



ANNO VICESIMO TERTIO

GEORGI V REGIS.

A.D. 1932.

No. 2103.

An Act to consolidate certain Statutes relating to Compensation to Workmen for Injuries suffered in the course of their Employment.

[Assented to, November 30th, 1932.]

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," and shall come into operation on a day to be fixed by proclamation. Short title, commencement, and divisions of Act.

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

PART I.—Preliminary: Sections 1 to 3.

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.

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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.

Repeal.

2. This Act is a consolidation of the Acts mentioned in the First Schedule, and the said Acts are hereby repealed.

Interpretation.

1053, 1911, s. 4;
1660, 1924, s. 3 (a)

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

“Certifying medical practitioner” means a certifying medical practitioner appointed under this Act or any Act repealed by this Act:

“Employer” includes any body of persons, corporate or unincorporate, and the legal personal representative of a deceased employer:

“Member of a family” means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, halfbrother, 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:

“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.

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PART II.

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RIGHT TO COMPENSATION.

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. Liability of employers to workmen for injuries.
1053, 1911, s. 6 (1)
5. No compensation shall be payable in respect of any injury— Circumstances where liability does not exist.
- (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 Ibid., s. 6 (2) (a) and (c).
1722, 1925, s. 3.
- (b) if the injury is consequent on or attributable to the serious and wilful misconduct of the workman.
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.
- (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 (pt.).
7. In this Act unless the context otherwise requires— Meaning of "Workman."
- "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 labor, clerical work, or otherwise, and whether the contract is expressed or implied, or is oral or in writing. 1660, 1924, s. 3 (b).
1053, 1911, s. 13 (4).
- The term does not include—
- (a) a person whose average weekly earnings exceed Ten 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.
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, Dependants entitled to compensation.
1053, 1911, s. 4.

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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.

Provision where services of employee are lent by employer. Ibid., s. 4.

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.

Sub-contracting. Ibid., s. 9 (1) and (4).

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.

(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.

Indemnity of principal. 1053, 1911, s. 9 (2).

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 workmen independently of that 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.

Saving of right to recover from contractor. Ibid., s. 9 (3).

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.

Provisions as to cases of insolvency of employer. Ibid., s. 10 (1) and (2).

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

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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.

(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.

14. (1) There shall be included among the debts which, under section 151 of the Companies Act, 1892, 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 whereof 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. *Ibid.*, s. 10 (3) and (4).

(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 the Second Schedule.

(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.

Section not to apply to voluntary winding-up for certain purposes. 1053, 1911. s. 10 (5).

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AMOUNT OF COMPENSATION.

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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 be a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or Four Hundred Pounds, whichever of these sums is greater, but not exceeding in any case Six Hundred Pounds.

Amount of compensation when workman dies leaving dependants. *Ibid.*, First Schedule (1), pt. 1660, 1924, s. 8.

(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

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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.

(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).

(4) If the period of the workman's employment by the said employer has been less than three years, 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.

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

Compensation for incapacity.
Ibid., First Schedule (1) pt.
1660, 1924, s. 9.
1746, 1926, s. 2.
2081, 1932, s. 2.

17. Where a workman dies as the result of his injury and leaves no dependants the compensation shall be the reasonable expenses of his medical attendance and burial, not exceeding Twenty Pounds.

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 fifty per centum 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 Seven Shillings and Six Pence per week for each child under the age of fourteen years totally or mainly dependent upon the earnings of the workman.

(2) The weekly payment shall not exceed Five 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 Seven Hundred Pounds.

(4) Subject to the provisos contained in this subsection—

(a) no workman who is a married man or a widower and who has one or more children under the age of fourteen years totally or mainly dependent upon his earnings shall receive during total incapacity a less sum per week than Two Pounds, plus Seven Shillings and Six Pence for every such child :

(b) no workman who is a married man not having any such child totally or mainly dependent upon his earnings shall receive during total incapacity a less sum per week than Two Pounds :

(c) no workman who is a single man or who is a widower not having any such child totally or mainly dependent upon his earnings shall receive during total incapacity a less sum per week than Thirty Shillings :

Provided that a workman shall not be entitled by virtue of this subsection to a weekly payment exceeding Five Pounds or exceeding the average weekly earnings mentioned in subsection (1) of this section :

Provided further that notwithstanding the last preceding proviso a workman of or above the age of twenty-one years who is a

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married man with or without children, or a widower having a child or children under the age of fourteen years totally or mainly dependent upon his earnings and whose said average weekly earnings did not exceed Thirty-five Shillings, shall receive during total incapacity the sum of Thirty-five Shillings per week, and a workman of or above the age of twenty-one years who is a single man or a widower not having a child or children under the age of fourteen years totally or mainly dependent on his earnings, and whose said average weekly earnings did not exceed Twenty-five Shillings, shall receive during total incapacity the sum of Twenty-five Shillings per week.

19. A workman whom his employer has reasonable cause to believe to be over sixty years of age, or who has, in accordance with the regulations, obtained from a medical referee a certificate to the effect that any physical or mental infirmity or incapacity from which he is suffering is such as to render him specially liable to accident, or to render the result of an accident to him specially serious, and who has entered into an agreement in writing with his employer as to the maximum amount of compensation to be payable under this Act in respect of accidents happening after the date of the agreement, shall not be entitled to compensation exceeding that maximum, but the maximum shall not be less—

Compensation for aged and infirm workers.

1053, 1911, First Schedule (1), pt. 1660, 1924, s. 9.

- I. where death results from the injury, and the workman leaves any dependants, than One Hundred Pounds :
- II. where total or partial incapacity for work results from the injury, than a weekly payment during the incapacity of Twenty Shillings, and a total liability of One Hundred Pounds.

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.

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.

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Meaning of employment by the same employer.

Ibid., First Schedule (2) pt.

Special allowances.

Ibid., First Schedule (2) pt.

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

Ibid., First Schedule (2), pt.

1660, 1924, s. 10.

Regard to be had to payments, allowances, &c., to workman.

1053, 1911, First Schedule (3).

Fixed rates of compensation for certain injuries.

1660, 1924, s. 12, and Schedule 1722, 1925, ss. 5 and 6.

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

26. 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.

(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

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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.

(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 Seven Hundred 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.

TABLE.

Nature of Injury.	Ratio which the fixed sum payable as compensation under this section bears to Seven Hundred 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 a 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 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

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Review of weekly
payment.
1053, 1911, First
Schedule (17).

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.

Lump sum in
redemption of
weekly payments.
Ibid., First Schedule
(18).

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 above mentioned :

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.

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PART IV.

CONDITIONS OF COMPENSATION.

Notice of accident.
Ibid., s. 7 (pt.).
1660, 1924, s. 5.

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.

(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.

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(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 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 South Australia, 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 State.
Ibid., First Schedule (19).

(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.

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.

Medical examination prior to compensation.
Ibid., First Schedule (4).

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.

Periodical medical examinations during period of compensation.
1053, 1911, First Schedule (14).

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.

Regulations as to such examinations.
Ibid., First Schedule (15).

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,

Reference to medical referee.
Ibid., First Schedule (16).

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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.

1053, 1911, First
Schedule (20).

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.

Suspension of
payment.
Ibid., First Schedule
(21).

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

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

Settlement of questions as to compensation.

Ibid., s. 6 (3).

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.

Questions as to dependants.

Ibid., First Schedule (8), pt.

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.

Arbitration by a single arbitrator.

Ibid., Second Schedule (1) and (4).

(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.

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.

Appeal.

Ibid., Second Schedule (5) and (6).

(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, 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.

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Powers of arbitrators and Magistrate as to witnesses and documents.

1053, 1911, Second Schedule (7).

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.

Magistrate may summon medical referee as assessor.

Ibid., Second Schedule (8) pt.

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.

Report of medical referee.

Ibid., Second Schedule (8), pt.

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.

Representation of parties.

Ibid., Second Schedule (9).

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

Costs.

Ibid., Second Schedule (10).

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.

Failure of arbitrator to act.

Ibid., Second Schedule (11).

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.

Registration of memorandum of agreement or arbitrator's decision.

Ibid., Second Schedule (12), pt.

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.

(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.

Recording of memorandum where workman returns to work at same wages.

1053, 1911, Second Schedule (12), pt.

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.

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50. The Special Magistrate may at any time rectify the register.

Rectification of register.

Ibid., Second Schedule (12), pt.

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.

Ibid., Second Schedule (12), pt.

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.

De-registration of agreement in some cases.

Ibid., Second Schedule (12) pt.

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.

Effect of non-registration of agreement.

Ibid., Second Schedule (13).

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, 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.

What Court or Special Magistrate to have jurisdiction.

Ibid., Second Schedule (14).

(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.

PART V.

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Duties to be part of
duties of Local
Courts.
1053, 1911, Second
Schedule (16).

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.

Fees.
Ibid., Second
Schedule (16).

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.

Payment to be made
to persons entitled.
Ibid., Second
Schedule (17).

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.

Receipt sufficient
discharge.
Ibid., Second
Schedule (20).

(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.

Costs to be taxed.

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.

Persons under
disability need not
be represented.
Ibid., Second
Schedule (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.
Ibid., 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.

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PART VI.

PAYMENT AND INVESTMENT OF COMPENSATION.

61. (1) The payment in case of death shall, unless otherwise ordered as hereinafter provided, be paid into the Local Court nearest to the place of residence of the deceased at the time of his death. The receipt of the clerk of the Court shall be a sufficient discharge in respect of the amount paid into the Court.

Investment of payment in case of death.
1053, 1911, First Schedule (5).

(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.
Ibid., First Schedule (6).

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.
Ibid., First Schedule (7).

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.
Ibid., First Schedule (9).

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
Ibid., First Schedule (10).

PART VI.

Workmen's Compensation Act.—1932.

Deposit in Savings Bank.
1053, 1911, First Schedule (11).

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.
Ibid., First Schedule (12).

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.
Ibid., First Schedule (13).

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 Act.
Ibid., s. 6 (2) (b).

69. (1) 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.

(2) 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.

Where action brought for injury for which compensation is payable under this Act.
Ibid., s. 6 (4).

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.

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PART VII.

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 to pay damages in respect thereof—

Remedies both
against employer
and stranger.
1053, 1911, s. 11.

- (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, if the parties consent, by arbitration under this Act.

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.
Ibid., 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.
Ibid., s. 8 (1)-(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 favorable 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 majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favor 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

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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.

Revocation of certificate and winding-up of scheme.
1053, 1911, s. 8 4-6.

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

Public Actuary's report.
Ibid., s. 8 (7).

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

Regulations.
Ibid., s. 8 (8).

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

Continuance of existing schemes.
New.

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.

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

Penalties not affected.
1053, 1911, s. 6 (5).

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.

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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.

(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.

(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.

Act to apply as to accidents to persons employed on "South Australian ships."
Ibid., s. 13 (1) and (2).
1660, 1924, s. 7.

(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 :—

Modifications of Act in case of accidents to seamen.
1053, 1911, s. 13 (3).

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

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No. 237 of 1881.

(b) In the case of the death of a 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 burial :

No. 237 of 1881.

(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.

82. (1) 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

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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 :

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

Workman to furnish information as to previous employers. 1053, 1911, s. 12 (1) part.

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. Ibid., s. 12 (1) part.

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. Ibid., s. 12 (1) part.

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. Ibid. s. 12 (1) part.

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Employer to whom notice to be given.
1053, 1911, s. 12 (1) part.

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.

Reference to medical referee.
Ibid., s. 12 (1) part.

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.

Certain diseases deemed to be due to nature of employment unless contrary certified.
Ibid., s. 12 (2).

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

Date of disablement how ascertained.
Ibid., s. 12 (4).

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.

Extension of Part to other diseases and processes.
Ibid., s. 12 (6.)

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.

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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.

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

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

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

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.

Claims in respect of other diseases not affected.
Ibid., s. 12 (7.)

PART X.

PART X.

INDUSTRIAL DISEASES CONTRACTED AT PORT PIRIE.

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

Interpretation.
1834, 1927, s. 3.

“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.

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.

Establishment of Medical Board.
Ibid., s. 4.

(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 reappointment.

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

PART X.

*Workmen's Compensation Act.—1932.*Appointment of
secretary.

(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 authorised 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.

Powers of the
Board.
1834, 1927, s. 5.

97. (1) 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.

(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 authorised, 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.

Periodical medical
examination of
workmen by the
Board.
Ibid., 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 workmen's right to compensation shall thereupon terminate.

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(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 for 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 examina-
tion.
Ibid., 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.
Ibid., s. 9.

(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.

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Application of
Act to assignees of
the Smelting Com-
pany.

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.

Ibid., 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.

Ibid., 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
remuneration of
medical referees and
practitioners.

1053, 1911, s. 14 (1).

105. (1) 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.

Referee not to act if
previously employed.

Ibid., s. 14 (2).

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.

Order for detention
of ship.

Ibid., s. 17.

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.

(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

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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.

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.

Compulsory
insurance.
1660, 1924, ss. 13
and 14.

(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.

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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.

Regulations.
Ibid., s. 19, pt.

110. (1) The Governor may make regulations for any purpose for which this Act authorises 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.

Penalties.

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

Rules of Supreme
Court.

Ibid., s. 20.

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 Local
Courts.

Ibid., s. 21.

112. Rules of Court may be made under the "Local Courts Act, 1926," for any purpose for which this Act authorises 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 Magistrates; 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.

Ibid., 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.

Ibid., s. 22.

1837, 1927, s. 12.

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

In the name and on behalf of His Majesty, I hereby assent to
this Bill.

A. HORE-RUTHVEN, Governor.

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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.

Section 82.

Description of Disease.	Description of Process.
Anthrax	Handling of wool, hair, bristles, hides, and skins.
Lead poisoning or its <i>sequelæ</i>	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its <i>sequelæ</i> ..	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its <i>sequelæ</i>	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its <i>sequelæ</i> ..	Any process involving the use of arsenic or its preparations or compounds.
Ankylostomiasis	Mining.
Antimony poisoning or its <i>sequelæ</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.
Carbon monoxide poisoning or its <i>sequelæ</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.

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WORKMEN'S COMPENSATION ACT, 1932.

TABLE SHOWING HOW THE SECTIONS OF THE ACTS CONSOLIDATED HAVE BEEN DEALT WITH.

Section of Repealed Act	Remarks.	Section of Consolidating Act.
The Workmen's Compensation Act, 1911 s. 1	Short title	—
Ibid. s. 2	Commencement of Act	—
" s. 3	Repealing provision	—
" s. 4	As amended by 1660, 1924, s. 3	3
	Definitions of "The Minister," "This Act," and "This State" omitted. These words are defined in the Acts Interpretation Act, 1915.	
	Definition of "workman" now contained in . . .	7
	Definition of "dependants" now contained in . .	8
	Definition of "employer" now contained in . . .	9
" s. 5 . . . . .	. . . . .	79
" s. 6 (1) . . . . .	. . . . .	4
" s. 6 (2) (a)	As amended by 1722, 1925, s. 3	5
" s. 6 (2) (b) . . . . .	. . . . .	69
" s. 6 (2) (c) . . . . .	. . . . .	5
" s. 6 (2) (d) . . . . .	. . . . .	72
" s. 6 (3) . . . . .	. . . . .	38
" s. 6 (4) . . . . .	. . . . .	70
" s. 6 (5) . . . . .	. . . . .	78
" s. 7 pt.	As amended by 1660, 1924, s. 5	29
" s. 7 pt. . . . .	. . . . .	30
" s. 8 (1)–(3) . . . . .	. . . . .	73
" s. 8 (4)–(6) . . . . .	. . . . .	74
" s. 8 (7) . . . . .	. . . . .	75
" s. 8 (8) . . . . .	. . . . .	76
" s. 9 (1) and (4)	As amended by 1660, 1924, s. 6	10
" s. 9 (2) . . . . .	. . . . .	11
" s. 9 (3) . . . . .	. . . . .	12
" s. 10 (1) and (2) . . . . .	. . . . .	13
" s. 10 (3) and (4) . . . . .	. . . . .	14
" s. 10 (5) . . . . .	. . . . .	15
" s. 11 . . . . .	. . . . .	71
" s. 12 (1) pt. . . . .	. . . . .	82
" s. 12 (1) pt. . . . .	. . . . .	83
" s. 12 (1) pt. . . . .	. . . . .	84
" s. 12 (1) pt. . . . .	. . . . .	85
" s. 12 (1) pt. . . . .	. . . . .	86
" s. 12 (1) pt. . . . .	. . . . .	87
" s. 12 (1) pt. . . . .	. . . . .	88
" s. 12 (2) . . . . .	. . . . .	89
" s. 12 (3) . . . . .	. . . . .	93
" s. 12 (4) . . . . .	. . . . .	90
" s. 12 (5) . . . . .	. . . . .	92
" s. 12 (6) . . . . .	. . . . .	91
" s. 12 (7) . . . . .	. . . . .	94

*Workmen's Compensation Act.—1932.**Table showing how the Sections of the Acts Consolidated have been dealt with—continued.*

Section of Repealed Act.	Remarks.	Section of Consolidating Act.
The Workmen's Compensation Act, 1911 s. 13 (1) and (2)	As amended by 1660, 1924, s. 7	80
Ibid. s. 13 (3)	81
" s. 13 (4)	As amended by 1660, 1924, s. 3	7
" s. 14 (1)	105
" s. 14 (2)	106
" s. 15	Operation exhausted. Omitted	—
" s. 16	109
" s. 17	107
" s. 18	113
" s. 19 part	110
" s. 20	111
" s. 21	112
" s. 22	114
" s. 23	Omitted. Provided for by Justices Act, 1921 . .	—
" First Schedule (1) pt.	As amended by 1660, 1924, s. 8	16
" " " (1) pt.	17
" " " (1) pt.	As amended by 1660, 1924, s. 9, 1746, 1926, s. 2, and 2081, 1932, s. 2	18
" " " (1) pt.	As amended by 1660, 1924, s. 9	19
" " " (2) pt.	20
" " " (2) pt.	21
" " " (2) pt.	22
" " " (2) pt.	23
" " " (2) pt.	As enacted by 1660, 1924, s. 10	24
" " " (3)	25
" " " (4)	32
" " " (5)	61
" " " (6)	62
" " " (7)	63
" " " (8) pt.	39
" " " (8) pt.	6
" " " (9)	64
" " " (10)	65
" " " (11)	66
" " " (12)	67
" " " (13)	68
" " " (14)	33
" " " (15)	34
" " " (16)	35
" " " (17)	As amended by 1660, 1924, s. 11	27
" " " (18)	28
" " " (19)	31
" " " (20)	36
" " " (21)	37
" The Second Schedule (1) to (4)	40
" " " (5) and (6)	41
" " " (7)	42
" " " (8) pt.	43
" " " (8) pt.	44
" " " (9)	45
" " " (10)	46
" " " (11)	47
" " " (12) pt.	48

*Workmen's Compensation Act.—1932.**Table showing how the Sections of the Acts Consolidated have been dealt with—continued.*

Section of Repealed Act.	Remarks.	Section of Consolidating Act.
The Workmen's Compensation Act, 1911—The Second Schedule (12) pt.	.....	49
Ibid. " " (12) pt.	.....	50
" " " (12) pt.	.....	51
" " " (12) pt.	.....	52
" " " (13) ..	.....	53
" " " (14) ..	.....	54
" " " (15) ..	.....	55
" " " (16) ..	.....	56
" " " (17) ..	.....	57 (1)
" " " (18) ..	.....	59
" " " (19) ..	.....	60
" " " (20) ..	.....	57 (2)
" The Third Schedule .....	.....	The Second Schedule
Workmen's Compensation Act Amendment Act, 1918	s. 1 Short titles	—
Ibid.	s. 2 Incorporation	—
"	s. 3 Obsolete amendment of 1053, 1911, The First Schedule	—
Workmen's Compensation Act Further Amendment Act, 1919	s. 1 Short titles	—
Ibid.	s. 2 Incorporation	—
"	s. 3 Obsolete amendment of 1053, 1911, The First Schedule	—
Workmen's Compensation Act, Further Amendment Act, 1920	s. 1 Short titles	—
Ibid.	s. 2 Incorporation	—
"	s. 3 Obsolete amendment of 1053, 1911, s. 4	—
Workmen's Compensation Act Further Amendment Act, 1922	s. 1 Short titles	—
Ibid.	s. 2 Obsolete amendment of 1053, 1911, s. 4	—
Workmen's Compensation Act Further Amendment Act, 1924	s. 1 Short titles	—
Ibid.	s. 2 Incorporation	—
"	s. 3 (a) Amendment of 1053, 1911, s. 4	3
"	s. 3 (b) Amendment of 1053, 1911, s. 4	7
"	s. 4 Obsolete amendment of 1053, 1911, s. 6 (2) (a) ..	—
"	s. 5 Amendment of <i>ibid.</i> , s. 7	29
"	s. 6 Repeal of <i>ibid.</i> , s. 9 (1) proviso	—
"	s. 7 Amendment of <i>ibid.</i> , s. 13	80
"	s. 8 Amendment of <i>ibid.</i> , The First Schedule, (1) (a) ..	16
"	s. 9 Amendment of <i>ibid.</i> , The First Schedule, (1) (b) ..	18
"	s. 10 Enactment of <i>ibid.</i> , The First Schedule (2) (e) ..	24
"	s. 11 Repeal of <i>ibid.</i> , The First Schedule (17), proviso ..	—
"	s. 12	26
"	s. 13	108
"	s. 14	108 (4)
"	The Schedule As amended by 1722, 1925, s. 6	26

Table

*Workmen's Compensation Act.—1932.**Table showing how the Sections of the Acts Consolidated have been dealt with—continued.*

Section of Repealed Act.	Remarks.	Section of Consolidating Act.
Workmen's Compensation Act		
Amendment Act, 1925 s. 1	Short titles	—
Ibid. s. 2	Incorporation.....	—
" s. 3	Amendment of 1053, 1911, s. 6	5
" s. 4	Re-enactment of <i>ibid.</i> , The First Schedule (1) (<i>b</i>) proviso	18
" s. 5	Amendment of 1660, 1924, s. 12 (4).....	26
" s. 6	Amendment of <i>ibid.</i> , The Schedule	26
Workmen's Compensation Act		
Amendment Act, 1926 s. 1	Short titles	—
Ibid. s. 2	Amendment of 1053, The First Schedule (1) (<i>b</i>)	18
Workmen's Compensation Act		
Amendment Act, 1927..... s. 1	Short titles	—
Ibid. s. 2	Incorporation.....	—
" s. 3	Interpretation	95
" s. 4	.....	96
" s. 5	.....	97
" s. 6	.....	98
" s. 7	.....	99
" s. 8	.....	100
" s. 9	.....	101
" s. 10	.....	102
" s. 11	.....	103
" s. 12	.....	114
" s. 13	.....	104
Workmen's Compensation Act, 1932 s. 1	Short title	—
Ibid. s. 2	Amendment of 1053, 1911, The First Schedule (1) (<i>b</i>)	18 (4)