

THE ISLAND OF NAURU.

No. 6 of 1956.

A N O R D I N A N C E.

Relating to Compensation to Workers for Injuries
by Accident arising out of or in the course of
their Employment, and for other purposes.

BE it ordained by the Administrator of the
Island of Nauru, acting in pursuance of the powers
conferred by Article 1 of the Agreement dated the
second day of July, 1919, between the Government of
the United Kingdom, the Government of the Commonwealth
of Australia and the Government of the Dominion of
New Zealand, as follows:-

Short title.

1. This Ordinance may be cited as the Workers'
Compensation Ordinance 1956

Commencement.

2. This Ordinance shall come into operation
on a date to be fixed by the Administrator by
notice in the Gazette.

The Commonwealth
Workmen's Compen-
sation Act 1912
to cease to apply

3.-(1.) The Commonwealth Workmens' Compensation
Act 1912 of the Commonwealth of Australia in its
application in Nauru ceases to apply to Nauru.

(2.) A matter or proceeding which was,
immediately before the commencement of this Ordinance,
pending in the Court under the Act shall be dealt with
by the Court in accordance with this Ordinance.

Compensation
for injuries
sustained before
commencement of
Ordinance.

4.-(1.) Where, before the date of commencement of
this Ordinance, a person sustained an injury in
respect of which weekly payments in accordance with
the Act would have been payable if he had been
incapacitated for work at that date, and he is not,
at that date, so incapacitated, but becomes incapaci-
tated for work after that date as a result of the

injury, compensation in respect of that incapacity is payable in accordance with the provisions of this Ordinance.

(2.) Where, after the commencement of this Ordinance, death results from an injury which was sustained before that commencement and in respect of which compensation would have been payable if the injury was sustained after that commencement, compensation is payable in respect of that death in accordance with the provisions of this Ordinance.

Interpretation.

5.-(1.) In this Ordinance, unless the contrary intention appears -

"compensation" means compensation under this Ordinance;

"dependant", in relation to a deceased worker, means -

- (a) a member of the family of the worker;
- (b) a person to whom the worker stood in loco parentis or who stood in loco parentis to the worker;
- (c) an ex-nuptial child or grand-child of the worker; and
- (d) if the worker was an ex-nuptial child - a parent or grand-parent of the worker,

who was wholly or in part dependent upon his earnings at the date of his death or who would, but for his incapacity due to the injury, have been so dependent;

"disease" includes any physical or mental ailment, disorder, defect or morbid condition, whether of sudden or gradual development, and also includes the aggravation, acceleration or recurrence of a pre-existing disease;

"earnings", in relation to a worker in respect of whom compensation is payable, means his salary or wages as varied in accordance with variations in the cost of living determined by competent authority, and includes the value of payments in kind and allowances payable to him in respect of his employment, but does not include a payment for the performance of overtime or a payment or an allowance which is intermittent or which is payable for special expenses incurred by him in respect of his employment;

"employer" includes the Administration, any body of persons, corporate or incorporate, and the legal personal representative of a deceased employer;

"incapacity", in relation to a worker, means incapacity from earning his full earnings at the work at which he was employed at the date of his injury, and

"incapacitated" has a corresponding meaning;

"injury" means an injury referred to in sub-section (1.) of section six of this Ordinance caused by an accident arising or occurring in the manner specified in that sub-section;

"medical treatment" means -

- (a) medical or surgical treatment by a legally qualified medical practitioner;
- (b) the provision of skiagrams, crutches and artificial members and artificial replacements;
- (c) treatment and maintenance as a patient at a hospital; or
- (d) nursing attendance, medicines, medical or surgical supplies or curative apparatus supplied or provided in a hospital or otherwise;

"member of the family", in relation to a worker or an employer, means the wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, adopted child or mother-in-law of the worker or employer, and includes, in relation to a worker, a woman who for a period of not less than three years immediately before his death or incapacity was wholly or mainly maintained by the worker and who, although not legally married to him, lived with him as his wife on a permanent and bona fide domestic basis and who, at the date of his death or incapacity, is not less than the age of fifty years or is maintaining one or more children under the age of sixteen years;

"monthly earnings", in relation to a worker in respect of whom compensation is payable, means -

- (a) in the case of a worker who has attained the age of twenty-one years at the time of the injury and who was employed for a period of one month or more immediately preceding his injury by the same employer in the grade in which he was employed at the time of the injury, uninterrupted by absence from work on account of illness or other unavoidable cause - his earnings for that month or, if he was employed for more than one month, his earnings for one month at the average monthly rate at which he was paid during that period of employment;

(b) in the case of any other worker who has attained the age of twenty-one years at the time of the injury - the earnings for one month at the average monthly rate at which the worker would have been paid if he had been so employed in the same grade at the same work by the same employer for a period of twelve months immediately preceding his injury; and

(c) in the case of a worker who is, at the time of the injury, under the age of twenty-one years or is an apprentice - his earnings for one month at the average monthly rate at which the worker would have been paid in his employment if he had been so employed for a period of twelve months and he had attained that age or had completed his apprenticeship immediately before the commencement of that period;

"outworker" means a person to whom articles or materials are given to be treated or manufactured in his own home or on other premises not under the control or management of the person who gave out the articles or materials;

"permanent and partial incapacity" means partial incapacity of a permanent nature in any work which an injured worker was capable of undertaking at the date on which the injury happened or occurred, and includes incapacity from an injury specified in the Schedule to this Ordinance or a combination of injuries so specified in respect of which the aggregate of percentages of incapacity specified

in that Schedule opposite to those injuries does not exceed one hundred per centum;

"permanent and total incapacity" means total incapacity of a permanent nature in any work which an injured worker was capable of undertaking at the date on which the injury happened or occurred, and includes incapacity from a combination of injuries specified in the Schedule to this Ordinance in respect of which the aggregate of percentages of incapacity specified in that Schedule opposite to those injuries exceeds one hundred per centum;

"temporary and partial incapacity" means partial incapacity of a temporary nature in the work at which an injured worker was employed at the date on which the injury happened or occurred;

"temporary and total incapacity" means total incapacity of a temporary nature in any work which an injured worker was capable of undertaking at the date on which the injury happened or occurred;

"the Act" means the Commonwealth Workmen's Compensation Act 1912 in its application to Nauru before the commencement of this Ordinance;

"the Court" means the Central Court;

"worker" means a person who has entered into or works under a contract of service or apprenticeship with an employer in Nauru, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing, but does not include -

- (a) a member of the employer's family dwelling in his home;
- (b) a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business;
- (c) an outworker; or
- (d) a member of Her Majesty's naval, military or air forces while on active service.

(2.) Where a worker has entered into concurrent contracts of service with two or more employers under which he worked at different times, his monthly earnings shall, for the purposes of this Ordinance, be computed as if his earnings under the concurrent contracts which he is incapacitated from performing were earnings in the employment of the employer for whom he was working at the time of the injury.

(3.) Where the services of a worker are temporarily lent or let on hire to another person by the person with whom the worker has entered into a contract of service or apprenticeship, the last-mentioned person shall, for the purposes of this Ordinance, be deemed to continue to be the employer of the worker while he is working for that other person.

(4.) For the purposes of sections seven, eighteen and nineteen of this Ordinance, a reference to a worker shall, where the worker died as a result of an injury, be read as a reference to the legal personal representative or to a dependant of the deceased worker who has a legal claim in respect of the death of the worker.

(5.) For the purposes of this Ordinance, a reference to a dependant does not include his legal personal representative if the dependant dies before a claim in respect of the death of a worker on whom he is dependent is made or before an order for payment of compensation has been made.

(6.) A reference in the provisions of this Ordinance applicable to a worker after the date of the injury shall be read as including a reference to a former worker.

(7.) Where a worker sustains an injury by accident in a place outside Nauru in circumstances which, if the injury had been sustained in Nauru, would entitle him to compensation in accordance with this Ordinance, his employer is, subject to this Ordinance, liable to pay compensation as if the injury had been sustained in Nauru.

(8.) For the purposes of this Ordinance, a person who is recruited as a worker from a place outside Nauru by an employer in Nauru shall be deemed to have entered into a contract of service or apprenticeship with that employer at the time and place of his recruitment.

Liability of employer for compensation for death of, or injury to, worker in his employment.

6.-(1.) Subject to this Ordinance, where a worker sustains a physical or mental injury, or the aggravation, acceleration or recurrence of a pre-existing physical or mental injury, which results in his incapacity for a period of not less than four days, or in his death, and the injury was caused by an accident -

(a) arising out of or in the course of his employment or his attendance at a trade, technical or other training school which, by the terms of his employment, he is

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required or expected by his employer to attend; or

(b) occurring while he is travelling, by the shortest convenient route for the journey, to or from -

(i) his place of employment or a school referred to in the last preceding paragraph; or

(ii) a place which it is necessary for him to attend to obtain a medical certificate or to receive medical treatment or compensation in respect of a previous injury,

his employer is liable to pay compensation in accordance with this Ordinance.

(2.) For the purposes of the last preceding subsection, where a worker dies or sustains an injury by accident occurring while he is travelling during or after a substantial interruption of the journey or a substantial deviation from the route made for a reason in connexion with his employment, attendance at the school or obtaining the certificate, treatment or compensation, as the case may be, he shall be deemed not to have sustained the injury while he was travelling by the shortest convenient route for the journey referred to in paragraph (b) of that subsection unless, in the circumstances of his particular case, the nature, extent, degree and content of the risk of accident was not materially changed or increased by reason only of that interruption or deviation.

(3.) For the purposes of sub-section (1.) of this section, the journey to Nauru from a worker's place of recruitment and his return to that place shall be deemed to be a journey to or from, as the case may be, his place of employment.

(4.) An employer is not liable to pay the compensation claimed in respect of an injury which is attributable to the worker's serious and wilful misconduct unless the injury results in death or serious and permanent incapacity.

(5.) An employer is not liable to pay compensation if the injury to a worker resulting in death or incapacity is intentionally self-inflicted.

(6.) An employer is not liable to pay compensation in respect of a worker who has sustained an injury and who was, when the accident arose or occurred, acting in contravention of a law applicable to his employment or of an order given by, or on behalf of, his employer or without instructions from his employer unless -

(a) the injury results in death or serious and permanent incapacity; and

(b) the worker was so acting for the purposes of, and in connexion with, his employer's trade or business.

Notice of injury
and claims for
compensation.

7.-(1.) Compensation for an injury is not payable under this Ordinance unless -

(a) the worker gives notice of the injury as soon as practicable after it arises or occurs and before the worker has voluntarily left the employment in which he was injured; and

(b) the claim for compensation is made -

(i) within six months after the date
of the accident; or

(ii) in case of death - within six months
after the date of death.

(2.) The want of notice or a defect or inaccuracy in the notice is not a bar to the recovery of compensation if it is found in the proceedings for the settling of the claim that the employer is not, or would not be, if a notice or an amended notice were then given and the hearing postponed, prejudiced in his defence by the want, defect or inaccuracy, or that the want, defect or inaccuracy was occasioned by mistake or other reasonable cause.

(3.) The failure to make a claim within the period specified in paragraph (b) of sub-section (1.) of this section is not a bar to the maintenance of proceedings if the failure was occasioned by mistake or other reasonable cause.

(4.) A notice in respect of an injury shall contain the name and address of the person injured, and a statement in ordinary language of the cause of the injury and the date on which the injury arose or occurred and shall be served on the employer, or, if there is more than one employer, upon one of the employers.

(5.) The notice and claim may be served by delivering it at the residence or place of business of the person on whom it is to be served.

(6.) Where the employer is a body of persons, corporate or unincorporate, the notice and claim may also be served by delivering it to the office, or if there be more than one office, any of the offices, of that body.

(7.) Upon the request of a worker who claims compensation in accordance with this section, his employer shall, for the purpose of calculating the monthly earnings of the worker, furnish in writing -

- (a) a list of the earnings earned by the worker during each month in that employment; or
- (b) if owing to the casual nature and the terms of the employment, it is impracticable to furnish a list of his earnings - a list of the average monthly amount earned, during the twelve months immediately before the date of the injury, by a person of similar earning capacity in the same grade, employed at the same work and by the same employer, or, if there is no such person so employed by that employer, by a person of similar earning capacity in the same grade and employed in the same class of employment in Nauru.

Medical examination and treatment of injured worker. 8.-(1.) Subject to the succeeding provisions of this section, where a worker has given notice of an

accident under the last preceding section, he shall, if so requested by his employer, submit himself for examination by a legally qualified medical practitioner provided and paid for by the employer.

(2.) Subject to the succeeding provisions of this section, a worker receiving periodical payments under this Ordinance shall, if and when so required by his employer, submit himself for examination by a legally qualified medical practitioner provided and paid for by the worker.

(3.) Subject to the next succeeding sub-section, a worker who is required to submit himself for examination under this section shall attend upon, and shall submit himself for examination by, the medical practitioner at the time and place notified to the worker by the employer or the medical practitioner.

(4.) If, in the opinion of a legally qualified medical practitioner, the worker is unable or is not in a fit state to attend upon the medical practitioner named by his employer in accordance with the last preceding sub-section, the worker shall notify his employer and arrange with him a reasonable time and place for the examination.

(5.) ~~Compensa~~tion is not payable to a worker who -

- (a) without reasonable cause fails or refuses to submit himself for the examination in accordance with sub-section (3.) of this section within fifteen days after the date on which he was notified that he was required to submit himself to the examination ; or
- (b) if he has arranged a reasonable time and place for the examination in accordance with the last preceding sub-section - without reasonable cause fails or refuses to submit himself for the examination at the time and place so arranged.

(6.) If a worker fails or refuses to submit himself for the examination as required under this section or in any way obstructs the examination, the right to compensation shall be suspended until the examination has taken place.

(7.) Compensation is not payable in respect of a period for which the right to compensation is suspended under the last preceding sub-section unless the Court is satisfied that the worker had a reasonable excuse for his failure to submit himself to the examination by the medical practitioner.

(8.) A worker who has suffered an injury shall, if so required by his employer, submit himself for medical treatment by a legally qualified medical practitioner provided and paid for by his employer.

(9.) If a worker unreasonably fails to submit himself for medical treatment in accordance with the last preceding sub-section, or having submitted himself, unreasonably disregards the instructions of the medical practitioner, and the injury is aggravated by that failure or by reason that he disregarded those instructions, the injury and the resulting incapacity shall, for the purposes of this Ordinance, be deemed to be of the same nature and duration as might reasonably be expected if he had so submitted himself for medical treatment and carried out the instructions, and compensation is payable accordingly.

(10.) Notwithstanding the preceding provisions of this section, where -

- (a) a claim for compensation is made in respect of the death of a worker;
- (b) the worker failed, without reasonable excuse, to submit himself before his death for examination or to medical treatment by a legally qualified medical practitioner or unreasonably disregarded the instructions of the medical practitioner; and

(c) the death of the worker was caused by that failure,

the death of the worker shall be deemed not to have resulted from the injury and no compensation is payable in respect of the injury.

Determination of claims by agreement or by the Court.

9.-(1.) An employer upon whom a notice and a claim in respect of an injury has been served under section seven of this Ordinance may enter into an agreement with the worker in accordance with the next succeeding section as to the amount of compensation to be paid to the worker, not being an amount less than the amount of compensation for which the employer is liable under this Ordinance.

(2.) If an employer on whom a notice under section seven of this Ordinance has been served does not, within fourteen days after the receipt of the notice, agree with the worker as to the compensation to be paid, the worker may apply to the Court for determination of his claim for compensation.

(3.) All claims, matters and questions arising under this Ordinance shall, in the absence of agreement, be determined by the Court and the Court may, for that purpose, procure the attendance of any witness who by virtue of his expert knowledge is able to assist the Court.

Agreement as to compensation.

10.-(1.) An agreement referred to in the last preceding section shall -

(a) be in writing, in duplicate, one copy of which shall be kept by the employer and the other by the worker; and

(b) where the worker is unable to read or understand writing in the language in which the agreement is written - be endorsed with a certificate of the Administrator, or of an

officer appointed by the Administrator for that purpose, certifying that he had read over and explained the terms of the agreement to the worker and that the worker appeared fully to understand and approve the agreement.

(2.) An agreement made in accordance with the last preceding sub-section may, on application to the Court, be made an order of the Court.

(3.) A worker or his employer who has entered into an agreement under the last preceding section, whether or not that agreement has been made an order of the Court under the last preceding sub-section, may apply to the Court within three months after the date of the agreement to have the agreement cancelled on the ground that -

- (a) the agreement is not in accordance with the provisions of this section;
- (b) the amount of compensation is less than the compensation for which the employer is liable under this Ordinance;
- (c) the agreement was entered into in ignorance of, or under a mistake as to, the true nature of the injury; or
- (d) the agreement was obtained by fraud, undue influence, misrepresentation or other improper means sufficient in law for avoiding it.

(4.) The Court may refuse to cancel the agreement, or may cancel it and make such an order (including an order relating to an amount of compensation already paid under the agreement) as in the circumstances the Court thinks just.

Compensation payable by employer where worker dies.

11.-(1.) Where a worker dies as a result of an injury -

(a) if the worker leaves dependants wholly dependent upon his earnings - his employer is liable to pay to such of those dependants, and in such proportions according to the loss suffered by those dependants, as the Court determines -

(i) an amount, not exceeding Two thousand three hundred and fifty pounds, calculated by aggregating the monthly earnings of the deceased worker for the period of forty-eight months immediately preceding the injury; or

(ii) if the amount so calculated is less than the amount of Seven hundred and fifty pounds - that last-mentioned amount;

(b) if the worker does not leave dependants wholly dependent upon his earnings but leaves dependants in part dependent upon his earnings - his employer is liable to pay to such of those dependants, and in such proportions according to the loss suffered by those dependants, as the Court determines -

(i) an amount, not exceeding the compensation payable under the last preceding paragraph, agreed upon by the employer and the dependants; or

(ii) in the absence of agreement, such amount as the Court considers reasonable; or

(c) if the worker leaves no dependants - his employer is liable to pay an amount, not exceeding Sixty pounds, equal to the cost of the funeral expenses of the deceased worker and the expenses of medical attendance as a result of the injury to the worker to form part of the estate of the deceased worker.

(2.) Where compensation is payable to a worker in respect of an incapacity from an injury and that worker dies as a result of the injury leaving dependants wholly dependent upon his earnings, any compensation paid or payable before the death of the worker in respect of his incapacity from the injury shall be deducted from the compensation payable under paragraph (a) of the last preceding sub-section.

(3.) Where there are both dependents wholly dependent on a worker's earnings and dependants partially so dependent, compensation may be allotted partly to the dependants wholly dependent and partly to the dependants partially dependent.

Compensation for permanent and total incapacity.

12. Where a worker sustains an injury which results in permanent and total incapacity, his employer is liable to pay to the worker an amount, not less than One thousand pounds, but not exceeding Two thousand three hundred and fifty pounds, calculated by aggregating the monthly earnings of the worker for the period of sixty months immediately preceding the injury.

Compensation for permanent and partial incapacity.

13.-(1.) Where a worker sustains an injury which results in permanent and partial incapacity, his employer is liable to pay as compensation to the worker -

- (a) if the injury is an injury referred to in the Schedule to this Ordinance - an amount calculated in accordance with that Schedule; or
- (b) if the injury is not referred to in that Schedule - an amount calculated by the Court as a percentage of the compensation which would be payable if the worker had sustained an injury resulting in permanent and total incapacity proportionate to the percentage of incapacity of the worker actually resulting from the injury.

(2.) Where a worker sustains more than one injury by the same accident resulting in permanent and partial incapacity, his employer is liable to pay compensation in accordance with the last preceding sub-section in respect of each injury, not exceeding in the aggregate the amount of compensation which would have been payable under the last preceding section if permanent and total incapacity had resulted from the injuries.

Compensation for temporary incapacity.

14.--(1.) Where a worker sustains an injury which results in a temporary and total incapacity or a temporary and partial incapacity, his employer is liable to pay to the worker -

- (a) periodical payments at a rate per month, not exceeding the rate of Thirty-eight pounds, calculated by taking half the difference between his average monthly earnings at the date of the accident and the average monthly earnings that he is, or the Court determines he is, capable of earning in a suitable business or employment after the accident, at such times as the employer and the worker

agree or, in the absence of agreement, as the Court orders, in respect of the period of the worker's incapacity; or

- (b) a lump sum payment equal to the aggregate of periodical payments at the rate determined in accordance with the last preceding paragraph in respect of a period which the Court determines is the probable period of the incapacity having regard to possible changes in the degree of incapacity and any payment, allowance or benefit that the worker is, in the opinion of the Court, likely to receive from his employer during that period.

(2.) The aggregate of periodical payments payable under paragraph (a) of the last preceding sub-section or a lump sum payment payable under paragraph (b) of that sub-section shall not exceed the compensation that would be payable under this Ordinance if the worker had sustained an injury resulting in a permanent and total incapacity or a permanent and partial incapacity.

(3.) Where a worker -

- (a) is receiving periodical payments under this section;
- (b) intends to leave Nauru in order to reside elsewhere; and
- (c) before he leaves Nauru, gives notice to his employer of his intention to leave Nauru, the worker shall continue to be paid the periodical payments payable to him during the period of his absence from Nauru or, if his employer agrees, shall be paid a lump sum equal to the aggregate of the remaining periodical payments payable to him.

(4.) Where a worker -

- (a) is receiving periodical payments under this section in respect of an injury; and
- (b) leaves Nauru in order to reside elsewhere without giving prior notice to his employer, the worker shall not be paid periodical payments in respect of the period for which he is absent from Nauru and he ceases to be entitled to further compensation in respect of that injury after the expiration of a period of six months' absence from Nauru.

(5.) An employer shall not -

- (a) end periodical payments made under this section unless -
 - (i) the employee and the worker so agree;
 - (ii) the Court so orders;
 - (iii) the worker is not entitled to be paid those periodical payments by reason of the operation of the provisions of sub-section (7.) of section eight of this Ordinance or the last preceding sub-section;
 - (iv) the worker resumes work and his earnings are not less than his earnings immediately before the injury; or
 - (v) the worker dies; or
- (b) diminish those periodical payments unless -
 - (i) the employer and the worker so agree;
 - (ii) the court so orders;
 - (iii) the worker returns to work; or
 - (iv) his earnings (if any) since the injury have been increased.

Compensation for death or incapacity from disease due to the nature of employment.

15.-(1.) Subject to the succeeding provisions of this section, where -

(a) a worker is incapacitated for work or dies

as a result of his having contracted a disease due to the nature of the employment in which the worker was employed; and

(b) the worker contracted the disease at any time within the period of twelve months immediately before the date of commencement of his incapacity or death,

the employer who last employed the worker during that period of twelve months in the employment to the nature of which the disease was due is liable to pay compensation in accordance with this Ordinance as if the disease were an injury under this Ordinance.

(2.) If the disease is of such a nature that it is contracted by a gradual process, another employer who, during that period of twelve months, employed the worker 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 are agreed upon by the employers or, in the absence of agreement, are settled by the Court.

(3.) Compensation under this section is not payable -

- (a) to a worker who, as a result of his having contracted a disease, is incapacitated on a date more than twelve months after the date on which he ceased to be employed by his employer in an employment to the nature of which the disease was due; or
- (b) in respect of a worker who, on account of his having contracted a disease, dies on a date more than twelve months after the date on which he ceased to be so employed unless his death was preceded, whether immediately or not, by a period of incapacity in respect of which the employer is liable under this section.

(4.) In the application of the provisions of this Ordinance to and in relation to a worker to whom this section applies, a reference to an injury shall be read as a reference to a disease due to the nature of the employment in which the worker was employed.

(5.) The injury of a worker who contracts a disease due to the nature of his employment shall be deemed to have happened or occurred -

(a) for the purposes of calculating his monthly earnings -

- (i) if the worker is employed in an employment to the nature of which the disease is due on the date from which he is incapacitated or on which he dies as a result of his having contracted the disease - on the date from which he is incapacitated or on the date of his death, as the case requires, or, if he dies after a period of incapacity, on the date from which he is incapacitated; and

(ii) in any other case - on the last day on which he was employed in an employment to the nature of which the disease was due; and

(b) for the purpose of any other provision of this Ordinance in its application to a claim under this section - on the date from which he is incapacitated by the disease or the date of his death from the disease, as the case requires, or, if he dies after a period of incapacity, on the date from which he is incapacitated.

Distribution of compensation.

16.-(1.) Where compensation in the nature of a lump sum, which is not the subject of an agreement, is payable by an employer, the employer shall pay that sum into the Court for the benefit of the person entitled to it under this Ordinance.

(2.) Where an employer pays compensation in the nature of a lump sum into the Court, the Court may, subject to the next two succeeding sub-sections, order that the amount of compensation so paid into the Court be paid to the person entitled to compensation, be invested or otherwise dealt with for his benefit as the Court thinks fit.

(3.) Where upon application, the Court considers that an order under the last preceding sub-section should be varied on account of variation in circumstances of the persons entitled or of any other cause which the Court considers sufficient, the Court may make an order for the variation of the former order.

(4.) An employer may make a payment by way of compensation to a worker to whom compensation in the nature of a lump sum is payable pending the settlement or determination of the worker's claim for compensation by the Court and the Court may, in so settling or determining the claim order that the whole or a part of

that payment be deducted from the amount of compensation payable to the worker.

(5.) Compensation in the nature of periodical payments or compensation under an agreement made in accordance with section ten of this Ordinance may be paid to the person entitled to the compensation or to the Court, and when paid to the Court, the Court shall pay that compensation to the person entitled to it.

(6.) An order by the Court under this section is final and conclusive.

(7.) The receipt of the Registrar of the Court is a sufficient discharge of an obligation to pay an amount of compensation into the Court under this section.

Review of pay-
ment of
periodical
payments by
the Court

17.-(1.) Where compensation by way of periodical payments is payable under this Ordinance either under an agreement or under an order of the Court, the employer or the worker may apply to the Court for a review of the compensation payable to the worker but, if the application is on the grounds of a change in the condition of the worker, the application shall be supported by a certificate of a legally qualified medical practitioner.

(2.) The Court may, having regard only to the incapacity of the worker as affected by the injury:-

- (a) continue, increase, diminish or end the periodical payments as it thinks fit; or
- (b) if the injury has resulted in a permanent incapacity - order that the worker be paid a lump sum calculated in accordance with section twelve or thirteen of this Ordinance, as the case requires, less the sum of the periodical payments already paid to him.

Remedies both against the employer and a stranger.

18.-(1.) If an injury in respect of which compensation is payable is caused under circumstances which appear to create a legal liability in some person other than the employer to pay damage in respect of the injury -

- (a) the worker may take proceedings against that person to recover damages and may also make a claim against the employer under this Ordinance, but shall not be entitled to retain in full both damages and amounts received under this Ordinance;
- (b) where the worker receives both amounts under this Ordinance and damages from that other person, he shall repay to the employer so much of those amounts as does not exceed the amount of the damages received from that person;
- (c) upon notice to that person, the employer has first charge upon moneys payable by that person to the worker to the extent of any amounts which the employer has paid to the worker under this Ordinance;
- (d) where the worker has received amounts under this Ordinance, but no damages or less than the full amount of the damages to which he is entitled, the person liable to pay the damages shall indemnify the employer against so much of the amounts paid to the worker as does not exceed the damages for which that person is liable; and
- (e) payment of money by that person to the employer under either of the last two preceding paragraphs shall, to the extent of the amount paid, be a satisfaction of the liability of that person to the worker.

(2.) A reference in this section to damages includes a reference to an amount agreed to be paid in settlement of a claim for damages.

Liability of
employer
independently
of this
Ordinance.

19.-(1.) Except as provided in this section, a worker is not entitled, in respect of an injury, to receive compensation or a payment by way of compensation from his employer both independently of and also under this Ordinance.

(2.) Where injury is caused to a worker in circumstances which appear to create a legal liability in his employer to pay damages in respect of the injury and the worker has received compensation, the worker is not entitled to take proceedings against his employer to recover damages unless he commences those proceedings within twelve months after the date upon which he received payment, or the first payment, of compensation.

(3.) Where a worker is awarded damages against his employer in respect of an injury independently of this Ordinance -

- (a) amounts received by him as compensation in respect of that injury shall, to the extent that they do not exceed the damages, be deemed to have been paid by the employer in or towards satisfaction of the damages; and
- (b) he is entitled to recover under this Ordinance so much (if any) of the amount which, but for this section, would be payable under this Ordinance as does not exceed any unsatisfied balance of the damages.

(4.) A reference in this section to damages awarded includes a reference to an amount agreed to be paid by an employer in settlement of a claim for damages.

Compulsory
insurance.

20.-(1.) An employer (other than the Administration or the British Phosphate Commissioners) shall obtain from an insurer approved by the Administrator for the purposes of this Ordinance, and shall at all times maintain in force with an insurer so approved, a policy or policies

of insurance or indemnity for the full amount of his liability under this Ordinance to all workers employed by him.

(2.) Where two or more employers may become liable to pay compensation in respect of the same worker, those employers, or any of them, may comply with their obligations under the last preceding sub-section in relation to that worker by means of a joint policy of insurance in respect of their joint liability.

(3.) The premium chargeable in respect of a policy referred to in the last preceding sub-section shall not exceed the current rates for insurance of an employer's liability in respect of workers engaged in the same trade, occupation, calling or industry.

(4.) Subject to sub-section (6.) of this section, a policy of insurance or indemnity for the purposes of this Ordinance shall contain only such provisions relating to an employer's liability under this Ordinance as are determined by the Administrator, but may contain such other provisions relating to liability under another law of Nauru as are appropriate to a particular case.

(5.) A contravention of the last preceding sub-section does not annul the policy or diminish or affect the liability of the insurer to the person insured under the policy.

(6.) A policy of insurance or indemnity for the purposes of this Ordinance -

(a) shall provide that the insurer shall, as well as the employer, be directly liable to a worker insured under the policy and, in the event of his death, to his dependants, to pay the compensation for which the employer is liable; and

(b) shall provide that the insurer shall be bound by, and be subject to, an order, decision or

determination made against the employer of the worker under the provisions of this Ordinance.

(7.) An employer applying to an insurer to issue or renew a policy of insurance or indemnity against liability under this Ordinance shall supply to the insurer a full and correct statement of all earnings paid to workers in his employment during the period relevant to the determination of the premium payable by him for that policy of insurance.

(8.) The Administrator may, in his discretion -

(a) approve an insurer for the purposes of this section; and

(b) revoke any such approval.

(9.) The revocation of the approval of an insurer shall not -

(a) annul a policy issued before the revocation; or

(b) diminish or otherwise affect the liability of the insurer under such a policy.

(10.) For the purposes of the provisions of this section relating to the obligations of employers, every policy which is in force at the time when the approval of an insurer is revoked shall, until the expiration of the current period of the insurance or indemnity but no longer, be deemed to be a policy maintained in force with an insurer approved by the Administrator.

(11.) An employer to whom this section applies shall not contravene or fail to comply with a provision of this section which is applicable to him.

Penalty: Two hundred pounds.

(12.) An employer to whom this section applies who has been convicted under the last preceding sub-section of the offence of failing to comply with a provision of this section shall not continue to fail to comply with

that provision.

Penalty: Twenty pounds for each week or part of a week during which the failure continues.

Compensation
not
assignable.

21. Compensation under this Ordinance, or the possibility of compensation, shall be, and shall be deemed at all times to have been, absolutely inalienable prior to actual receipt of the compensation, whether by means of, or in consequence of, sale, assignment, charge, execution or otherwise and shall not pass to another person by operation of law, nor shall a claim be set off against the amount of that compensation.

Regulations.

22. The Administrator may make regulations, not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for giving effect to this Ordinance, and, in particular, for prescribing matters providing for and in relation to -

- (a) the procedure in regard to the medical examination of injured workers;
- (b) the procedure in regard to compulsory insurance and the approval of insurers;
- (c) the matters in which fees shall be paid and the fees to be paid;
- (d) the forms to be used in connexion with this Ordinance; and
- (e) penalties not exceeding Fifty pounds for any breach of the regulations.

THE SCHEDULE

Section 13.

COMPENSATION FOR SPECIFIED INJURIES.

1. The compensation payable to a worker who sustains an injury specified in the table in this Schedule shall be calculated as a percentage of the compensation which would be payable if the worker had sustained an injury resulting in permanent and total incapacity proportionate to the percentage of incapacity specified in that table opposite to the injury actually sustained by the worker.

Nature of the injury	Percentage of incapacity resulting from the injury.
Loss of both eyes	100
Loss of an only useful eye, the other being blind or absent ..	100
Loss of one eye with serious diminution of sight of the other ..	75
Loss of one eye	40
Loss of hearing	70
Complete deafness of one ear ..	20
Loss of both hands	100
Loss of right arm or the greater part of the right arm	80
Loss of left arm or the greater part of the left arm	72
Loss of lower part of right arm, right hand or five fingers of the right hand	70
Loss of lower part of left arm, left hand or five fingers of the left hand	63

Nature of the injury,	Percentage of incapacity resulting from the injury.
Loss of right thumb	30
Loss of left thumb	27
Loss of right forefinger	20
Loss of left forefinger	18
Loss of right middle finger	16
Loss of left middle finger	15
Loss of right ring finger	14
Loss of left ring finger	13
Loss of right little finger	13
Loss of left little finger.. ..	12
Loss of total movement of joint of right thumb	14
Loss of total movement of joint of left thumb	13
Loss of distal phalanx or joint of right thumb	16
Loss of distal phalanx or joint of left thumb	15
Loss of portion of terminal segment of right thumb involving one-third of its flexor surface without loss of distal phalanx or joint	14
Loss of portion of terminal segment of left thumb involving one-third of its flexor surface without loss of distal phalanx or joint	13
Loss of two phalanges or joints of right forefinger	12

Nature of the injury	Percentage of incapacity resulting from the injury.
Loss of two phalanges or joints	
of left forefinger	11
Loss of two phalanges or joints	
of right middle or ring finger ..	11
Loss of two phalanges or joints	
of left middle or ring finger ..	10
Loss of two phalanges or joints	
of right little finger	10
Loss of two phalanges or joints	
of left little finger	9
Loss of distal phalanx or joint	
of right forefinger	10
Loss of distal phalanx or joint	
of left forefinger	9
Loss of distal phalanx or joint	
of other finger of right hand ..	8
Loss of distal phalanx or joint of	
other finger of left hand ..	7
Loss of hand and foot	100
Loss of both feet	100
Loss of leg above knee	75
Loss of leg below knee	65
Loss of foot	60
Loss of great toe	20
Loss of any other toe	8
Loss of two phalanges or joints	
of any other toe	7
Loss of phalanx or joint of great toe	10
Loss of phalanx or joint of any	
other toe	6

2. For the purpose of calculating the compensation payable in accordance with this Schedule to a worker who habitually uses his left hand and arm to perform work usually performed by a worker with his right hand and arm, the percentage of incapacity of the first-mentioned worker shall, notwithstanding the table in this Schedule, be -

(a) for the loss of his left arm or part of his left arm - the percentage of incapacity specified in that table for a similar loss in respect of a right arm or the corresponding part of a right arm; and

(b) for the loss of his right arm or part of his right arm - the percentage of incapacity specified in that table for a similar loss in respect of a left arm or the corresponding part of a left arm.

3. For the purpose of this Schedule, the loss by a worker of a specified part of the body includes -

- (a) the permanent loss of the use of that part; and
- (b) the permanent loss of the efficient use of that part in and for the purposes of his employment at the date of the injury.

Dated this Eleventh day of September , 1956.



Administrator of the Island of Nauru.