eye, together with the serious diminution of the sight of the other eye	75
Total loss of hearing	50
Complete deafness of one ear	10
Total loss of the sight of one eye	40
Total loss of the thumb of the right hand	30
Total loss of the thumb of the left hand	25
Total loss of the forefinger of the right hand	20
Total loss of the forefinger of the left hand	15
Total loss of a joint of the thumb	15
Total loss of the little finger of the hand	12
Total loss of the middle finger or ring finger of the hand	10
Total loss of the great toe of either foot	20
Total loss of a joint of the great toe of either foot	10
Total loss of any other toe or of a joint of a finger	7½

27. Any weekly payment may be reviewed at the request either of the employer or of the workman, and on such review, which in default of agreement shall be by way of arbitration under this Act, may be ended, diminished, or increased subject to the maximum above provided, as from such date as the arbitrator, having regard to the past or present condition of the workman, may see fit.

Review of weekly payment.
1053, 1911,
First
Schedule
(17).
Cf. U.K.
15 & 16,
Geo. 5, c. 84,
s. 11 (1).

PART III.

Lump sum in redemption of weekly payments.
1053, 1911, First Sch. (18).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 13.

28. Where any weekly payment has been continued for not less than six months, the liability therefor may, on application by or on behalf of either the workman or the employer, be redeemed by the payment of a lump sum to be settled, in default of agreement, by arbitration under this Act, and such lump sum may be ordered by the arbitrator or special magistrate to be invested or otherwise applied as abovementioned:

Provided that nothing in this section shall be construed as preventing agreements being made for the redemption of a weekly payment by a lump sum.

PART IV.

PART IV.

CONDITIONS OF COMPENSATION.

Notice of accident.

1053, 1911, s. 7 (part).
1660, 1924, s. 5.
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 14.

29. (1) Proceedings for the recovery under this Act of compensation for any injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof:

Provided that the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if it is adjudged 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 inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake, absence from the State of South Australia, or other reasonable cause.

- s. 28. *ANSTEY V. ADELAIDE ELECTRIC SUPPLY COMPANY LIMITED* (1938) S.A.S.R. 338. Where the appellant workman was totally incapacitated by accident from work for intermittent periods and wholly incapacitated from a limited class of work and, during the intermittent periods, no one of which was for more than six months, he was paid half his average weekly earnings, and during the other periods he was employed by the respondent at work of various kinds, and where, after two years after the accident and whilst the workman was still in the employ of the respondent, the respondent applied for redemption of the weekly payments, held—(a) that there had not been in fact continuous weekly payments for six months and accordingly there was not, in the circumstances, any jurisdiction to order redemption; and (b) in the circumstances, that there was no absolute right to redemption and the arbitrator had properly refused to order redemption.
- s. 29. *CARSWELL V. JANNSEN* (1912) S.A.L.R. 217. Where the injured workman failed to give notice as required by the section until after he had left the employer's service because he did not discover until after his employment ended that his injury was serious, held that the failure was an excusable mistake.
- NELSON V. BANKIE* (1924) S.A.S.R. 370. Where failure to give notice was due to mistake on the part of the workman as to the person liable, held that the omission was excused by the proviso to paragraph (1).

(2) Notice in respect of an injury under this Act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date and place at which the accident happened, and shall be served on the employer, or if there is more than one employer, upon one of such employers.

(3) The notice may be served by delivering the same at, or sending it by post in a registered letter addressed to, the residence or place of business of the person on whom it is to be served.

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

(5) Where the employer is the Crown, notice shall be served on the Crown Solicitor, at Adelaide, or the manager of the work upon which the workman was employed at the time of the accident.

30. Proceedings for the recovery under this Act of compensation for any injury shall not be maintained unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or in the case of death, within six months from the time of death: Provided that the failure to make a claim within the period above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from the State of South Australia, or other reasonable cause.

Time for
claiming
compensation.
1053, 1911,
s. 7 (pt.).

31. (1) If a workman receiving a weekly payment ceases to reside in the Commonwealth, he shall thereupon cease to be entitled to receive any weekly payment, unless a medical referee, on a reference made in accordance with rules of court, certifies that the incapacity resulting from the injury is likely to be of a permanent nature.

Workman
ceasing to
reside in the
Common-
wealth.
1053, 1911,
First Sch.
(19).
U.K. 15 & 16,
Geo. 5, c. 84,
s. 16.

(2) If the medical referee so certifies, the workman shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter so long as he proves, in such manner and at such intervals as may be prescribed by rules of court, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

Amended by
65, 1940,
s. 10.

PART IV.

Medical examination prior to compensation. 1053, 1911, First Sch. (4). U.K. 15 & 16, Geo. 5, c. 84, s. 17.

32. Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, and if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceeding under this Act in relation to compensation, shall be suspended until such examination has taken place.

Periodical medical examination during period of compensation. 1053, 1911, First Schedule (14). U.K. 15 & 16, Geo. 5, c. 84, s. 18.

33. Any workman receiving weekly payments under this Act shall, if so required by the employer, from time to time submit himself for examination by a duly qualified medical practitioner provided and paid for by the employer. If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examination has taken place.

Regulations as to such examinations. 1053, 1911, First Sch. (15).

34. A workman shall not be required to submit himself for examination by a medical practitioner under section 32 or 33 otherwise than in accordance with regulations made by the Governor, nor at more frequent intervals than are prescribed by those regulations.

Cost of medical and surgical treatment. Inserted by 65, 1940, s. 11.

34a. If, during the period of his incapacity, a workman at the request of the employer, receives medical or surgical treatment, the cost of and incidental to such treatment shall not be a payment, allowance, or benefit within the meaning of subsection (1) of section 25 of this Act.

Reference to medical referee. 1053, 1911, First Schedule (16). Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 19.

35. (1) Where a workman has submitted himself for examination by a medical practitioner, or has been examined by a medical practitioner selected by himself, and the employer or the workman, as the case may be, has within six days after such examination furnished the other with a copy of the report of that practitioner as to the workman's condition, then, in the event of no agreement being come to between the employer and the workman as to the workman's condition or fitness for employment, the clerk of a local court, on application being made to the court by both parties may, on payment by the applicants of such fee, not exceeding two pounds, as is prescribed by any rule of court, refer the matter to a medical referee.

(2) The medical referee to whom the matter is so referred, shall, in accordance with regulations made by the Governor, give a certificate as to the condition of the workman and his fitness for employment specifying, where necessary, the

kind of employment for which he is fit, and that certificate shall be conclusive evidence as to the matters so certified.

(3) Where no agreement can be come to between the employer and the workman as to whether or to what extent the incapacity of the workman is due to the accident, the provisions of this section shall, subject to any regulations made by the Governor, apply as if the question were a question as to the condition of the workman.

(4) If a workman, on being required so to do, refuses to submit himself for examination by a medical referee to whom the matter has been so referred as aforesaid, or in any way obstructs the same, his right to compensation and to take or prosecute any proceeding under this Act in relation to compensation, or, in the case of a workman in receipt of a weekly payment, his right to that weekly payment, shall be suspended until such examination has taken place.

(5) Rules of court may be made for prescribing the manner in which documents are to be furnished or served and applications made under this section and the forms to be used for those purposes, and as to the fee to be paid under this section.

36. A weekly payment, or a sum paid by way of redemption thereof, shall not be capable of being assigned, charged, or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against the same, nor shall any deduction be made from any such payment or sum for the purpose of paying hospital, medical, ambulance, or other expenses, pursuant to the Hospitals Act, 1934.

Payments not assignable.
1053, 1911,
First
Schedule
(20).

Amended by
S.L.R. Act,
1935, and by
50, 1941,
s. 6.

37. Where under this Act a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension.

Suspension
of payment.
1053, 1911,
First
Schedule
(21).
U.K. 15 & 16,
Geo. 5, c. 84,
s. 20.

PART V.

PART V.

PROCEDURE FOR DETERMINING COMPENSATION AND SETTLING QUESTIONS.

38. If any question arises in any proceedings under this Act as to the liability to pay compensation under this Act (including any question as to whether the person injured is a workman to whom this Act applies), or as to the amount or duration of compensation under this Act, the question,

Settlement
of questions
as to
compensation.
1053, 1911,
s. 6 (3).
U.K. 15 & 16,
Geo. 5, c. 84,
s. 21 (1).

if not settled by agreement, shall, subject to the provisions of this Act, be settled by arbitration, in accordance with this Act.

Questions
as to
dependants.
1053, 1911,
First Sch.
(8) (part).
Cf. U.K.
15 & 16,
Geo. 5, c. 84,
s. 21 (2).

39. Any question as to who is a dependant shall, in default of agreement, be settled by arbitration under this Act, or, if not so settled before payment into court under this Act, shall be settled by the special magistrate whose duty, for the time being, it is to preside over the local court where the sum is; and the amount payable to each dependant shall be settled by arbitration under this Act, or, if not so settled before payment into court, by the special magistrate whose duty, for the time being, it is to preside over the local court where the sum is.

Arbitration
by a single
arbitrator.
1053, 1911,
Second Sch.
(1) and (4).
Cf. U.K.
15 & 16,
Geo. 5, c. 84,
First Sch.,
1, 2, 3, 4.

40. (1) Subject to subsection (2) of this section every matter which is to be settled by arbitration shall be settled by a single arbitrator agreed on by the parties.

(2) If a single arbitrator is not agreed on by the parties within one month after the making of the claim, the matter shall be settled by the special magistrate according to the procedure prescribed by rules of court.

(3) "The Arbitration Act, 1891," shall not apply to any arbitration under this Act.

(4) The arbitrator may, if he thinks fit, submit any question of law for the decision of the special magistrate.

Appeal.
1053, 1911,
Second Sch.
(5) and (6).
Cf. U.K.
15 & 16,
Geo. 5, c. 84,
First Sch. 4
(part).

41. (1) Either party may appeal, on a question of law or facts or both, to the Supreme Court within the time and in accordance with the conditions prescribed by rules of the Supreme Court, and such appeal may be in the nature of a re-hearing.

s. 39. *MANN V. ADELAIDE STEVEDORING COMPANY LIMITED* (1935) S.A.S.R. 123. Held that the workman's mother who had a pension of £2 a week and received occasional assistance, not capable of being valued in money, from the workman in the upkeep of the house, was not a dependant. Possible future benefits to the mother from contributions by the son are not to be taken into account in determining whether she was dependent.

s. 41. *ROSS V. SMITH TIMMS & Co.* (1909) S.A.L.R. 128; 8 Austr. Digest 93. Payments by an employer, amounting to an admission that the Workmen's Compensation Acts applied to an injury to an employee, do not prevent the employer from contending on appeal that the Workmen's Compensation Acts do not apply to the case.

BROKEN HILL ASSOCIATED SMELTERS PROPRIETARY LIMITED V. VELLA (1927) S.A.S.R. 49. On an appeal, the Supreme Court has no power to remit a case to the arbitrator with a view to its being re-heard on a new certificate to be obtained from a certifying medical practitioner in lieu of a defective certificate under section 82.

GATES V. WILLIAMS (1932) S.A.S.R. 252. The appellate court will not grant leave to take further evidence, if the evidence was available and not taken at the hearing of the arbitration.

FREER V. BABIDGE & SONS (1933) S.A.S.R. 46. Where the arbitrator had based

(2) In case of such an appeal the Supreme Court shall decide the matter of the appeal, and may either dismiss the appeal or reverse or vary the decision or order appealed from or refer the case back to the arbitrator or the same or some other special magistrate for further hearing or re-hearing or reconsideration and may make such order as to the costs of the appeal and of the arbitration or proceedings before the arbitrator or special magistrate, or both, as the Court thinks proper; and any decision or order of the Court under this paragraph shall be final.

Amended by 65, 1940, s. 12.

41a. (1) The arbitrator or special magistrate may at his discretion state a special case for the opinion of the Supreme Court on any question of law.

Power to state special case.

(2) The Supreme Court shall deal with every such special case according to the practice of the Supreme Court on special cases and may make such order thereon as to the Supreme Court seems just.

Inserted by 65, 1940, s. 13.

(3) The Supreme Court may send any such special case back for amendment, or may itself amend the same.

(4) The arbitrator or special magistrate shall give his decision in accordance with the opinion of the Supreme Court.

42. The arbitrator or special magistrate shall for the purposes of proceedings under this Act, have the same powers of procuring the attendance of and administering oaths and affirmations to witnesses, and of procuring the production of documents, as if the proceedings were an action in the local court.

Powers of arbitrators and magistrates as to witnesses and documents. 1053, 1911, Second Schedule (7). Cf. U.K. 15 & 16, Geo. 5, c. 84, First Sch. (4) (part).

s. 41. (contd.) his award on a finding of fact the court on appeal gave leave to take further evidence on the special ground that the finding of malingering by the arbitrator was unsatisfactory. The court directed that the evidence should be taken by a special magistrate rather than the Master of the Court on the ground of the familiarity of local courts with matters arising under the Workmen's Compensation Act.

FISCHER V. ADELAIDE STEVEDORING COMPANY LIMITED (1935) S.A.S.R. 268. Held that an order of the Supreme Court declaring that from one specified date to another the appellant had not suffered from incapacity, was not a bar to a claim in respect of incapacity during a subsequent period.

THE COLONIAL SUGAR REFINING COMPANY LIMITED V. JAMIESON (1941) S.A.S.R. 38. Where on arbitration it was found that a workman was not entitled to any award of compensation and an appeal to the Supreme Court was dismissed and where several years later a second request for arbitration was filed claiming compensation in respect of the same injury and the arbitrator held that the proceedings were not bound by the previous dismissal, held that, on its true interpretation, the first award was a final settlement of the workman's right to compensation and that there was nothing in the award leaving it open to him to make a further application in respect of the same injury and that the matter was *res judicata* and that the second application should have been dismissed.

s. 41a. LEWIS AND ANOTHER V. COMMERCIAL MOTOR VEHICLES LIMITED (1939) S.A.S.R. 385. Held, before the enactment of section 41a, that a special magistrate sitting as an arbitrator had no power to state a case for the opinion of the Supreme Court on questions of law arising in the arbitration.

PART V.

Magistrate may summon medical referee as assessor.

1053, 1911, Second Sch. (8) (part). Cf. U.K. 15 & 16, Geo. 5, c. 84, First Sch. (5).

Report of medical referee.

1053, 1911, Second Sch. (8) (part).

Representation of parties.

1053, 1911, Second Schedule (9). Cf. U.K. 15 & 16, Geo. 5, c. 84, First Sch. (6) (part).

Costs.

1053, 1911, Second Sch. (10). Cf. U.K. 15 & 16, Geo. 5, c. 84, First Sch. (7).

Failure of arbitrator to act.

1053, 1911, Second Sch. (11). Cf. U.K. 15 & 16, Geo. 5, c. 84, 1st Sch. (8).

Registration of memorandum of agreement or arbitrator's decision.

1053, 1911, Second Sch. (12) (part). Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 23.

43. The special magistrate may, if he thinks fit, summon a medical referee to sit with him as an assessor, but such assessor shall not take part in the decision.

44. The arbitrator or special magistrate may, subject to regulations made by the Governor, appoint a medical referee to report to him on any matter which seems material to any question arising in the arbitration.

45. Rules of court may make provision for the appearance in an arbitration under this Act of any party by some other person.

46. Subject to section 41 and to any rules of court, the cost of and incidental to the arbitration and proceedings connected therewith shall be in the discretion of the arbitrator or special magistrate. The costs ordered by the arbitrator or special magistrate may be a lump sum, and shall not exceed the limit prescribed by rules of court, and shall if necessary, be taxed in manner prescribed by those rules; and such taxation may be reviewed by the special magistrate.

47. In the case of the death, or refusal or inability to act, of an arbitrator, the special magistrate may, on the application of any party, settle the matter.

48. (1) Where the amount of compensation under this Act has been ascertained, or any weekly payment varied, or any other matter decided under this Act, either by an arbitrator or by agreement, a memorandum thereof shall be sent, in manner prescribed by rules of court, by the arbitrator, or by any party interested to the clerk of the local court, who shall, subject to such rules, on being satisfied as to its genuineness, record the memorandum in a special register without fee, and thereupon the memorandum shall for all purposes be enforceable as a local court judgment.

s. 48. PERRY v. WOOLCOCK (1917) S.A.L.R. 216; 8 Austn. Digest 64. Held, on the facts, that the employer and workman were not *ad idem* and there was no registrable agreement.

(2) No such memorandum shall be recorded before seven days after the dispatch by the clerk of the court of notice to the parties interested.

(3) Notwithstanding section 54 of this Act a memorandum of agreement required by this section to be sent to the clerk of a local court, shall be sent to the clerk of that local court (being one of the local courts prescribed by rules of court as courts to which memorandum of agreements may be sent under this section) which is nearest to the place where the party sending the memorandum resides.

Inserted by
50, 1941,
s. 7.

49. Where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation under this Act and the employer, in accordance with rules of court, proves that the workman has in fact returned to work and is earning the same wages as he did before the accident, and objects to the recording of such memorandum, the memorandum shall only be recorded, if at all, on such terms as the special magistrate, under the circumstances, may think just.

Recording of
memorandum
where work-
man returns
to work at
same wages.
1053, 1911,
Second
Schedule
(12), pt.
Of U.K.
15 & 16,
Geo. 5, c. 84,
s. 23 (1).

50. The special magistrate may at any time rectify the register.

Rectification
of register.
1053, 1911,
Second Sch.
(12) (part).
Of U.K.
15 & 16,
Geo. 5, c. 84,
s. 23 (2).

51. Where it appears to the clerk of the court on any information which he considers sufficient, that an agreement as to the redemption of a weekly payment by a lump sum, or an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, 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 sent to him for registration, and in that case shall refer the matter to the special magistrate, who shall, in accordance with rules of court, make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think just.

Power of
clerk to
refuse to
record
agreement
in certain
cases.
1053, 1911,
Second Sch.
(12) (part).
Of U.K.
15 & 16,
Geo. 5, c. 84,
s. 23 (3).

51a. (1) The clerk of the local court may before recording any agreement sent to him under section 48 of this Act, require either party to the agreement to furnish to him a copy of any report given by a medical practitioner as to the result of any medical examination of the workman made for the purpose of ascertaining the disability, if any, from

Powers of
clerk in
relation to
agreements.

Inserted by
50, 1941,
s. 8.

which the workman is suffering, and any other information relevant to the question whether the agreement should be recorded.

(2) At any inquiry held by a special magistrate into a refusal by the clerk of a local court to record an agreement the clerk may be present and examine witnesses.

De-registration of agreement in some cases.
1053, 1911, Second Sch. (12) (part).
Of U.K. 15 & 16, Geo. 5, c. 84, s. 25 (5).

52. The special magistrate may, within six months after a memorandum of an agreement as to the redemption of a weekly payment by a lump sum, or of an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, has been recorded in the register, order that the record be removed from the register on proof to his satisfaction that the agreement was obtained by fraud or undue influence or other improper means, and may make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think just.

Effect of non-registration of agreement.
1053, 1911, Second Sch. (13).
Of U.K. 15 & 16, Geo. 5, c. 84, s. 25 (1).

53. An agreement as to the redemption of a weekly payment by a lump sum, if not registered in accordance with this Act shall not, nor shall the payment of the sum payable under the agreement exempt the person by whom the weekly payment is payable from liability to continue to make that weekly payment; and an agreement as to the amount of compensation to be paid to a person under a legal disability or to dependants, if not so registered, shall not, nor shall the payment of the sum payable under the agreement exempt the person by whom the compensation is payable from liability to pay compensation, unless, in either case, he proves that the failure to register was not due to any neglect or default on his part.

What court or special magistrate to have jurisdiction.
1053, 1911, Second Sch. (14).
Of U.K. 15 & 16, Geo. 5, c. 84, s. 27 (1).

54. (1) Where any matter under this Act is to be done in a local court, then, unless the contrary intention appears, the same shall, subject to rules of court and to subsection (3) of section 48, be done in the local court of full jurisdiction nearest to which the party applying resides, or to which the matter is transferred in manner and in the circumstances prescribed by rules of court.

Amended by 50, 1941, s. 9.

(2) Where in this Act a special magistrate or a clerk of a local court is referred to, such magistrate or clerk shall, unless the context shows a different intention, be the special magistrate whose duty, for the time being, it is to preside at the local court prescribed by subsection (1) of this section and the clerk of such court respectively.

55. The duties of a special magistrate under this Act shall, subject to rules of court, be part of the duties of local courts, and the officers of the court shall act accordingly.

Duties to be part of duties of local courts.
1053, 1911, Second Schedule (15).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 27 (2).

56. No court fee, except such as may be prescribed under section 35, shall be payable by any party in respect of any proceedings by or against a workman under this Act in the court prior to the award.

Fees.
1053, 1911, Second Sch. (16).
Cf. U.K. 15 & 16, Geo. 5, c. 84, First Sch. (12).

57. (1) Any sum awarded as compensation shall, unless paid into court under this Act, be paid on the receipt of the person to whom it is payable under any agreement or award.

Payment to be made to persons entitled.
1053, 1911, Second Sch. (17).
Cf. U.K. 15 & 16, Geo. 5, c. 84, First Sch. (10) (part).

(2) An acknowledgment or receipt in writing of money payable under this Act shall not be invalid merely on the ground that any person was under the age of twenty-one years at the time of his signing or giving the same.

Receipt sufficient discharge.
1053, 1911, Second Sch. (20).

58. No solicitor and no agent of a person claiming compensation under this Act shall be entitled to recover from him any costs in respect of any proceedings in an arbitration under this Act, or to claim a lien in respect of such costs on, or deduct such costs from, the sum awarded or agreed as compensation, except such sum as may be awarded by the arbitrator or special magistrate, on an application made either by the person claiming compensation, or by his solicitor or agent, to determine the amount of costs to be paid to the solicitor or agent; and any such sum, unless it is a lump sum, shall be awarded subject to taxation and to the scale of costs prescribed by rules of court.

Costs to be taxed.
Cf. U.K. 15 & 16, Geo. 5, c. 84, First Sch. (10) (part).

58a. (1) Where—

- (a) a workman has been in receipt of weekly payments under this Act; and
- (b) a dispute arises between the workman and the employer in relation to the continuance or amount of such payments; and
- (c) the workman reasonably employs a legal or medical practitioner or both to assist him in such dispute; and

Costs where dispute not submitted to arbitration.

Inserted by 39, 1943, s. 6.

- (d) the employer subsequently makes the weekly payment claimed by the workman without the matter being submitted to arbitration,

then the employer shall be liable to pay to the workman such amount (if any) of the costs or fees paid or payable by the workman to the legal or medical practitioner or both as the Master of the Supreme Court shall on taxation allow as being fair and reasonable: Provided that the amount so allowed in any case shall not exceed fifteen pounds.

(2) The sum so allowed on taxation shall be recoverable by the workman from the employer as a debt and the certificate of the Master shall be conclusive evidence that the amount mentioned therein is due to the person named therein.

Persons under disability need not be represented.
1053, 1911, Second Sch. (18).

59. Unless so directed by the arbitrator or special magistrate, it shall not be necessary upon any arbitration, or any application connected therewith, for dependants who are married women, infants, or persons of unsound mind or under any legal disability, to be represented.

Directions for representation of such persons.
1053, 1911, Second Schedule (19).

60. The arbitrator or special magistrate shall, in all cases where he thinks it necessary, direct the manner in which dependants who are married women, infants, or persons of unsound mind or under any legal disability, shall be represented, and may make any direction which he deems proper for the representation of any class of dependants by a member of such class or otherwise.

PAYMENT AND INVESTMENT OF COMPENSATION.

Investment of payment in case of death.
1053, 1911, First Schedule (5).
Of U.K. 15 & 16, Geo. 5, c. 84, s. 26 (1) and Second Schedule.

Amended by 39, 1943, s. 7.

61. (1) The payment in case of death shall, unless otherwise ordered as hereinafter provided, be paid into the court. The receipt of the clerk of the court shall be a sufficient discharge in respect of the amount paid into the court.

(2) The special magistrate whose duty for the time being it is to preside over the court in which the sum is, may invest, apply, or otherwise deal with any sum so paid into the court in such manner as he, in his discretion, thinks fit for the benefit of the persons entitled thereto under this Act or may pay the sum or direct it to be paid to the Public

Trustee whose receipt shall be a sufficient discharge in respect of the amount paid to him and the Public Trustee may invest the sum as he thinks proper.

(3) If so agreed the payment in case of death shall if the workman leaves no dependants be made to his legal personal representative or if he has no such representative to the person to whom the expenses of medical attendance and burial are due.

62. Rules of court may provide for the transfer of money paid into court under this Act from one court to another.

Transfer of money from one court to another.
1053, 1911, First Sch. (6).
Cf. U.K. 15 & 16, Geo. 5, c. 84, Second Sch. (3).

63. Where a weekly payment is payable under this Act to a person under any legal disability, a special magistrate may, on application being made in accordance with rules of court, order that the weekly payment be paid during the disability into court, and the provisions of this Act with respect to sums required by this Act to be paid into court shall apply to sums paid into court in pursuance of any such order.

Payment of weekly sum due to person under disability.
1053, 1911, First Sch. (7).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 26 (2).

64. Where, on application being made in accordance with rules of court, it appears to a special magistrate that, on account of neglect of children on the part of a widow, or on account of the variation of the circumstances of the various dependants, or for any other sufficient cause, an order of a special magistrate or an award as to the apportionment amongst the several dependants 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 special magistrate hearing the application may make such order for the variation of the former order or the award as in the circumstances of the case he may think just.

Power to vary order or award.
1053, 1911, First Sch. (9).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 22.

65. Any sum which under this Act is ordered to be invested may be invested in the purchase of an annuity from any life insurance society approved by the special magistrate or the Public Trustee investing such sum.

Investment in insurance society.
1053, 1911, First Sch. (10).
Cf. U.K. 15 & 16, Geo. 5, c. 84, Second Sch. (5) (part).

PART VI.

Deposit in Savings Bank.
1053, 1911, First Schedule (11).
Of. U.K. 15 & 16, Geo. 5, c. 84, Second Sch. (5) (part).

66. Any sum to be so invested may be accepted by the Savings Bank of South Australia as a deposit in the name of the clerk of the local court.

Limits as to deposits and interest not to apply.
1053, 1911, First Sch. (12).
Of. U.K. 15 & 16, Geo. 5, c. 84, Second Sch. (5) (part).

67. The provisions of any Act or regulations as to the limits of deposits in the Savings Bank shall not apply in respect of sums which under this Act are ordered to be invested. And the whole amount of any sum deposited in the said bank under this Act shall, notwithstanding the provision of any Act or regulations limiting the interest bearing amount of deposits or otherwise, bear interest at the rate allowed to ordinary depositors in the said bank.

Payment out of bank.
1053, 1911, First Sch. (13).
Of. U.K. 15 & 16, Geo. 5, c. 84, Second Sch. (6).

68. No part of any money deposited in the name of the clerk of a local court in the Savings Bank under this Act shall be paid out except upon an order drawn on the Savings Bank and signed by a special magistrate or the clerk of the local court. Such order shall be a sufficient discharge to the bank in respect of the money paid out pursuant thereto.

PART VII.

PART VII.

ALTERNATIVE REMEDIES.

Liability independently of this Act.
Of. U.K. 15 & 16, Geo. 5, c. 84, s. 29 (1).
Substituted by 52, 1947, s.10.

69. (1) Except as expressly provided in this Act, nothing in this Act shall affect any liability which exists independently of this Act.

(2) Where a workman has received compensation under this Act in respect of an accident, he shall not bring an

s. 69. The amendments made by the repeal and re-enactment of this section by section 9 of the Workmen's Compensation Act Amendment Act, 1947, apply only in relation to injury or death caused by an accident occurring after 11th December, 1947. See section 13 of that Act.

PERRY v. WOOLCOCK (1917) S.A.L.R. 216; 8 Aust. Digest 35. A general verdict in favour of the employer in an action by a workman based on common law negligence, in which action the employer pleaded an agreement on the part of the workman to accept compensation under the Workmen's Compensation Act, does not make the question whether there was such an agreement *res judicata*.

BENNETT v. WALLAROO-MOUNT LYELL FERTILIZERS LIMITED (1925) S.A.S.R. 132. Where the jury found that the employer had paid moneys to the workman intending that they should be paid and received as weekly payments under the Workmen's Compensation Act, and the workman received the moneys paid and intended to receive them under the Act, but that the workman had not exercised his option of claiming under the Act, held that the finding of the

action against the employer for damages in respect of the same accident—

- (a) except within twelve months after he received compensation, or if more than one payment of compensation was made, within twelve months after he received the first such payment:
 - (b) unless within six months after he received compensation, or if more than one payment of compensation was made, within six months after he received the first such payment, he gave the employer written notice of his intention to bring that action.
- (3) When a workman has recovered judgment against an employer independently of this Act for damages in respect of an accident, he shall not commence or continue any proceedings for or in relation to compensation under this Act in respect of the same accident.
- (4) A workman shall not commence or continue any proceedings against his employer for damages independently of this Act in respect of any injury by accident—
- (a) after he has obtained a final award against his employer under which his employer is liable to pay compensation under this Act in respect of the same injury;
 - (b) after a memorandum of an agreement has been recorded under section 48 of this Act, by which the amount of compensation payable to the workman in respect of the same injury has been agreed upon and the workman has expressly agreed not to bring any proceedings against the employer in respect of such injury independently of this Act.
- (5) Any sum received by a workman from an employer by way of damages in respect of an accident shall be deducted from the sum recoverable by the workman from

s. 69. jury that the plaintiff had not exercised his option was consistent with its
(contd.) two previous findings.

KNILL V. CLARKE (1924) S.A.S.R. 59. Knowledge of the remedies open to him is *prima facie* to be imputed to a workman injured by the negligence of his employer. Held, on the evidence, that the workman had elected to take compensation under the Workmen's Compensation Acts.

CANNIZARRO V. BIDE AND ANOTHER (1942) S.A.S.R. 82. Held that, as the plaintiff was an infant, a claim for compensation under the Workmen's Compensation Act and the payment of compensation was not a bar to the bringing of a subsequent action for negligence.

DAVIES V. ADELAIDE CHEMICAL AND FERTILIZER COMPANY LIMITED (1946) S.A.S.R. 1. Held that in the particular circumstances, the defendant company had not discharged the onus on it of proving that the workman had made an election under section 69 as previously enacted.

the employer by way of compensation under this Act in respect of the same accident.

(6) Any sum received by a workman from an employer by way of compensation under this Act in respect of an accident shall be deducted from the sum recoverable by the workman from the employer by way of damages in respect of the same accident.

Where action brought for injury for which compensation is payable under this Act.

1053, 1911, s. 6 (4).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 29 (2).

70. (1) If within the time in this Act limited for taking proceedings an action is brought to recover damages independently of this Act for injury caused by any accident, and it is determined in such action that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under the provisions of this Act, the action shall be dismissed; but the court in which the action is tried shall, if the plaintiff so chooses, proceed to assess such compensation, but may deduct from such compensation all or part of the costs which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this Act.

(2) In any proceeding under this section, when the court assesses the compensation it shall give a certificate of the compensation it has awarded and the directions it has given as to the deduction for costs, and such certificate shall have the force and effect of an award under this Act.

Remedies against employer and stranger.

Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 30.

Substituted by 52, 1947, s. 11.

71. Where the injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person other than the employer (which other person is hereinafter called "the third party") to pay damages in respect thereof the following provisions shall apply:—

(1) The workman may take proceedings both against the third party to recover damages and against the employer for compensation.

(2) A workman who receives any money from a third party in respect of an accident and compensation under this Act shall repay to the employer such amount

s. 71. The amendments made by the repeal and re-enactment of this section by section 11 of the Workmen's Compensation Act Amendment Act, 1947, apply only in relation to injury or death caused by an accident occurring after 11th December, 1947. See section 13 of that Act.

CHAPPELL V. ADELAIDE ELECTRIC SUPPLY COMPANY LIMITED (1943) S.A.S.R. 349. Held that an injury to a workman of the plaintiff was not caused under circumstances which created a legal liability in the defendant to pay damages in respect thereof and accordingly, that the sum paid to the widow of the workman as compensation could not, under section 71 (as previously enacted), be recovered from the defendant.

of that compensation as does not exceed the amount recovered from the third party.

(3) Upon notice to the third party, the employer shall have a first charge on moneys payable by the third party to the workman, to the extent of any compensation which the employer has paid to the workman.

(4) If the workman has received compensation under this Act, but no damages or less than the full amount of the damages to which he is entitled, the third party shall be liable to indemnify the employer against so much of the compensation paid to the workman as does not exceed the damages for which the third party is still liable.

(5) Payment of money by a third party to the employer pursuant to subsection (4) of this section shall, to the extent of the amount paid, be a satisfaction of the liability of the third party to the workman.

72. If a claim for compensation has already been made by the claimant in respect of the injury under any law of the United Kingdom or of any other part of His Majesty's dominions, compensation under this Act shall not be allowed to the claimant, nor shall any person having such a claim under any such law claim under this Act unless he declares in writing that he has not claimed, and will not claim, compensation for the injury under any such law.

Where claim exists elsewhere as well as in this State.
1053, 1911, s. 6 (2) (d).

73. (1) Except as mentioned in this section this Act shall apply notwithstanding any contract to the contrary made after the commencement of the Workmen's Compensation Act, 1911.

Contracting out.
1053, 1911, s. 8 (1)-(3).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 31 (1), (2), (3).

(2) If the Public Actuary, after taking steps to ascertain the views of the employer and workmen, certifies—

(a) that any scheme of compensation, benefit, or insurance for the workmen of an employer in any employment (whether or not such scheme includes other employers and their workmen) provides scales of compensation not less favourable to the workmen and their dependants than the corresponding scales contained in this Act; and

(b) that, where the scheme provides for contributions by the workmen, the scheme confers benefits at least equivalent to those contributions, in addition to the benefits to which the workmen would have been entitled under this Act, and that a

Workmen's Compensation Act, 1932-1947.

majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favour of such scheme,

the employer may, while the certificate is in force, contract with any workman employed by him that the provisions of the scheme shall be substituted for the provisions of this Act, and thereupon the employer shall, with respect to such workman and his dependants, be liable only in accordance with the scheme.

(3) The Public Actuary may give a certificate to expire at the end of a limited period of not more than five years, and may from time to time renew, with or without modifications, such certificate so as to expire at the end of the period for which it is renewed.

(4) No scheme shall be so certified which contains an obligation upon the workmen to join the scheme as a condition of their hiring, or which does not contain provisions enabling a workman to withdraw from the scheme.

74. (1) If complaint is made to the Public Actuary by or on behalf of the workmen of any employer—

- (a) that the benefits conferred by any scheme no longer conform to the conditions stated in the last preceding section; or
- (b) that the provisions of such scheme are being violated; or
- (c) that the scheme is not being fairly administered; or
- (d) that satisfactory reasons exist for revoking the certificate,

the Public Actuary shall examine into the complaint, and, if satisfied that good cause exists for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

(2) When a certificate is revoked or expires any moneys or securities held for the purpose of the scheme shall, after due provision has been made to discharge the liabilities already accrued, be distributed as may be arranged between the employer and workmen or as may be determined by the Public Actuary in the event of a difference of opinion.

(3) Whenever a scheme has been certified as aforesaid it shall be the duty of the employer to answer all such inquiries and to furnish all such accounts in regard to the scheme as

Revocation of certificate and winding-up of scheme.

1053, 1911, s. 8 (4)-(6).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 31 (5), (6), (7).

may be made or required from time to time by the Public Actuary.

75. The Public Actuary shall include in his annual report the particulars of his proceedings under this Act.

Public Actuary's report.
1053, 1911, s. 8 (7).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 31 (9).

76. The Governor may make regulations for the purpose of carrying sections 73 and 74 into effect.

Regulations.
1053, 1911, s. 8 (8).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 31 (10).

77. (1) Every scheme under section 8 of "The Workmen's Compensation Act, 1911," in force at the commencement of this Act shall be deemed to be a scheme certified under section 73 of this Act.

Continuance of existing schemes.

(2) The mention of particular matters in this section shall not affect the applicability to this Act of the Acts Interpretation Act, 1915.

78. Nothing in this Act shall affect any proceeding for a fine or penalty under the enactments relating to mines, factories, or workshops, or the application of any such fine or penalty.

Penalties not affected.
1053, 1911, s. 6 (5).
U.K. 15 & 16, Geo. 5, c. 84, s. 32.

PART VIII.

PART VIII.

APPLICATION TO SPECIAL CLASSES OF PERSONS.

79. (1) This Act does not apply to persons in the naval or military service of the Crown, but otherwise applies to workmen employed by or under the Crown to whom this Act would apply if the employer were a private person.

Application to workmen in employment of Crown.
1053, 1911, s. 5.
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 34.

(2) All moneys payable under this Act by or on behalf of the Crown shall be paid out of moneys to be provided by Parliament.

(3) The Minister may, notwithstanding anything in this Act, frame schemes for Government departments with a view to their being certified by the Public Actuary under section 73.

Workmen's Compensation Act, 1932-1947.

(4) In all claims against the Crown, whether arising out of injuries to workmen employed by or under the Crown, or in respect of any other claim under this Act by any other person, proceedings may be taken and prosecuted under this Act by suit against the Attorney-General as representing the Crown in his representative capacity and without imposing any personal liability upon the occupant of the office of Attorney-General.

80. (1) This Act applies in respect of an accident happening to a workman employed on a South Australian ship, as defined in this section, if the accident happens in the course of his employment: Provided that it happens within the State or within the jurisdiction of this State.

(2) In this Act the term "South Australian ship" means any ship which—

(a) is registered in the State; or

(b) is owned by a body corporate established under the laws of the State or having its principal office or place of business in the State or is in the possession of any such body corporate by virtue of a charter; or

(c) is owned by any person or body corporate whose chief office or place of business in respect of the management of such ship is in the State, or is in the possession of any such person or body corporate by virtue of a charter; or

(d) is owned by the Crown in respect of the Government of the State, or is in the possession of the Crown in that respect by virtue of a charter.

81. The application of this Act in respect to an accident happening to a workman employed on a South Australian ship, as provided by this section, shall be subject to the following modifications:—

(a) the notice of accident and the claim for compensation may, except where the person injured is the master, be served on the master of a ship as if he were the employer, but where the accident happened and the incapacity commenced on board

Act to apply as to accidents to persons employed on "South Australian ships,"

1053, 1911, s. 13 (1) and (2), 1660, 1924, s. 7.
Of U.K. 15 & 16, Geo. 5, c. 84, s. 35 (part).

Modifications of Act in case of accidents to seamen.

1053, 1911, s. 13 (3).
Of U.K. 15 & 16, Geo. 5, c. 84, s. 35 (part).

s. 81. The Marine Board and Navigation Act, 1881, has been repealed and superseded by the Marine Act, 1936.

the ship it shall not be necessary to give any notice of the accident:

- (b) in the case of the death of the workman, the claim for compensation shall be made within six months after news of the death has been received by the claimant:
- (c) in the case of the death of a workman leaving no dependants, no compensation shall be payable if the owner of the ship is under the "Marine Board and Navigation Act, 1881," or any Act amending or substituted for that Act, liable to pay the expense of a burial:
- (d) the weekly payment shall not be payable in respect of the period during which the owner of the ship is, under the "Marine Board and Navigation Act, 1881," or any Act amending or substituted for that Act, liable to defray the expenses of maintenance of the injured workman:
- (e) any sum payable by way of compensation by the owner of a ship under this Act shall be paid in full notwithstanding anything in section 503 of the "Merchant Shipping Act, 1894" (which relates to the limitation of a ship-owner's liability in certain cases of loss of life, injury, or damage), but the limitation on the owner's liability imposed by that section shall apply to the amount recoverable by way of indemnity, under the section of this Act relating to remedies both against employer and stranger, as if the indemnity were damages for loss of life or personal injury:
- (f) section 95 of the "Marine Board and Navigation Act, 1881" (which relates to the recovery of wages of seamen lost with their ship), shall apply with respect to proceedings for the recovery of compensation by the dependants of a workman lost with his ship as they apply with respect to proceedings for the recovery of wages due to seamen and apprentices; and proceedings for the recovery of compensation shall in such a case be maintainable if the claim is made within eighteen months of the date at which the ship is deemed to have been lost with all hands.

PART IX.

PART IX.

INDUSTRIAL DISEASES.

Application of Act to industrial diseases.
1053, 1911, s. 12 (1), part.
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 43 (1).

82. Where—

i. any certifying medical practitioner certifies that a workman is suffering from a disease mentioned in the second schedule and is thereby disabled from earning full wages at the work at which he was employed; or

ii. the death of a workman is caused by any such disease, and the disease is due to the nature of any employment in which the workman was employed at any time within the twelve months previous to the date of the disablement, whether under one or more employers, the workman or his dependants shall be entitled to compensation under this Act as if the disease were a personal injury by accident arising out of and in the course of that employment, subject to the following modifications:—

- (a) the disablement shall be treated as the happening of the accident:
- (b) if it is proved that the workman at the time of entering the employment wilfully and falsely represented himself in writing as not having previously suffered from the disease, compensation shall not be payable:
- (c) the compensation shall be recoverable from the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due.

Workman to furnish information as to previous employers.
1053, 1911, s. 12 (1), (part)
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 43 (1)
(c) (i.).

83. The workman or his dependants claiming compensation under the last preceding section shall, if so required, furnish the employer from whom the compensation is recoverable with such information as to the names and addresses of all the other employers who employed him in the employment during the twelve months prior to the date of the disablement as he or they may possess, and if such information is not furnished, or is not sufficient to enable that employer to take proceedings under the next following section, that employer upon proving that the disease was

s. 82. *BROKEN HILL ASSOCIATED SMELTERS PROPRIETARY LIMITED v. VELLA* (1927) S.A.S.R. 49. Where the certifying medical practitioner's certificate certified that the workman suffered from industrial disease and was disabled, but omitted the word "thereby," held that the certificate would not support a claim for compensation.

not contracted whilst the workman was in his employment shall not be liable to pay compensation.

84. If the employer from whom compensation is claimed alleges that the disease was in fact contracted whilst the workman was in the employment of some other employer, and not whilst in his employment, he may join such other employer as a party to the arbitration, and if the allegation is proved, that other employer shall be the employer from whom the compensation is to be recoverable.

Where disease contracted during previous employment.
1053, 1911, s. 12 (1) (part).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 43 (1) (c) (ii).

85. If the disease is of such a nature as to be contracted by a gradual process, any other employers who during the twelve months prior to the date of the disablement employed the workman in the employment to the nature of which the disease was due, shall be liable to make to the employer from whom compensation is recoverable such contributions as, in default of agreement, may be determined in the arbitration under this Act for settling the amount of the compensation.

Contributions in case disease contracted gradually.
1053, 1911, s. 12 (1) (part).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 43 (1) (c) (iii).

86. The amount of the compensation shall be calculated with reference to the earnings of the workman under the employer from whom the compensation is recoverable.

How amount of compensation calculated.
1053, 1911, s. 12 (1) (part).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 43 (1) (d).

87. The employer to whom notice of the death or disablement is to be given shall be the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due, and the notice may be given notwithstanding that the workman has voluntarily left his employment.

Employer to whom notice to be given.
1053, 1911, s. 12 (1) (part).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 43 (1) (c).

88. If an employer or a workman is aggrieved by the action of a certifying medical practitioner in giving or refusing to give a certificate of disablement for the purposes of section 82, the matter shall, upon request in writing by such employer or workman, be referred by the Minister to a medical referee, whose decision shall be final.

Reference to medical referee.
1053, 1911, s. 12 (1) (part).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 43 (1) (f).

89. If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of the second schedule, and the disease contracted is the disease in the first column of that schedule set opposite the description of the process, the disease, except where the certifying medical practitioner certifies that in his opinion the disease was not due to the nature of the

Certain diseases deemed to be due to nature of employment unless contrary certified.
1053, 1911, s. 12 (2).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 44 (1).

employment, shall be deemed to have been due to the nature of that employment, unless the employer proves the contrary.

90. For the purposes of this Part the date of disablement shall be such date as the certifying medical practitioner certifies as the date on which such disablement commenced, or, if he is unable to certify such a date, the date on which the certificate is given:

Provided that—

- (a) where the medical referee allows an appeal against a refusal by a certifying medical practitioner to give a certificate of disablement, the date of disablement shall be such date as the medical referee determines:
- (b) where a workman dies without having obtained a certificate of disablement, or is at the time of death not in receipt of a weekly payment on account of disablement, the date of death shall be deemed to be the date of disablement.

Date of disablement, how ascertained.
1053, 1911, s. 12 (4).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 43 (2).

Extension of Part to other diseases and processes.
1053, 1911, s. 12 (6).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 43 (3).

91. (1) The Governor may, by proclamation published in the *Gazette*, from time to time extend the provisions of this Part to diseases and processes other than those mentioned in the second schedule, and to injuries due to the nature of any employment specified in the proclamation not being injuries by accident, either without modification or subject to such modifications as may be contained in the proclamation.

(2) Every such proclamation shall, upon publication and while in force, have the same effect as if the diseases and processes mentioned therein were inserted in the second schedule.

Appointment of practitioner to act under the section.
1053, 1911, s. 12 (5).

92. In such cases, and subject to such conditions as the Minister may direct, any medical practitioner appointed by the Minister for the purpose shall have the powers and duties of a certifying medical practitioner under this Part, and this Part shall be construed accordingly.

93. The Governor may make regulations as to the duties and fees of certifying medical practitioners and medical referees under this Part.

94. Nothing in this Part shall affect the rights of a workman to recover compensation in respect of a disease to which this section does not apply, if the disease is a personal injury by accident within the meaning of this Act.

Regulations as to duties of practitioners and referees.
1053, 1911, s. 12 (3).

Claims in respect of other diseases not affected.
1053, 1911, s. 12 (7).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 43 (4).

PART IXA.

PART IXA.

SILICOSIS.

94a. In this Part—

Definition.

“silicosis” includes fibroid phthisis or silicosis of the lungs, or that disease accompanied by tuberculosis, or any other disease of the pulmonary or respiratory organs caused by the exposure to silica dust.

Inserted by 2427, 1938, s. 3.

94b. The Minister shall by scheme provide for the payment of compensation by the employers to workmen in any specified industry or process or group of industries or processes involving exposure to silica dust—

Schemes for payment of compensation.

Inserted by 2427, 1938, s. 3.

- (a) who are certified in such manner as may be prescribed by the scheme to have suffered death or total disablement from silicosis; or
- (b) who, though not totally disabled, are certified in like manner to be suffering from silicosis and are thereby disabled to such a degree as to make it dangerous to continue work in any such industry or process and are for that reason suspended from employment.

94c. The compensation shall be payable to or for the benefit of the workman or, in the event of his death, to or for the benefit of his dependants.

To whom compensation payable.

Inserted by 2427, 1938, s. 3.

94d. No compensation shall be payable to any such workman or, in the case of his death, to his dependants, unless at the date of his disablement or death he—

Conditions of payment of compensation.

Inserted by 2427, 1938, s. 3.

- (a) has been continuously resident in South Australia during the five years immediately preceding the date of his disablement or death and has been employed in any industry or process specified as aforesaid for not less than three hundred days during such period of five years; or
- (b) has been resident in South Australia for not less than five years out of the seven years immediately preceding the date of his disablement or death and has been employed in any industry or process specified as aforesaid for not less than five hundred days during such period of seven years.

PART IXA.

Amount of compensation.

Inserted by 2427, 1938, s. 3.

94e. The amount of compensation payable upon the disablement or death of any workman to whom any scheme under this Part applies shall be the same as that which would be payable pursuant to the provisions of this Act if such disablement or death resulted from personal injury by accident arising out of and in the course of the employment of such workman.

Interpretation of dependants.

Inserted by 2427, 1938, s. 3.

94f. The dependants entitled to compensation upon the death of any workman to whom any scheme under this Part applies shall be those persons who would be entitled to compensation under this Act if such death resulted from personal injury by accident arising out of and in the course of the employment of such workman.

Contents of schemes.

Inserted by 2427, 1938, s. 3.

94g. Any scheme under this Part may provide—

- (a) for the establishment of a general compensation fund to be administered in such manner as may be provided by the scheme;
- (b) for the payment of subscriptions by employers to such fund and for the recovery of such subscriptions and for the payment and recovery out of such fund of any compensation payable under the scheme and of any expenses of and incidental to the administration and management of the scheme;
- (c) for the settlement of claims and other matters arising under the scheme by committees representative of both employers and workmen with independent chairmen and for the appointment of and the procedure to be adopted before such committees;
- (d) for the appointment and remuneration of medical officers, medical boards and advisory medical bodies and for their duties and powers in connection with the scheme;
- (e) for workmen to whom the scheme applies—
 - (i.) to submit themselves to periodical medical examinations; and
 - (ii.) to furnish information with respect to their previous employment or medical history;
- (f) for making the right to compensation of any workman to whom the scheme applies conditional upon compliance with any requirement on his part contained in the scheme;

- (g) for the suspension from employment in any industry or process specified in the scheme of any workman who is found at any time to be suffering from silicosis or who, when first medically examined in pursuance of the scheme, fails to satisfy such requirements with respect to physique as may be prescribed by the scheme; and
- (h) for the application either with or without modification of any of the provisions of this Act and for defining the industries or processes to which the scheme applies and generally for such further or supplemental matters including provisions for the settlement of disputes arising between employers and the authority administering the fund as appear necessary or desirable for giving full effect to the scheme.

94h. The provisions of any scheme under this Part may be extended or varied by any subsequent scheme made in like manner and shall be effectual for all purposes as if enacted in this Part. Such subsequent scheme need only set out the extensions or variations of the scheme which it extends or varies.

Variation and effect of schemes.

Inserted by 2427, 1938, s. 3, and amended by 65, 1940, s. 14.

94i. (1) Any scheme under this Part shall—

- (I.) be published in the *Government Gazette*;
- (II.) take effect from the date of publication or from a later date to be specified in such scheme; and
- (III.) be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then in session, and if not, then within fourteen days of the commencement of the session next after such publication.

Publication of schemes and disallowance by Parliament.

Inserted by 2427, 1938, s. 3.

(2) If either House of Parliament passes a resolution of which notice has been given at any time within fourteen sitting days after such scheme has been laid before such House, disallowing the scheme or any part thereof, such scheme or part shall thereupon cease to have effect.

94j. Notwithstanding any other provision of this Act no employer to whom any scheme under this Part applies shall be obliged to insure against liability for any compensation payable to a workman under any such scheme.

Exemption from duty to insure.

Inserted by 2427, 1938, s. 3.

PART X.

PART X.

INDUSTRIAL DISEASES CONTRACTED AT
PORT PIRIE.

Interpreta-
tion.
1834, 1927,
s. 3.

95. In this Part, unless inconsistent with or repugnant to the context, or some other meaning is clearly intended—

“board” means the Medical Board constituted under this Part:

“disease” means any disease mentioned in the second schedule, and any disease to which Part IX. of this Act is extended by proclamation:

“smelters” means the works at Port Pirie in the State known at the time of the passing of this Act as the Broken Hill Associated Smelters, and any addition thereto or extension thereof:

“Smelting Company” means the Broken Hill Associated Smelters Proprietary, Limited:

“workman” means any workman as defined in this Act who is or was at the date of disablement employed in or upon the smelters by the Smelting Company.

Establish-
ment of
Medical
Board.
1834, 1927,
s. 4.

96. (1) A Medical Board is hereby constituted consisting of three legally qualified medical practitioners residing and practising in the municipality of Port Pirie who shall be appointed by the Governor.

(2) No medical practitioner who holds any appointment as medical officer for the Smelting Company or to any trade union consisting wholly or partially of workmen employed by the Smelting Company shall be appointed to or hold office on the board.

(3) Every member of the board shall hold office for a period of two years, and shall, upon the expiration of his term of office, be eligible for re-appointment.

(4) The decision of any two members of the board on any matter shall be deemed to be the decision of the whole board.

(5) There shall be a secretary to the board who shall be the person for the time being holding the office of secretary of the Public Hospital at Port Pirie aforesaid, and the secretary shall, when so instructed by any member of the board, convene meetings of the board, and when so authorized by the board shall issue certificates as prescribed by the regulations for and on behalf of the board.

(6) The members of the board and the secretary thereof shall be paid such fees and allowances as are prescribed.

(7) Any fees and allowances payable to members of the board and to the secretary, and any expenses incurred by the board shall, subject to any regulations made by the Governor, be paid out of the general revenue of the State which to the necessary extent is hereby appropriated.

(8) One-half of the said fees, allowances, and expenses paid out of the said general revenue in each year shall be a debt due by the Smelting Company to the Treasurer, and shall be payable by the company within one month after the Treasurer notifies the Smelting Company in writing of the amount due, and may be recovered by the Treasurer by action in the name of the Treasurer in any court of competent jurisdiction in like manner as if the Treasurer were a private individual.

97. (1) Subject to section 97a, the board shall from a date to be notified by the Governor in the *Gazette* exclusively exercise the powers and perform the functions of a certifying medical practitioner and of a medical referee under this Act, in respect of workmen disabled or alleged to be disabled by a disease, and who were at the time of contracting such disease employed by the Smelting Company in or upon the smelters.

Powers of the board. 1834, 1927, s. 5. Amended by 39, 1943, s. 8.

(2) Subject to the provisions of subsection (1) of this section, and notwithstanding section 106, it shall be lawful for any member of the board to do or join with the other members of the board in doing any act or thing which he or the board is authorized, required, or permitted by this Part to do in respect to any workman although such member has been employed as a medical practitioner in connection with such workman's case by or on behalf of the Smelting Company, the workman, or any insurers interested.

97a. (1) If a workman or the Smelting Company is aggrieved by a decision of the board to give or refuse to give a certificate, or by any other decision of the board, the workman or Company may request the Minister to refer the matter to a board of review under this section.

Reference of decision of board to referees.

Inserted by 39, 1943, s. 9, and substituted by 33, 1944, s. 7.

(2) Every such request shall be made within fourteen days after the giving of the decision by the board.

(3) The Minister shall upon receipt of such a request forthwith constitute a board of review consisting of three medical practitioners selected from the panel provided for in this section and shall refer the case to that board.

(4) The board of review shall inquire into the case and may either affirm, vary, or reverse the decision of the board. The inquiry shall be commenced not later than fourteen days after the case is referred to the board of review.

(5) The decision of the board of review on any such reference shall be final.

(6) The decision of any two members of a board of review shall be deemed to be the decision of the whole board.

(7) For the purposes of this section the Governor, on the nomination of the Council of the South Australian Branch of the British Medical Association, shall appoint not less than six legally qualified medical practitioners to be a panel of medical referees from whom boards of review under this section shall be constituted as required from time to time.

The persons so nominated shall be persons who, in the opinion of the said Council, are qualified to diagnose industrial diseases.

(8) Every person so appointed shall hold office as a medical referee for three years, unless during that period the Governor decides that just cause exists for removing that person's name from the panel, and directs accordingly.

The Governor shall from time to time make appointments to fill casual vacancies on the panel. A person appointed to a casual vacancy on the panel shall hold office for the balance only of the term of the person in whose place he was appointed.

(9) If on a reference to a board of review under this section the decision is in favour of the workman, the workman shall be entitled to be paid by the Smelting Company the amount of any fares and travelling expenses, not exceeding ten pounds, reasonably incurred by the workman for the purpose of appearing before the board of review.

Periodical
medical
examination
of workmen
by the board.
1834, 1927,
s. 6.

98. (1) Any workman who has been certified by the board as suffering from a disease may, if he so desires, and shall, if the Smelting Company so requires, submit himself for examination by the board, and if he refuses to submit himself for such examination when required to do so by the Smelting Company, or in any way obstructs the same, his right to further compensation shall be suspended until such examination has taken place.

(2) When the board issues a certificate of fitness for employment the workman's right to compensation shall thereupon terminate.

(3) A workman shall not be required by the Smelting Company to submit himself for examination under this section otherwise than in accordance with regulations made by the Governor.

(4) The provisions of sections 32, 33, 34, and 35 of this Act shall not apply as regards any workman to whom this section applies.

(5) A workman who has been certified by the board as suffering from a disease shall from time to time at the request of the board present himself to the board to be medically examined.

(6) If a workman refuses to present himself for medical examination when so requested by the board, or in any way obstructs such examination, his right to compensation and to take or prosecute any proceedings to recover compensation under this Act, shall be suspended until he undergoes such examination.

(7) If the board after examination certifies that the workman who has been disabled by a disease has recovered therefrom, his right to compensation shall thereupon be terminated notwithstanding any other provision of this Act.

99. Notwithstanding any other provision of this Act relating to the time for taking proceedings, proceedings for the recovery of compensation in respect of a disease shall not be maintainable unless the claim for compensation has been made within twelve months from the time the workman voluntarily or otherwise left the employ of the Smelting Company.

Application of Act to industrial diseases. 1834, 1927, s. 7.

100. (1) Any workman in receipt of weekly payments of compensation shall from time to time when required by the Smelting Company submit himself for medical examination by a medical practitioner, provided and paid by the Smelting Company.

Medical examination. 1834, 1927, s. 8.

(2) If any workman refuses to submit himself to medical examination, as provided in subsection (1) of this section, or in any way obstructs the same, his right to compensation and to take or prosecute any proceedings under this Act shall be suspended until such examination has taken place.

101. (1) Any medical practitioner attending any workman employed by the Smelting Company whom he has reasonable grounds for believing to be suffering from a disease contracted in or upon the smelters shall forthwith give notice thereof in writing to the board.

Notification to the board of cases of lead poisoning. 1834, 1927, s. 9.

PART X.

(2) The board may require any workman as to whom a notice as mentioned in subsection (1) of this section is given to present himself to the board, and the workman shall so present himself and submit to medical examination.

(3) The board shall furnish to the workman a certificate as to the result of the examination and shall forward to the Smelting Company a copy of such certificate.

(4) Any person who fails to comply with any requirement of this section shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding twenty pounds.

Application
of Act to
assignees of
the Smelting
Company.

1834, 1927,
s. 10.

102. If the smelters are at any time worked by any person, firm, or company other than the Smelting Company, then this Part shall so long as the smelters are so worked apply to such other person, firm, or company and his or its workmen in the same way as it now applies to the Smelting Company and its workmen.

Suspension
of payments.

1834, 1927,
s. 11.

103. Where under this Part a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension.

Regulations.

1834, 1927,
s. 13.

104. The Governor may make any such regulations as are necessary or convenient for carrying out the provisions of this Part, and may by such regulations impose any penalty not exceeding fifty pounds for any breach thereof.

PART XI.

PART XI.

ADMINISTRATIVE AND MISCELLANEOUS
PROVISIONS.

Appointment
and remun-
eration of
medical
referees and
practitioners.
1953, 1911,
s. 14 (1).
Cf. U.K.
15 & 16,
Geo. 5, c. 84,
s. 38 (1)
(part).

105. The Minister may appoint such legally qualified medical practitioners to be medical referees and certifying medical practitioners respectively for the purposes of this Act as he may determine; and the remuneration of, and expenses incurred by, medical referees and certifying medical practitioners under this Act shall, subject to regulations made by the Governor, be paid out of moneys provided by Parliament.

106. Where a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or workman or by any insurers interested, he shall not act as medical referee in that case.

Referee not to act if previously employed.
1053, 1911, s. 14 (2).
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 38 (1) (part).

107. (1) If it is alleged that the owners of any ship are liable as such owners to pay compensation under this Act, and at any time that ship is found in any port or river in the State or in any water within the territorial jurisdiction of the State, a Judge of the Supreme Court may, upon its being shown to him by any person applying summarily that the owners are probably liable as such to pay such compensation, and that none of the owners reside in this State, issue an order directed to any officer of the said court, or of the South Australian Harbors Board, or of any authority exercising the powers vested in the said board, named in the order, requiring such officer to detain the ship until such time as the owners, agent, master, or consignee thereof have paid such compensation, or have given security, to be approved by a Judge of the said court, to abide the event of any proceedings that may be instituted to recover such compensation and to pay such compensation and costs as may be awarded thereon.

Order for detention of ship.
1053, 1911, s. 17.
Cf. U.K. 15 & 16, Geo. 5, c. 84, s. 39.

(2) The officer to whom the order is directed may detain the ship in accordance with the order.

(3) In any legal proceedings to recover such compensation, the person giving security may be made the defendant, and the production of the order of the Judge made in relation to the security shall be conclusive evidence of the liability of the defendant to the proceeding.

(4) If the owner of a ship is a corporation, such corporation shall, for the purpose of this section, be deemed to reside in the State of South Australia if it has an office in the said State at which service of process can be effected.

(5) If a ship after detention in pursuance of this section, or after service on the master of any notice of an order for detention under this section, proceeds to sea before the ship is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if that owner or party is party or privy to the offence, shall be liable to a penalty not exceeding one hundred pounds.

(6) If the master proceeds to sea with the ship in contravention of this section, and takes to sea any person required to detain the ship, the owner and the master thereof shall

each be liable to pay a further penalty at the rate of ten pounds for every day until such person returns to the place from which he was taken, or until the expiration of such time as would enable him after leaving the ship to return to such place.

Compulsory
insurance.
1660, 1924,
ss. 13 and 14.
Of. U.K.
24 & 25,
Geo. 5, c. 23,
s. 1.

108. (1) No employer shall employ any workman unless he has obtained from an insurance office a policy of insurance for the full amount of his liability to pay compensation under this Act to all workmen employed by him.

(2) Any employer who fails to comply with this section shall be liable to a penalty not exceeding five pounds in respect of each uninsured workman employed by him; and after the date of any conviction for a contravention of this section, he shall from time to time be liable to further penalties not exceeding twenty pounds for every week during which he fails to comply with this section.

(3) This section shall not apply to—

- (a) any employer who has established a scheme under section 73 of this Act or section 8 of "The Workmen's Compensation Act, 1911," in respect of which scheme a certificate given by the Public Actuary is for the time being in force;
- (b) the Crown;
- (c) the South Australian Railways Commissioner; or
- (d) any employer who, in the opinion of the Minister, has adequate financial resources to meet all probable claims under this Act, and who obtains a certificate of exemption from the provisions of this section under the hand of the Minister.

(4) No prosecution for a contravention of this section shall be instituted without the consent of the Minister. Such consent may be proved by the production of a document purporting to be signed by the Minister and giving consent to the prosecution.

Deductions
towards
compensation
not lawful.
1053, 1911,
s. 16.

109. Except pursuant to a scheme certified under section 73, no employer, insurer, or other person on behalf of any employer or insurer shall directly or indirectly take or receive any money from any workman, whether by way of deduction from wages or otherwise howsoever, in respect of any liability of an employer to pay compensation under this Act. All money so taken or received as aforesaid from any workman, whether with the consent of such workman or not,

may be recovered in any court of competent jurisdiction as a debt due to him by the employer, insurer, or person who took or received it.

110. (1) The Governor may make regulations for any purpose for which this Act authorizes regulations to be made, or for which it is by this Act contemplated that regulations may or will be made, and generally such regulations as may be necessary or convenient for carrying out or giving effect to the provisions of this Act.

Regulations.
1053, 1911,
s. 19, pt.

(1a) The power conferred by subsection (1) shall include power to make regulations—

Inserted by
52, 1947,
s. 12.

- (a) prescribing the amounts or rates of the premiums chargeable for policies of insurance against liability to pay compensation under this Act:
- (b) providing for the appointment of an Advisory Committee to make recommendations as to the amounts or rates of premiums to be so prescribed:
- (c) prescribing any matters necessary or convenient to be prescribed for ensuring that the prescribed amounts or rates of premiums are charged.

(2) Any such regulations may prescribe penalties for any breach thereof, or of other regulations, not exceeding ten pounds for any such breach.

111. Rules of court may be made under the "Supreme Court Act, 1878," for the regulation of all matters relating to the practice and procedure of the Supreme Court on appeals thereto under this Act, and generally as to all matters connected with such appeals, or for the regulation of any other matter in which the Supreme Court or a Judge thereof has jurisdiction under this Act; and such rules may also prescribe such forms and such scales of fees, costs, and expenses as may be necessary or convenient for the purposes of this Act.

Rules of
Supreme
Court.
1053, 1911,
s. 20.

112. Rules of court may be made under the "Local Courts Act, 1926," for any purpose for which this Act authorizes rules of court (not being rules of the Supreme Court) to be made and also generally for regulating the practice of local courts, special magistrates, and officers of local courts under this Act, and for carrying into effect this Act so far as it affects or relates to such courts or magistrates or officers, and to proceedings in local courts or before special magis-

Rules of
local courts.
1053, 1911,
s. 21.

s. 111. The Supreme Court Act, 1878, has been repealed and superseded by the Supreme Court Act, 1935.

trates; and such rules may also prescribe such forms and such scales of fees, costs, and expenses as may be necessary or convenient for the purposes of this Act.

Agreements and receipts under the Act exempt from stamp duty.
1053, 1911, s. 18.

113. Any agreement in writing and any memorandum of agreement (whether under seal or not) as to any matter under this Act, or any Act hereby repealed, and any receipt given for or upon the payment of any money payable under this Act, or any Act hereby repealed, or under any such agreement aforesaid, shall be exempt from any stamp duties chargeable under the "Stamp Duties Act, 1923," or any Act amending or substituted for that Act.

Summary proceedings.
1053, 1911, s. 22.
1834, 1927, s. 12.

114. All proceedings in respect of offences against this Act shall be dealt with summarily.

SCHEDULES.

THE FIRST SCHEDULE. ACTS REPEALED.

Number and Year of Act.	Title of Act.
1053 of 1911 ..	The Workmen's Compensation Act, 1911.
1351 of 1918 ..	Workmen's Compensation Act Amendment Act, 1918.
1379 of 1919 ..	Workmen's Compensation Act Further Amendment Act, 1919.
1437 of 1920 ..	Workmen's Compensation Act Further Amendment Act, 1920.
1525 of 1922 ..	Workmen's Compensation Act Further Amendment Act, 1922.
1660 of 1924 ..	Workmen's Compensation Act Further Amendment Act, 1924.
1722 of 1925 ..	Workmen's Compensation Act Amendment Act, 1925.
1746 of 1926 ..	Workmen's Compensation Act Amendment Act, 1926.
1834 of 1927 ..	Workmen's Compensation Act Amendment Act, 1927.
2081 of 1932 ..	Workmen's Compensation Act, 1932.

THE SECOND SCHEDULE.

Description of Disease.	Description of Process.
Anthrax	Handling of wool, hair bristles, hides, and skins.
Lead poisoning or its <i>sequelae</i> ..	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its <i>sequelae</i> .	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its <i>sequelae</i>	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its <i>sequelae</i> .	Any process involving the use of arsenic or its preparations or compounds.
Ankylostomiasis	Mining.
Antimony poisoning or its <i>sequelae</i>	Any process involving the use of antimony or its preparations or compounds.
Asthma or asthmatic attacks . . .	Any process involving working in contact with or the inhalation of the dust of red pine or blackwood.
	Any process involving working in contact with, or the inhalation of flour or flour dust.
Carbon monoxide poisoning or its <i>sequelae</i>	Any process involving working in contact with or the inhalation of carbon monoxide gas.
Dermatitis	Any process involving exposure to or working in contact with the dust of blackwood.
	Any process involving exposure to, or working in contact with sulphuric acid, flour or flour dust.
Nitrous fumes poisoning and its <i>sequelae</i>	Any process involving working in contact with nitric acid or the inhalation of nitrous fumes.
Copper poisoning or its <i>sequelae</i> .	Any process involving the use or handling of copper or its preparations or compounds.
Zinc poisoning or its <i>sequelae</i> ..	Any process involving the use of zinc or its preparations or compounds.
Chrome ulceration or its <i>sequelae</i>	Any process involving the use of chromic acid or bichromate or ammonium potassium or sodium or their preparations.
Septic poisoning or its <i>sequelae</i> ..	Any work involving the handling of meat or the manufacture of meat products or animal by-products in connection with the trade of butcher or slaughterman.

Amended by proclamations 'Gazette' 14th July, 1938, p. 49, and 19th December, 1940, p. 1551.