

~~1908~~
B I L L

An Act with respect to Compensation to Workmen for
Injuries Suffered in the Course of their
Employment.

(Assented to

~~THIS~~ MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Alberta,
enacts as follows:

SHORT TITLE

Short Title 1. This Act may be cited as the Workmen's Compensa-
tion Act 1908.

APPLICATION OF ACT AND DEFINITIONS.

2. ~~(1)~~ This Act shall apply only to employment by
the undertakers as hereinafter defined, on or in or about
a railway, factory, mine, quarry or engineering work, and
to employment by the undertakers as hereinafter defined
on in or about any building which exceeds forty feet in
height, and is either being constructed or repaired by
means of a scaffolding, or being demolished, or on which
machinery driven by steam, water, or other mechanical
power is being used for the purpose of the construction,
repair, or demolition thereof.

(2) In this Act unless the context otherwise requires

"Railway" means a road owned by a private person or
public company on which carriages run over metal
rails, and shall include railways or tramways
operated by electric or other power:

"Factory" means a building, workshop, or place
where goods are manufactured, and includes
mills where manufactures of wood, flour, meal,
pulp or other substances are being carried on,
also smelters where metals are sorted, ex-
tracted or operated on; every laundry worked

by steam, water or other mechanical power, and also includes any dock, wharf, quay, warehouse, ship building yard, where goods or materials are being stored, handled, transported or manufactured,

"Mine" means any kind of a mine, and includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any mine or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways, railways and sidings, both below ground and above ground, in and adjacent to a mine, and any ~~such~~ shaft, level and inclined plane of and belonging to the mine;

"Engineering work" means any work of construction or alteration or repair of a railroad, harbour, dock, canal or sewer, and includes any other work for the construction, alteration or repair of which machinery, driven by steam, water or other mechanical power, is used;

"Quarry" means an open cut from which rock is cut or taken for building purposes;

"Undertaker," in the case of a railway, means the railway company; in the case of a factory, quarry, laundry, smelter or warehouse means the occupier or operator thereof; in the case of a mine means the owner thereof, and in the case of an engineering work, or other work specified within this Act, means the person undertaking the construction, alteration, repair or demolition;

"Employer" includes any body of persons corporate or

unincorporate and the legal personal representative of a deceased employer, and, where 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 whilst he is working for that other person;

"Workman" includes every person who is engaged in an employment to which this Act applies whether by way of manual labour or otherwise, but does not include any person employed otherwise than by way of manual labour whose remuneration exceeds twelve hundred dollars a year, or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business, or an out worker, but, save as aforesaid, means any such person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing;

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;

"Dependants" means such of the 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 the workman, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon his earnings, or, being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child and parent or grandparent respectively;

"Member of a family" means wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister;

"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:

The exercise and performance of the powers and duties of a local or municipal authority or corporation shall, for the purposes of this Act, be treated as the trade or business of the authority or corporation.

LIABILITY OF EMPLOYERS TO WORKMEN FOR INJURIES

Liability of employers to workmen for injuries.

3. ~~424~~ If in any employment to which this Act applies 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 the First Schedule to this Act.

(2) Provided that —

- (a) The employer shall not be liable under this Act in respect of any injury which does not disable the workman for a period of at least one week from earning full wages at the work at which he was employed;
- (b) When the injury was caused by the personal negligence or wilful act of the employer or of some person for whose act or default the employer is responsible, nothing in this Act shall affect any civil liability of the employer, but in that case the workman may, at his option, either claim compensation under this Act or take proceedings independently of this Act; but the employer shall not be liable to pay compensation for injury to a workman by accident arising out of and in the course of the employment both independently of and also under this Act, and shall not be liable to any proceedings independently of this Act, except in case of such personal negligence or wilful act as aforesaid;
- (c) If it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall, unless the injury results in death, be disallowed.

(3) 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 employment is one to which this Act applies, or 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, if not settled by agreement, shall, subject to the provisions of the ~~First~~ Schedule to this Act, be settled by arbitration, in accordance with the ~~Second~~ Schedule to this Act.

(4) If, within the time hereinafter 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 choose, 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. In any proceeding under this subsection 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.

TIME FOR TAKING PROCEEDINGS.

Time for taking proceedings.

4. (1) Proceedings for the recovery under this Act of compensation for an injury shall not be maintainable unless notice in writing of the accident has been given as soon as practicable after the happening thereof, and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing

the injury, or, in case of death, within six months from the time of death:

Provided always that —

- (a) ~~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 found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect or inaccuracy, or that such want, defect or inaccuracy was occasioned by mistake, absence from the province, or other reasonable cause; and
- (b) ~~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 province, or other reasonable cause.

(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 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 ~~un~~incorporate, 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 be more than one office, any one of the offices of such body.

CONTRACTING OUT.

Contracting
out

5. ~~(1)~~ If the Attorney General, after taking steps to ascertain the views of the employer and workmen, certifies 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 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 majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favour of such scheme, the employer may, whilst the certificate is in force, contract with any of his workmen that the provisions of the scheme shall be substituted for the provisions of this Act, and thereupon the employer shall be liable only in accordance with the scheme, but, save as aforesaid, this Act shall apply notwithstanding any contract to the contrary made after the commencement of this Act.

(2) The Attorney General may give a certificate to expire at the end of a limited period of not less than five years, and may from time to time renew with or without modifications such a certificate to expire at the end of the period for which it is renewed.

(3) 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.

(4) If complaint is made to the Attorney General by or on behalf of the workmen of any employer that the benefits conferred by any scheme no longer conform to the conditions stated in subsection (1) of this section, or that the provisions of such scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the Attorney General 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.

(5) 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 Attorney General in the event of a difference of opinion.

(6) 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 may be made or required by the Attorney General.

(7) The Attorney General may make regulations for the purpose of carrying this section into effect.

SUB-CONTRACTING.

Sub-contracting 6. ~~Where~~ 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 which is in the way of the principal's trade or business, 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; and 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.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section, and all questions as to the right to and amount of any such indemnity shall in default of agreement be settled by arbitration under this Act.

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

(4) 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.

PROVISION AS TO CASES OF INSOLVENCY OF EMPLOYER.

Provision as to cases of insolvency of employer

7. ~~(1)~~ Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then, in the event of the employer making an assignment for the benefit of or a composition or arrangement with his creditors, or if the employer is a company in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same

rights and remedies and be subject to the same liabilities as if they were the employer, so however that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

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

(3) There shall be included among the debts which under section 28 of ~~The~~ Assignments Act, and section 10 of The Companies Winding-Up Ordinance, are in the distribution of the property in the case of an assignment, and in the distribution of the assets of a company being wound up, under the said Acts respectively, to be paid in priority to all other debts, the amount, not exceeding in any individual case five hundred dollars, due in respect of any compensation the liability wherefor accrued before the date of the assignment or the date of the commencement of the winding up, and the said Acts shall have effect accordingly. 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 the ~~First~~ Schedule to this Act.

(4) The provisions of this section with respect to preferences and priorities shall not apply where the assignor or the company being wound up has entered into such a contract with insurers as aforesaid.

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

REMEDIES BOTH AGAINST EMPLOYER AND STRANGER.

Remedies both
against
employer and
stranger.

8. 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 to pay damages in respect thereof—

1. The workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this Act for such compensation, but shall not be entitled to recover both damages and compensation; and
2. If the workman has recovered compensation under this Act, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the section of this Act relating to sub-contracting, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be settled by action, or, by consent of the parties, by arbitration under this Act.

PROVISIONS AS TO EXISTING CONTRACTS.

Provisions as to
existing contracts.

9. Any contract existing at the commencement of this Act, whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment, shall not, for the purposes of this Act, be deemed to continue after the time at which the workman's contract of service would determine if notice of the determination thereof were given at the commencement of this Act.

COMMENCEMENT.

Commencement

10. This Act shall come into operation on the day of nineteen hundred and , but shall not apply in any case where the accident happened before the commencement of this Act.

SCHEDULES.

Unless the context otherwise requires,—

- (a) The words "Court" or "District Court" when used in these Schedules shall mean the District Court of the district in which all the parties concerned reside, or, if they reside in different districts, then of the district in which the accident, out of which the matter arose, occurred, or any judge of such District Court;
- (b) "Rules of Court" shall mean rules of court made and promulgated as provided for in the District Courts Act.

FIRST SCHEDULE

SCALE AND CONDITIONS OF COMPENSATION. —

Scale and conditions of compensation

- (1) The amount of compensation under this Act shall be—
- (a) ~~Where~~ death results from the injury —
- (i) If the workman leaves any dependants wholly dependent upon his earnings, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of one thousand dollars, whichever of those sums is the larger, but not exceeding in any case fifteen hundred dollars, provided that the amount of any weekly payments made under this Act, and any lump sum paid in redemption thereof, shall be deducted from such sum, and, if the period of the workman's employment by the said employer has been less than the said three years,

then the amount of his earnings during the said three years shall be deemed to be one hundred and fifty-six times his average weekly earnings during the period of his actual employment under the said employer;

(ii) If the workman does not leave any such dependants, but leaves any dependants in part dependent upon his earnings, such sum, not exceeding in any case the amount payable under the foregoing provisions, as may be agreed upon, or, in default of agreement, may be determined, on arbitration under this Act, to be reasonable and proportionate to the injury to the said dependants; and

(iii) If he leaves no dependants, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars;

(b) Where total or partial incapacity for work results from the injury; a weekly payment during the incapacity not exceeding fifty per cent. of his average weekly earnings during the previous twelve months, if he 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, such weekly payment not to exceed ten dollars:

Provided that —

(a) If the incapacity lasts less than two weeks no compensation shall be payable in respect of the first week; and

(b) As respects the weekly payments during total incapacity of a workman who is under twenty-one years of age at the date of the injury, and whose average weekly earnings are less than ten dollars, one hundred per cent. shall be substituted for fifty per cent. of his average weekly earnings, but the weekly payment shall in no case exceed five dollars.

(2) For the purposes of the provisions of this schedule relating to "earnings" and "average weekly earnings" of a workman, the following rules shall be observed:-

- (a) Average weekly earnings 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;
- (b) 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;
- (c) 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;
- (d) 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.

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

(4) 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.

(5) The payment in the case of death shall, unless otherwise ordered as hereinafter provided, be paid into ~~the~~ court, and any sum so paid into ~~the~~ court shall, subject to rules of court and the provisions of this schedule, be invested, applied, or otherwise dealt with by the ~~the~~ court in such manner as the ~~the~~ court in its discretion thinks fit for the benefit of the persons entitled thereto under this Act, and the receipt of the ~~the~~ clerk of the ~~the~~ court shall be a sufficient discharge in respect of the amount paid in:

Provided that, if so agreed, the payment in case of

~~(6)~~

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.

(6) Rules of court may provide for the transfer of money paid into court under this Act from one court to another court in the Province.

(7) Where a weekly payment is payable under this Act to a person under any legal disability the court 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 schedule with respect to sums required by this schedule to be paid into court shall apply to sums paid into court in pursuance of any such order.

(8) 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 schedule, shall be settled by the court, and the amount payable to each dependant shall be settled by arbitration under this Act, or, if not so settled before payment into court under this schedule, by the court. Where there are both total and partial dependants nothing in this schedule shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

(9) Where, on application being made in accordance with rules of court, it appears to the court 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 the court 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 court may make such order for the variation of the former order or the award, as in the circumstances of the case the court may think just.

(10) Any sum which under this schedule is ordered to be invested may be invested in whole or in part in securities or investments approved by the Court, by the clerk of the court in his name as clerk.

(11) 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 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.

(12) A workman shall not be required to submit himself for examination by a medical practitioner under paragraph (4) or paragraph(11)of this schedule otherwise than in accordance with regulations made by the Attorney General or at more frequent intervals than may be prescribed by those regulations.

Where a workman has so 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 court, on application may, on payment by the applicants of such fee not exceeding ten dollars as may be prescribed, refer the matter to a medical referee appointed by the Lieutenant

Governor in Council.

The medical referee to whom the matter is so referred shall, in accordance with regulations made by the Attorney General, 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.

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 paragraph shall, subject to any regulations made by the Attorney General, apply as if the question were a question as to the condition of the workman.

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.

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

(13) Any weekly payment may be reviewed at the request either of the employer or of the workman, and on such review may be ended, diminished, or increased, subject to the maximum above provided, and the amount of payment shall, in default of agreement, be settled by

arbitration under this Act:

Provided that where the workman was at the date of the accident under twenty-one years of age and the review takes place more than twelve months after the accident, the amount of the weekly payment may be increased to any amount not exceeding fifty per cent. of the weekly sum which the workman would probably have been earning at the date of the review if he had remained uninjured, but not in any case exceeding ten dollars.

(14) Where any weekly payment has been continued for not less than six months, the liability therefor may, on application by or on behalf of the employer, be redeemed by the payment of a lump sum of such an amount as the court shall deem just, and such lump sum may be ordered by the court to be invested or otherwise applied for the benefit of the person entitled thereto:]] Provided that nothing in this paragraph shall be construed as preventing agreements being made for the redemption of a weekly payment by a lump sum.

(15) If a workman receiving a weekly payment ceases to reside in the province, he shall thereupon cease to be entitled to receive any weekly payment unless a medical referee appointed hereunder certifies that the incapacity resulting from the injury is likely to be of a permanent nature. 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.

(16) 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.

(17) Where under this schedule a right to compensation is suspended no compensation shall be payable in respect of the period of suspension.

SECOND SCHEDULE,

Arbitration, &c.

(1) For the purpose of settling any matter which under this Act is to be settled by arbitration, if any committee, representative of an employer and his workmen, exists with power to settle matters under this Act in the case of the employer and workmen, the matter shall, unless either party objects by notice in writing sent to the other party before the committee meet to consider the matter, be settled by the arbitration of such committee, or be referred by them in their discretion to arbitration as herein-after provided.

(2) If either party so objects, or there is no such committee, or the committee so refers the matter or fails to settle the matter within three months from the date of the claim, the matter shall be settled by a single arbitrator agreed on by the parties, or in the absence of agreement by the court, according to the procedure prescribed by rules of court.

(3) The Arbitration Ordinance shall not apply to any arbitration under this Act; but a committee or an arbitrator may, if they or he think fit, submit any question of law for the decision of the court, and the decision of the court on any question of law, either on such submission, or in any case where he himself settles the matter under this Act, or where he gives any decision or makes any order under this Act, shall be final, unless within the time and in accordance with the conditions prescribed by rules of the Supreme Court either party appeals to the Supreme Court in banc; and the court shall, for the purpose of proceedings under this Act, have the same powers of procuring the attendance of witnesses and the production of documents as if the proceedings were an action in the court.

(4) The court may summon a medical referee to sit with the court as an assessor.

(5) Rules of court may make provision for the appearance in any arbitration under this Act of any party by any other person.

(6) The costs of and incidental to the arbitration and proceedings connected therewith shall be in the discretion of the committee, arbitrator, or court, subject as respects such court to rules of court. The costs, whether before a committee or an arbitrator or in the court, shall not exceed the limit prescribed by rules of court, and shall be taxed in manner prescribed by those rules and such taxation may be reviewed by the court.

(7) In the case of the death, or refusal or inability to act, of an arbitrator, the court may, on the application of any party, appoint a new arbitrator.

(8) 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 a committee or by an arbitrator or by agreement, a memorandum thereof shall be sent, in manner prescribed by rules of court, by the committee or arbitrator, or by any party interested, to the clerk of the court who shall, subject to such rules, on being satisfied as to its genuineness, record such memorandum in a special register without fee, and thereupon the memorandum shall for all purposes be enforceable as a judgment of the court:

Provided that —

(a) ~~46~~ such memorandum shall be recorded before seven days after the despatch by the clerk of notice to the parties interested; and

(b) ~~46~~ 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, objects to the recording of such memorandum and proves that the workman has in fact returned to work and is earning the same wages as he did before the accident, then the memorandum shall only be recorded, if at all, on such terms as the court under the circumstances, may think just; and

(c) the court may at any time rectify the register; and

(d) 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 refer the matter to the court and the court 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 may seem just; and

(e) the court 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 the satisfaction of the court 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 may seem just.

(9) 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.

(10) The duty of District Courts under this Act shall, subject to rules of court, be part of the duties of such courts, and the officers of such courts shall act accordingly, and rules of court may be made both for any purpose for which this Act authorises rules of court to be made, and also generally for carrying into effect this Act so far as it affects such courts, and proceedings therein.

(11) No court fee, except such as may be prescribed under paragraph (12) of the ~~First~~ Schedule to this Act, 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.

(12) 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, and the solicitor or agent of a person claiming compensation under this Act shall not 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 committee, the arbitrator, or the court, 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, such sum to be awarded subject to taxation and to the scale of costs prescribed by rules of court.

(13) Any committee, arbitrator or court may, subject to regulations made by the Attorney General, submit to a medical referee for report any matter which seems material to any question arising in the arbitration.

(14) The Attorney General may, by order, either unconditionally or subject to such conditions or modifications as he may think fit, confer on any committee representative of an employer and his workmen, as respects any matter in which the committee act as arbitrators, or which is settled by agreement submitted to and approved by the committee, all or any of the powers conferred by this Act exclusively on courts or judges thereof, and may by the order provide how and to whom the compensation money is to be paid in cases where, but for the order, the money would be required to be paid into court, and the order may exclude from the operation of provisoes (d) and (e) of paragraph (8) of this Schedule agreements submitted to and approved by the committee, and may contain such incidental, consequential or supplemental provisions as may appear to the Attorney General to be necessary or proper for the purposes of the order.