

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 179.

Workers' Compensation.

(Replaced by No. 59 of 1978.)

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Labour and Employment at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

References in, or in relation to, this Chapter to—

“the Departmental Head”—should be read as references to the Secretary for Labour and Employment;

“the Department”—should be read as references to the Department of Labour and Employment.

TABLE OF CONTENTS.

	<i>Page.</i>
<i>Workers' Compensation Act</i>	3
<i>Workers' Compensation Regulation</i>	51
Appendixes—	
1. Source of Act.	
2. Source of Regulation.	

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 179.

Workers' Compensation Act.

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Interpretation—
 - "the Chief Commissioner"
 - "Commissioner"
 - "custom"
 - "dependant"
 - "Deputy Registrar"
 - "employer"
 - "the Fund"
 - "husband"
 - "injury"
 - "the Insurance Commissioner"
 - "members of the family"
 - "nominal dependant"
 - "occupational disease"
 - "Office"
 - "officer"
 - "outworker"
 - "proceedings"
 - "the Registrar"
 - "the repealed Act"
 - "seamen"
 - "ship"
 - "this Act"
 - "tribunal"
 - "wife"
 - "worker".

PART II.—ADMINISTRATION.

2. Office of Workers' Compensation.
3. The Chief Commissioner and Commissioners.
4. Persons ineligible for appointment.
5. Term of office.
6. Removal from office.
7. Terms and conditions of appointment.
8. Leave of absence.
9. Resignation.
10. Registrar and Deputy Registrars.
11. Acting Registrar.
12. Functions, etc., of Registrar.
13. Staff.
14. Declaration of office.

Workers' Compensation

PART III.—THE WORKERS' COMPENSATION FUND.

15. The Workers' Compensation Fund.
16. Application of Public Finances (Control and Audit) Act.
17. Contributions to the Fund.
18. Expenditure from the Fund.
19. Estimates of expenditure.
20. Insufficiency of Fund.
21. Returns to be furnished by insurers.

PART IV.—CLAIMS.

Division 1.—Workers' Compensation Tribunals.

22. Constitution of tribunals.
23. Jurisdiction of tribunals.

Division 2.—Proceedings of Tribunals.

Subdivision A.—General.

24. Regulation of proceedings.
25. Questions determined on substantial merits.
26. Tribunal may act on report of officer, etc.
27. Delegation to Village Courts, etc.
28. Case stated on questions of law.
29. Certified copies, etc., of records to be prima facie evidence.
30. Issue of certificate of tribunal's finding.
31. Registrar to inform workers and employers of their rights.
32. Illegal contracts.

Subdivision B.—Expeditious Settlement of Disputes.

33. Summary list.
34. Removal of proceedings from the summary list.
35. Unreasonable delay in settlement of claims.
36. Weekly payments.
37. Making of weekly payment not an admission of liability.
38. Weekly payments cannot be recovered unless obtained by fraud.
39. Making of weekly payments not to preclude submission of notice of injury.

Division 3.—Costs.

40. Costs.

Division 4.—Notice of Injuries and Claims.

41. Time for taking proceedings.
42. Employer to give notice of injury, etc., to Registrar.
43. Deputy Registrar to ascertain whether claim for compensation may arise and to inform dependants.
44. Employer deemed to have knowledge of death of worker on his premises.
45. Failure to give notice of injury.

Division 5.—Medical Examinations.

46. Employer may require worker to be medically examined.
47. Cost of medical and surgical treatment.
48. Reports of medical examination.

Division 6.—Appeals.

49. Appeal to National Court.

Division 7.—Miscellaneous.

50. Copies of statements to be given to worker.
51. Inspection of premises, etc.
52. Notices, etc., to be displayed.

PART V.—RIGHT TO COMPENSATION.

53. Interpretation of Part V.—
 “institution”
 “journey”
 “place of abode”
 “place of employment”
 “place of pick-up”
54. Liability of employer to compensate worker for injuries.
55. Acting in employment.
56. Compensation for injuries, etc., received outside the country.
57. Drivers of certain passenger vehicles under contracts of bailment deemed to be employees.
58. Services of employee lent by employer.
59. Sub-contracting.
60. Application of Act to seaman.
61. Insolvency of employer.
62. Persons entitled to compensation on death.
63. Determination of dependency.

PART VI.—AMOUNT OF COMPENSATION.

64. Interpretation of Part VI.—
 “funeral expenses”
65. Amount of compensation payable on death of worker.
66. Compensation for incapacity.
67. Fixed rates of compensation for certain injuries.
68. Occupational diseases.
69. Additional compensation.
70. Computation of “annual earnings” and “average weekly earnings”.
71. Allowances, etc., to be taken into account in fixing weekly payment.
72. Cessation of weekly payments in respect of dependant children.

PART VII.—PAYMENT AND INVESTMENT OF WORKERS' COMPENSATION.

73. Certain purported payments of compensation invalid.
74. Compromise award by consent of parties.
75. Investment of compensation.
76. Unlawful discontinuance of weekly payments.
77. Weekly payments to worker ceasing to reside in Papua New Guinea.
78. Suspension of payment of weekly payments.
79. Weekly payments not assignable.
80. Weekly sum due to person under a legal disability.

Workers' Compensation

- 81. Lump sum in redemption of weekly payments.
- 82. Application for payment of award against uninsured employer out of the Fund.
- 83. Tribunal may make interim awards.

PART VIII.—ALTERNATIVE REMEDIES.

- 84. Liability independently of Act.
- 85. Action brought for injury under this Act.
- 86. Remedies against employer and stranger.
- 87. Where claim exists elsewhere as well as in Papua New Guinea.
- 88. Contracting out.

PART IX.—COMPULSORY WORKERS' COMPENSATION INSURANCE.

- 89. Licensed insurers only may carry on workers' compensation business.
- 90. Compulsory insurance.
- 91. Certain conditions to be of no effect.
- 92. Record of wages, etc., to be kept and supplied.
- 93. Worker may require name, etc., of insurer.
- 94. Deductions towards compensation not lawful.

PART X.—MISCELLANEOUS.

- 95. Annual report.
- 96. General penalty.
- 97. Offences to be dealt with summarily.
- 98. Regulations.

SCHEDULE 1.—Declaration of Office.

SCHEDULE 2.—Occupational Diseases.

SCHEDULE 3.—Compensation for Specified Injuries.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 179.

Workers' Compensation Act.

(Replaced by No. 59 of 1978.)

Being an Act to provide for compensation to workers and their dependants in respect of injuries suffered by workers arising out of or in the course of their employment, and for related purposes.

PART I.—PRELIMINARY.

1. Interpretation.

(1) In this Act, unless the contrary intention appears—

“the Chief Commissioner” means the Chief Commissioner of Workers' Compensation appointed under Section 3(1);

“Commissioner” means a Commissioner of Workers' Compensation appointed under Section 3(3);

“custom” means the customs and usages of the indigenous inhabitants of the country existing in relation to the matter in question at the time when, and the place in relation to which, the matter arose regardless of whether or not the custom or usage had existed from time immemorial;

“dependant” means, in relation to a deceased worker—

(a) those members of the family of the worker who—

(i) were wholly, mainly or partially dependant on his earnings on the date of his death; or

(ii) would, but for the incapacity due to the injury, have been so dependent; and

(b) other than a non-automatic citizen worker—any person who by custom has a right to share in compensation awarded in respect of the death of a worker;

“Deputy Registrar” means a Deputy Registrar of Workers' Compensation appointed under Section 10(1);

“employer” includes—

(a) the State; and

(b) a provincial government; and

(c) an authority or instrumentality constituted under any law in force in the country; and

(d) any body of persons corporate or unincorporate; and

(e) the legal personal representative of a deceased employer;

“the Fund” means the Workers' Compensation Fund established under Section 15;

“husband”, in relation to a worker who is a female, includes—

(a) a husband by custom; and

(b) a man who is not married to the worker but who is living with the worker on a permanent basis as her de facto husband;

"injury" means any physical or mental injury and includes—

(a) a disease contracted by the worker in the course of his employment, whether at or away from his place of employment, and to which the employment was a contributory factor; and

(b) the aggravation, acceleration, exacerbation, deterioration or recurrence of any pre-existing injury or disease where the employment was a contributing factor to that aggravation, acceleration, exacerbation, deterioration or recurrence;

"the Insurance Commissioner" means the Insurance Commissioner appointed under the *Insurance Act*;

"members of the family", in relation to a worker—

(a) means the wife or husband, father, mother, grandmother, grandfather, step-father, step-mother, son and daughter whether legitimate or ex-nuptial, grandson, granddaughter, step-son, step-daughter, brother, sister, step-brother, step-sister, half brother, half sister, mother-in-law or father-in-law of the worker; and

(b) includes—

(i) an adopted child, the brother of his father, a son of his father's brother, his brother's son, his brother's daughter, his mother's brother, his mother's sister, a daughter of his mother's sister, a son of his sister, a daughter of his sister and son of his mother's sister; and

(ii) any person in relation to whom the worker stands in place of a parent;

"nominal dependant" means a person who by custom has the right by that custom to determine the distribution of a compensation payment;

"occupational disease" means any of the diseases specified in Column 1 of Schedule 2 and includes any recurrence or consequence of any of those diseases;

"Office" means the Office of Workers' Compensation established by Section 2.

"officer" means—

(a) an officer appointed to the Public Service under Section 57 or 58 of the *Public Service Act*; or

(b) a person employed to render temporary or casual assistance in the Public Service under the *Public Service Act*; or

(c) a person who occupies an office for the time being declared by notice under Subsection (6);

"outworker" means a person to whom articles or materials are given out 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;

"proceedings", in relation to a tribunal, include all matters, proceedings and enquiries before the tribunal;

"the Registrar" means the Registrar of Workers' Compensation appointed under Section 10(1);

"the repealed Act" means the *Workers' Compensation Act* replaced by this Act;

"seamen" includes a master, officer, apprentice or other person employed or engaged in any capacity on board ship;

"ship" means any ship, vessel, boat or other craft not ordinarily propelled by oars;

"this Act" includes the regulations;

"tribunal" means a tribunal established under Section 22(1);

"wife", in relation to a worker, includes—

(a) a wife by custom; and

(b) a woman who is not married to the worker but who is living with the worker on a permanent basis as his de facto wife;

"worker" means a person (including a domestic servant) who has entered into or works under a contract of employment or apprenticeship or otherwise with an employer whether by way of manual labour, clerical work or otherwise and whether the contract is expressed or implied or is oral or in writing but does not include—

(a) an outworker; or

(b) a person whose employment is of a casual nature and is not for the purpose of the employer's trade or business.

(2) For the purposes of this Act—

(a) any reference in this Act to a worker who has been injured includes, where the worker is dead, a reference to his legal personal representative or to his dependants or other persons to whom or for whose benefit compensation is payable; and

(b) any reference in this Act to the wife or the widow of a worker shall, where the worker is a female, be read as a reference to the husband or widower, as the case requires, of the worker; and

(c) the exercise and performance of the powers, duties or functions of a statutory body shall be deemed to be the trade or business of that body.

(3) For the purposes of Subsection (2)(c) "statutory body" means any body corporate or unincorporate constituted by an Act in respect of which the Head of State, acting on advice, has the right to appoint one or more of the persons comprising the body or concerned in its management and includes—

(a) a provincial government; and

(b) a Special Purposes Authority or a Local Government Council or any body exercising the powers, duties and functions of a Local Government Council; and

(c) any body similar in nature and function to a Local Government Council established by a provincial government.

(4) In this Act a reference applicable to a worker after the date of injury shall be read as including a reference to a worker whose contract of employment or apprenticeship has expired or been terminated.

(5) For the purposes of this Act, in the case of an injury that is a disease, the injury shall be deemed to have occurred on the day on which the worker became totally or

partially physically or mentally incapacitated because of the injury but where a particular day cannot be ascertained then the injury shall be deemed to have occurred on a day certified by a medical practitioner to be the day on which the worker was so incapacitated by reason of the injury.

(6) The Minister may, by notice in the National Gazette, declare an office for the purpose of the definition of "officer" in Subsection (1).

PART II.—ADMINISTRATION.

2. Office of Workers' Compensation.

(1) The Office of Workers' Compensation is hereby established for the administration of this Act.

(2) The Office shall consist of—

- (a) the Chief Commissioner; and
- (b) the Commissioners (if any); and
- (c) the Registrar; and
- (d) the Deputy Registrar; and
- (e) such other staff referred to in Section 13 as are necessary for the proper administration of this Act.

3. The Chief Commissioner and Commissioners.

(1) There shall be a Chief Commissioner of Workers' Compensation who shall be—

- (a) an officer; and
- (b) appointed by the Minister by notice in the National Gazette.

(2) There shall be such number of Commissioners of Workers' Compensation as the Minister determines.

(3) A Commissioner shall—

- (a) if he is an officer—be appointed by the Minister by notice in the National Gazette; and
- (b) if he is a person other than an officer—be appointed by the Minister from a panel or panels of names submitted by—
 - (i) the employer industrial organizations of a national nature registered under the *Industrial Relations Act* in consultation with the Papua New Guinea Insurance Underwriters' Association; and
 - (ii) the employee industrial organizations of a national nature registered under the *Industrial Relations Act*,

or either of them, as the case requires, by notice in the National Gazette.

(4) Where the number of Commissioners appointed or to be appointed under Subsection (3)(b) permits, 50% of them shall be appointed from the panel or panels of names submitted by the organizations referred to in Subsection (3)(b)(i) and 50% of them shall be appointed from the panel or panels of names submitted by the organizations referred to in Subsection (3)(b)(ii).

(5) If the Minister is not satisfied that there is on a panel or panels of names submitted to him in accordance with Subsection (3) the name of a person suitable for appointment as

a Commissioner, the Minister may request the organizations referred to in Subsection (3)(b)(i) or (ii), as the case requires, to submit a further name or names.

(6) In the event of a failure on the part of the organizations referred to in Subsection (3)(b)(i) or (ii), as the case requires, to submit a panel of names in accordance with Subsection (3)(b), or a further name or names under Subsection (5), within, in the opinion of the Minister, a reasonable time after being requested by him to do so, the Minister may appoint a person to be the Commissioner.

(7) This section does not compel the Minister to appoint Commissioners.

4. Persons ineligible for appointment.

A person who—

- (a) is less than 21 years of age; or
- (b) is an undischarged bankrupt or insolvent; or
- (c) has been convicted of an offence punishable under a law of Papua New Guinea by death or imprisonment for one year or longer and, as a result of the conviction, is subject to be sentenced to death or is undergoing imprisonment, or is under bond to appear for sentence if called on; or
- (d) is of unsound mind as that expression is used in the *Public Health Act*,

shall not be appointed or nominated as a Commissioner.

5. Term of office.

(1) Subject to this Act, a Commissioner referred to in Section 3(3)(b) holds office for a term of five years, and is eligible for re-appointment.

(2) Notwithstanding Subsection (1), where a Commissioner is appointed to an office from which a Commissioner has been removed or resigned, the Commissioner so appointed holds office for the balance of the term of office of the previous Commissioner, and is eligible for re-appointment.

6. Removal from office.

If a Commissioner referred to in Section 3(3)(b)—

- (a) declines to act; or
- (b) becomes permanently incapable of performing his duties as a Commissioner; or
- (c) becomes a person disqualified under Section 4 from being appointed as a Commissioner; or
- (d) without first obtaining the approval of the Minister, engages in paid employment, outside the duties of his office; or
- (e) is guilty of misbehaviour,

the Minister may, by notice in the National Gazette, remove the Commissioner from office.

7. Terms and conditions of appointment.

The salary and other terms and conditions of appointment of Commissioners referred to in Section 3(3)(b) are as determined by the Minister after consultation with the Public Services Commission.

8. Leave of absence.

The Chief Commissioner may grant leave of absence to a Commissioner referred to in Section 3(3)(b) on such terms and conditions as to remuneration or otherwise as the Minister determines.

9. Resignation.

A Commissioner referred to in Section 3(3)(b) may resign his office by writing under his hand delivered to the Chief Commissioner.

10. Registrar and Deputy Registrars.

(1) For the purposes of this Act, the Minister may, by notice in the National Gazette, appoint—

- (a) a Registrar of Workers' Compensation; and
- (b) such Deputy Registrars of Workers' Compensation as the Minister considers necessary,

each of whom shall be an officer of the Public Service.

(2) The powers, functions, duties and responsibilities of a Deputy Registrar are—

- (a) as prescribed; or
- (b) as directed by the Chief Commissioner with, where the Deputy Registrar is an officer of the Department, the approval of the Secretary of the Department.

11. Acting Registrar.

(1) At any time when the position of Registrar is not filled on a permanent basis, or when the Registrar is absent from the country or for any reason is not able to carry out his duties, the Chief Commissioner may appoint a member of the staff of the Office or an officer to act as the Registrar.

(2) The appointment of an Acting Registrar under Subsection (1) continues until a permanent Registrar is appointed or until the Registrar returns to the country or becomes able again to carry out his duties, as the case may be.

(3) An Acting Registrar has and may exercise and perform all the powers, functions, duties and responsibilities of the Registrar.

12. Functions, etc., of Registrar.

The Registrar shall—

- (a) keep a register in the prescribed form and shall enter or cause to be entered in the register all the prescribed particulars of—
 - (i) all claims received by the Office for workers' compensation; and
 - (ii) all determinations, awards and orders of a tribunal that arise out of those claims; and
- (b) carry out such other functions and duties as are prescribed or as are directed by the Chief Commissioner.

13. Staff.

(1) Subject to Subsection (2), any staff required for the purposes of this Act shall be officers or employees of the Public Service.

(2) Subsection (1) does not prevent any person from being employed, on contract or otherwise, under any other law of Papua New Guinea to perform functions in relation to the Office.

14. Declaration of office.

The Chief Commissioner, each Commissioner, the Registrar and each Deputy Registrar shall, before taking up the duties of his office, make a Declaration of Office as set out in Schedule 1.

PART III.—THE WORKERS' COMPENSATION FUND.

15. The Workers' Compensation Fund.

The Workers' Compensation Fund is hereby established, into which shall be paid such moneys as are specified by this Act.

16. Application of Public Finances (Control and Audit) Act.

Except where this Act provides to the contrary, the provisions of the *Public Finances (Control and Audit) Act* relating to Trust Accounts within the meaning of that Act apply to and in relation to the Fund.

17. Contributions to the Fund.

(1) Each insurer shall contribute annually to the Fund a sum amounting to a percentage to be fixed by the Chief Commissioner on the total amount of the premium income (whether received by or owing to the insurer) of the insurer in respect of the year ended 31 December immediately preceding in respect of insurance or indemnity indemnifying employers against their liability in relation to workers' compensation under this Act and any other law in respect of persons employed by them, excluding any part of premiums actually paid by way of re-insurance to any other insurer contributing under this Act.

(2) Each public employer who is a self-insurer shall, in respect of any period for which contributions to the Fund are payable by the insurer, contribute to the Fund such amount as the Chief Commissioner determines and as is assessed on the wages paid by the public employer to employees during that period, having regard to the premium payable for insurance or indemnity by employers engaged in the same or any similar trade, occupation, calling or industry.

(3) The percentage shall, for the purposes of Subsection (1), be uniform for all insurers.

(4) The amount of any annual contribution—

(a) shall be paid in quarterly instalments on or before 1 January, 1 April, 1 July and 1 October in each year, or on such other days as the Chief Commissioner determines; and

(b) is recoverable as a debt due to the State in any court of competent jurisdiction.

(5) An insurer who fails to pay an instalment of the annual contribution within 30 days after the date it became payable by him, is guilty of an offence.

Penalty: A fine not exceeding K500.00.

18. Expenditure from the Fund.

There shall be paid out of the Fund—

- (a) all moneys payable on account of the employment of the Chief Commissioner, Commissioners (if any), the Registrar, the Deputy Registrars and the staff of the Office; and
- (b) all moneys payable on account of the functioning and administration of the Office; and
- (c) compensation payable under an order of a tribunal where the employer of the worker in relation to whom the order was made—
 - (i) has not effected insurance or indemnity against his liability to pay compensation under this Act and the compensation is not paid within 30 days after the date of the award; or
 - (ii) cannot, after diligent inquiry, be found; and
- (d) all other money required by the Chief Commissioner for carrying out this Act.

19. Estimates of expenditure.

(1) The Chief Commissioner shall, prior to 1 January in each year, prepare estimates of expenditure for that year and submit them to the Minister.

(2) Expenditure shall not be incurred in relation to any estimates of expenditure unless and until those estimates have been approved by the Minister.

(3) Where, in any year, the amount actually contributed to the Fund under Section 17—

- (a) is less than the expenditure actually incurred in that year, the deficit shall be added to the estimated expenditure for the next succeeding year, and the rate of contribution increased proportionately; or
- (b) exceeds the expenditure actually incurred in that year, the excess shall be regarded as a credit against contributions for the next succeeding year, and the rate of contribution may be reduced proportionately.

20. Insufficiency of Fund.

(1) Where—

- (a) the amount standing to the credit of the Fund is, at any time, insufficient to make any payment which is required by this Act to be paid; and
- (b) the Minister responsible for financial matters certifies as to the insufficiency,

the payment shall be made from the Consolidated Revenue Fund which to the necessary extent is appropriated accordingly.

(2) Any amount paid out of the Consolidated Revenue Fund under Subsection (1)—

- (a) is a charge on the Fund; and
- (b) shall, as soon as the Minister responsible for financial matters certifies that sufficient funds are standing to the credit of the Fund, be repaid from the Fund to the Consolidated Revenue Fund.

21. Returns to be furnished by insurers.

(1) In January of each year or at such other time as the Chief Commissioner appoints, every insurer shall furnish to the Chief Commissioner—

- (a) a return showing the amount of the premium income (whether received or owing to the insurer) in respect of insurance of employers against their liability to pay compensation under this Act and their liability under any other law in respect of persons employed by them during the immediately preceding year, excluding any part of that premium income actually paid by way of re-insurance to any other insurer contributing under this Act; and
- (b) a statutory declaration by the insurer or his or its manager, secretary or agent in Papua New Guinea, that he has carefully examined the return and to the best of his knowledge, information and belief, the return is a true return of that amount.

(2) An insurer who fails to furnish a return as required by Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K50.00 for each day the offence continues.

(3) An insurer who furnishes a return under Subsection (1) which is false or misleading in any material particular is guilty of an offence.

Penalty: A fine not exceeding K500.00.

PART IV.—CLAIMS.

Division 1.—Workers' Compensation Tribunals.

22. Constitution of tribunals.

(1) For the purposes of this Act, the Chief Commissioner may, by instrument under his hand, establish Workers' Compensation Tribunals consisting of—

- (a) the Chief Commissioner; or
- (b) the Chief Commissioner and one or more Commissioners; or
- (c) one or more Commissioners.

(2) Where—

- (a) a tribunal consists of more than one person; and
- (b) a vacancy occurs in the membership of the tribunal,

the tribunal may continue to act notwithstanding the vacancy.

(3) Where a tribunal continues to act after a vacancy occurs in the membership of the tribunal, no act, proceeding, determination, order or award of the tribunal is to be called into question or invalidated merely by reason of the vacancy.

23. Jurisdiction of tribunals.¹

(1) Subject to this Act, a tribunal has exclusive jurisdiction to examine, hear and determine all questions and matters arising under this Act, and the action or decision of a tribunal on any such matter is final and conclusive.

(2) Subsection (1) does not prevent a tribunal from reconsidering any matter which has been dealt with by it, or from rescinding, altering or amending any decision or order previously made by it.

¹See Section 49(1).

(3) Without limiting the generality of Subsection (1), the jurisdiction of a tribunal extends to determining—

- (a) whether an injury has arisen out of, or in the course of, an employment within the meaning of this Act; and
- (b) the existence and degree of disability by reason of any injury; and
- (c) the permanence of disability by reason of any injury; and
- (d) the degree of diminution of earning capacity by reason of any injury; and
- (e) the amount of average earnings of a worker; and
- (f) the amounts of any refunds or adjustments of assessments which, in its discretion, it may deem proper to make; and
- (g) the existence and extent of dependency; and
- (h) whether a person is a worker within the meaning of this Act; and
- (i) whether any person or aggregation of persons is or is not an employer of a worker within the meaning of this Act and if so whether such worker is or is not entitled to compensation; and
- (j) for the purposes of this Act—the existence of any relationship of any member of the family of a worker; and
- (k) all cases of permanent, partial or total incapacity, and making awards of compensation within the limits prescribed in this Act as may appear proper after taking into consideration the circumstances of the case; and
- (l) the modification of weekly payments when a partially incapacitated worker resumes or is capable of resuming any employment other than his former employment; and
- (m) whether the circumstances of any particular case justify the making of an order for redemption of weekly payments of compensation by payment of a lump sum; and
- (n) the liability of any person in respect of the expenses of medical or surgical attendance on an injured worker at the suit of any person—
 - (i) by whom they have been incurred; or
 - (ii) entitled to receive payment in respect of them.

(4) An action shall not be brought or maintained against a tribunal or any member of a tribunal in respect of an act or decision done or made in the honest belief that it was within the jurisdiction of the tribunal.

Division 2.—Proceedings of Tribunals.

Subdivision A.—General.

24. Regulation of proceedings.

(1) Subject to this Act, the procedure to be followed in any proceedings before a tribunal, the Chief Commissioner, a Commissioner, the Registrar or any other person or court acting as a delegate of a tribunal is as prescribed or, in the absence of prescription, is as determined by the tribunal, Chief Commissioner, Commissioner, Registrar or other person or body, as the case may be.

(2) Any person who is a party to any proceedings before a tribunal may—

- (a) appear in person; or

(b) be represented by—

(i) his lawyer; or

(ii) some other person duly appointed by the party for the purpose,

and, subject to this Act, every party who appears by his lawyer or other representative is bound by the acts of his lawyer or representative.

25. Questions determined on substantial merits.

(1) Subject to this Act, in the hearing and determination of any question, a tribunal, the Chief Commissioner, a Commissioner, the Registrar and any other person or court acting as a delegate of a tribunal—

(a) shall act according to equity and good conscience and the substantial merits of the case; and

(b) is not bound to observe strict legal procedure or to apply technical rules of evidence; and

(c) shall inform itself or himself as to the matter by such means as in the circumstances are considered necessary and just; and

(d) may, by order, require a person—

(i) to furnish in writing or otherwise, such particulars in relation to the matter as it or he requires; or

(ii) to attend before it or him and to give evidence on oath or otherwise;
or

(iii) to answer any questions or to produce any documents or thing which in its or his opinion is or may be relevant to the matter.

(2) In considering a question as to whether a person who resides outside the country is a dependant of a worker, a tribunal—

(a) shall require proof by or including documentary evidence that the worker has, wholly or in part, as the case may be, supported the person; and

(b) shall not accept as sufficient proof a statutory declaration or affidavit which is unsupported by documentary evidence to that effect.

(3) The granting of relief or redress under this Act shall not necessarily be restricted to the specific claim made, nor to the subject matter of the claim.

(4) All proceedings before a tribunal are to be conducted in public unless the tribunal otherwise directs.

26. Tribunal may act on report of officer, etc.

(1) A tribunal may act on the report of any member of the staff of the Office.

(2) Any inquiry which a tribunal considers necessary to make may be made by—

(a) the Chief Commissioner; or

(b) a Commissioner; or

(c) the Registrar or a Deputy Registrar; or

(d) a member of the staff of the Office; or

(e) some other person appointed by the tribunal to make the inquiry, and the tribunal may act on his report as to the result of the inquiry.

(3) A person appointed under Subsection (2) to make an inquiry has, for the purposes of making that inquiry, all the powers of a tribunal.

27. Delegation to Village Courts, etc.

(1) A tribunal may delegate all or any of its powers relating to the determination of any question relating to the existence and extent of dependency to—

(a) a Village Court; or

(b) where no Village Court has been established for the relevant area, to the Local Court,

but the delegation in each case shall be of a specific and not of a general nature.

(2) A tribunal is not bound to accept a decision of a Village Court or a Local Court made under a delegation under Subsection (1) but such a decision is, in all other respects, as binding and effective as if it were a decision of the tribunal.

(3) Where a Village Court or a Local Court has determined any question under this Section, that Court shall, within 14 days after making the determination, forward, or cause to be forwarded, to the tribunal, a report of its proceedings.

28. Case stated on questions of law.

When any question of law arises in any proceeding before it, including any question as to whether or not a person is a worker, a tribunal—

(a) may; and

(b) shall, if requested to do so by any party to the proceedings before it,

state a case for the decision of the National Court.

29. Certified copies, etc., of records to be prima facie evidence.

Every copy or extract from an entry of any book or record of a tribunal or of the Office and of any document filed with a tribunal or the Office purporting to be certified by the Registrar to be a true copy or extract shall be received in any court as prima facie evidence of the matter so certified without proof of the Registrar's appointment, authority or signature.

30. Issue of certificate of tribunal's finding.

The Registrar may, in any case where he considers it necessary to do so, and shall, on the application of any employer or worker interested in any order, award, ruling or decision of a tribunal, issue a certificate embodying the substance of the order, award, ruling or decision.

31. Registrar to inform workers and employers of their rights.

The Registrar shall, when requested to do so, furnish workers and employers with information as to their rights and liabilities in respect of injuries sustained by workers in connexion with their employment.

32. Illegal contracts.

Where in any proceedings for the recovery under this Act of compensation for an injury it appears to a tribunal that the contract of employment or apprenticeship under which the injured worker was engaged at the time when the injury happened was illegal, the tribunal may, if, having regard to all the circumstances of the case, it thinks it proper to do

so, deal with the matter as if the injured person had at that time been a worker under a valid contract of employment or apprenticeship.

Subdivision B.—Expeditious Settlement of Disputes.

33. Summary list.

(1) All proceedings before a tribunal shall, in the first instance, be placed on a list for hearing by the tribunal to be called the "summary list".

(2) Proceedings in the summary list may be heard and determined by a tribunal expeditiously and informally and on the hearing of each proceeding the tribunal may determine the matter at issue without taking evidence on oath except that, if any party to the proceedings requests that any or all evidence be taken on oath, the tribunal shall take that evidence on oath.

34. Removal of proceedings from the summary list.

(1) Where, in any proceedings in the summary list before a tribunal, the tribunal considers that difficult or complex questions of fact or law have arisen or are likely to arise, it may order that the proceedings be removed from the summary list and placed on the list for formal determination.

(2) Where proceedings have been removed from the summary list under Subsection (1) and it later appears to the tribunal bearing the proceedings that difficult or complex questions of fact or law have not arisen and that the proceeding could have been expeditiously determined at proceedings in the summary list, the tribunal may order the party responsible for having the matter removed from the summary list—

- (a) to pay the costs or any part of the costs involved in the removal and formal determination to the other party; and
- (b) where the party so responsible is an employer—it may determine that he has caused an unreasonable delay in the settlement of the claim for compensation and Section 35 applies.

35. Unreasonable delay in settlement of claims.

(1) Where, in any proceedings under this Act for the settlement of a claim for compensation, a tribunal is of the opinion that the employer is responsible for or has caused an unreasonable delay in having the claim settled, it may order that the amount of compensation awarded or payable be increased by such amount as it specifies in the order.

(2) An increase in compensation under Subsection (1) shall not exceed—

- (a) in the case of a lump sum—10% of the total amount of the compensation; or
- (b) in the case of a weekly payment—10% of the total amount of the weekly payment accrued at the date of assessment of compensation.

36. Weekly payments.

(1) Subject to the succeeding provisions of this Division, unless a tribunal otherwise orders, the first weekly payment to an incapacitated worker provided for by Section 66(1)—

- (a) shall be made to the worker as soon as possible but not more than two weeks after the worker has provided evidence of his incapacity; and
- (b) shall be made on the day on which the worker would, but for his incapacity, have been paid his wages and afterwards weekly payment shall be made at seven day intervals calculated from that day.

(2) The weekly payment referred to in Subsection (1) shall be made as if the worker were totally incapacitated.

(3) An employer who disputes his liability to pay compensation under this Act may, within the period of two weeks referred to in Subsection (1), or such further time as the Chief Commissioner orders, apply to the Chief Commissioner for an order by a tribunal that Subsection (1) does not apply.

(4) An application under Subsection (3) shall be heard and determined as a proceeding on the summary list and, until the application has been determined, the operation of Subsection (1) is suspended.

(5) On the hearing of an application under Subsection (3) the tribunal may—

(a) dismiss or adjourn the application on such terms as it thinks fit and, if it dismisses the application, make such order as to the modification of the application of Subsection (1) as it thinks fit, and then Subsection (1) applies and has effect accordingly; or

(b) if it considers that a genuine dispute exists concerning the liability of the employer to pay compensation—order that Subsection (1) does not apply.

(6) The fact that an application under Subsection (3) has been dismissed shall not be taken into account by a tribunal in any other proceedings under this Act.

(7) The provisions of this Act which provide for a hearing to be removed from the summary list for formal determination do not apply to any proceedings under this section.

37. Making of weekly payment not an admission of liability.

For the purposes of this Act, the making of a weekly payment referred to in Section 36(1) does not of itself constitute an admission of liability to pay compensation.

38. Weekly payments cannot be recovered unless obtained by fraud.

Unless it appears to a court that the payment of weekly payments was obtained by fraud or misrepresentation on the part of a worker, the fact that an employer may be found by a tribunal not to be liable for such weekly payments does not entitle any person who made the weekly payments to sue for and recover from the worker the amount of any such weekly payments.

39. Making of weekly payments not to preclude submission of notice of injury.

The making of weekly payments under this Division does not preclude the requirement of the submission of a notice of injury under Section 41.

Division 3.—Costs.

40. Costs.

(1) The costs of and incidental to any proceedings before a tribunal shall—

(a) subject to the regulations—be in the discretion of the tribunal; and

(b) not exceed the limit prescribed; and

(c) be taxed in the manner prescribed.

(2) A taxation of costs under Subsection (1) may be reviewed by the Registrar of the National Court.

Division 4.—Notice of Injuries and Claims.

41. Time for taking proceedings.

(1) Without limiting the generality of the meaning of the expression "reasonable cause" in this section, it shall be deemed to include—

- (a) the making of any payment to a worker which he believes to be a payment of compensation under this Act; and
- (b) any conduct on the part of the employer or his insurer or agent, or on the part of an employee purporting to act on behalf of the employer, by which the worker is lead to believe—
 - (i) that compensation under this Act will or will probably be paid to him; or
 - (ii) that he is not entitled to any such compensation.

(2) Subject to Section 66, proceedings for the recovery under this Act of compensation are not maintainable unless—

- (a) notice of the injury has been given as soon as practicable after the injury occurs and before the worker has voluntarily left the employment in which he was injured; and
- (b) the claim for compensation with respect to the injury has been made within 12 months after the occurrence of the injury, or in the case of death within 12 months after the date of death.

(3) For the purposes of Subsection (2)(a), a worker shall not be deemed to have voluntarily left the employment in any case where by reason of the injury he was unable to continue in the employment.

(4) The want of or any defect or irregularity in a notice of injury is not a bar to the maintenance of proceedings for the recovery of compensation—

- (a) if the application is made in respect of the death of a worker resulting from an injury which occurred on the premises of the employer, or at any place where the worker at the time of the injury was working under the control of the employer or of any person employed by the employer and the worker died—
 - (i) on those premises; or
 - (ii) at that place; or
 - (iii) on any premises belonging to the employer; or
 - (iv) without having left the vicinity of the premises or place where the injury occurred; or
- (b) if the employer is proved to have had knowledge of the injury from any other source at or about the time of the injury or, if it is found in the proceedings for settling the claim that the employer is not or would not, if a notice or amended notice were then given and the hearing postponed, be prejudiced in his defence by the want or defect or inaccuracy, or that such want, defect or inaccuracy was occasioned by mistake, absence from the country or other reasonable cause.

(5) The notice referred to in Subsection (2)—

- (a) may be given in writing or orally to the employer or any one of the employers or to any foreman or other official under whose supervision the worker is employed or to any person designated by the employer for the purpose; and

- (b) shall specify the name and address of the person injured; and
- (c) shall state in ordinary language the cause of the injury and the date on which the injury occurred.

(6) Where a principal contracts with a contractor for the execution of any work undertaken by the principal, notice of an injury to a worker employed by the contractor given to the contractor or to any foreman or other official under whose supervision the worker is employed or to any person designated for the purpose by the contractor, shall be deemed to be notice to the principal.

(7) The Registrar may receive, and a tribunal may determine, any application for compensation under this Act in any case where—

- (a) the required notice has not been given; or
- (b) the application has not been made in due time,

provided that the Registrar or tribunal, as the case may be, is satisfied that there was reasonable cause for the failure to give notice or to make the application in due time, as the case may be.

42. Employer to give notice of injury, etc., to Registrar¹.

(1) Where an injury to a worker results—

- (a) in the death of the worker within one day after the occurrence of the injury; or
 - (b) in the total or partial incapacity of the worker for a period exceeding one day,
- whether or not the injury gives rise to any claim for compensation, the employer must—
- (c) not later than seven days after the occurrence of the injury; or
 - (d) where the employer had no immediate knowledge of the injury, not later than seven days after the occurrence of the injury first came to his notice,

forward to the Registrar a notice in the prescribed form.

(2) Where an injury to a worker results in the death of the worker more than one day after the occurrence of the injury, the employer must, whether or not the death of the worker gives rise to any claim for compensation—

- (a) not later than seven days after the death; or
- (b) where the employer had no immediate knowledge of the death, not later than seven days after the death first came to his notice,

forward to the Registrar a notice in the prescribed form.

43. Deputy Registrar to ascertain whether claim for compensation may arise and to inform dependants.

(1) As soon as practicable after a notice of injury or of death is received by the Registrar he may refer the notice to a Deputy Registrar who shall ascertain whether a claim for compensation may arise out of the injury or death.

(2) Where the Deputy Registrar to whom a notice is referred under Subsection (1) is of the opinion that a claim for compensation may arise, he shall—

- (a) in the event of the death of the worker—
 - (i) ascertain whether there are any dependants of the deceased worker; and

¹See, also, Section 45.

- (ii) if there are any such dependants—
 - (A) inform them of the reported circumstances and cause of the death; and
 - (B) advise them of their possible rights to compensation under this Act; and
 - (C) if so required by all or any of them, make a claim for compensation on their behalf; and
- (b) in the event of an injury to the worker—
 - (i) if the claim is in respect of the incapacity of a worker and weekly payments are not being made under Section 36(1); or
 - (ii) if the claim is in respect of a specific injury under Section 66 or 67, and if the worker so requests, make a claim for compensation on behalf of the worker.

44. Employer deemed to have knowledge of death of worker on his premises.

For the purposes of this Division, where the death of a worker occurs on premises belonging to or under the control of his employer, the employer shall be deemed to have knowledge of the death from the moment at which it occurred.

45. Failure to give notice of injury.

An employer who, without reasonable cause (proof of which is on him) fails to give to the Registrar a notice of injury or notice of death as required by Section 42, is guilty of an offence.

Penalty: A fine not exceeding K500.00.

Division 5.—Medical Examinations.

46. Employer may require worker to be medically examined.

(1) Where a worker—

- (a) has suffered an injury that may give rise to a claim for compensation under this Act; or
- (b) has given notice of an injury under this Act; or
- (c) is receiving weekly payments under this Act,

the worker shall, if so required by the employer, from time to time, submit himself for examination by a medical practitioner provided and paid for by the employer.

(2) Where a worker—

- (a) fails or refuses to submit himself for a medical examination when required to do so under Subsection (1); or
- (b) in any way obstructs the medical examination,

his right to weekly payments or to other compensation under this Act is suspended until the medical examination has taken place.

(3) The employer shall reimburse the worker the amount of any cost or out of pocket expenses reasonably incurred by the worker for the purpose of submitting himself to any medical examination under Subsection (1).

(4) A worker shall not be required to submit himself for examination by a medical practitioner under Subsection (1)—

- (a) otherwise than in accordance with the regulations; or
- (b) at more frequent intervals than are prescribed.

47. Cost of medical and surgical treatment.

Where, during the period of his incapacity, a worker, at the request of the employer, receives medical or surgical treatment, the cost of, and incidental to, that treatment shall not be regarded as a payment, allowance or benefit within the meaning of this Act.

48. Reports of medical examination.

(1) Where a worker is required to submit himself to a medical examination under this Act, the employer must, at the request of—

- (a) the worker; or
- (b) any representative of the worker,

promptly supply, or cause to be supplied, to the worker or the representative—

- (c) a copy of every report furnished to the employer or his representative by the medical practitioner who conducted the examination; and
- (d) a written statement of all the facts, conclusions and opinions of the medical practitioner relating to the condition of the worker which have been communicated by the medical practitioner to the employer or to his representative.

(2) An employer who fails or refuses to comply with Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K200.00.

Division 6.—Appeals.

49. Appeal to National Court.

(1) Where in any proceedings under this Act a tribunal gives a decision or makes an order or award, either party to the proceedings may appeal from the decision, order or award on a question of law or fact, or both, to the National Court within the time and in accordance with the conditions prescribed by the Rules of Court for appeals from decisions of the District Court.

(2) An appeal under Subsection (1) may be by way of rehearing.

(3) The National Court shall decide the matter of the appeal and may affirm, quash or vary the decision, order or award appealed from, or substitute or make any decision, order or award which ought to have been made in the first instance, and may make such order as to the costs of the appeal or of the proceedings before the tribunal, or both, as it thinks proper.

Division 7.—Miscellaneous.

50. Copies of statements to be given to worker.

(1) An employer must, where a worker or his representative so requests, promptly supply, or cause to be supplied, to the worker or his representative a copy of any statement, that has been reduced to writing, made by the worker to the employer, or to any

representative of the employer, in connexion with an injury suffered by the worker whilst he was in the employ of the employer.

(2) An employer who fails to comply with Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

51. Inspection of premises, etc.

A person who is in charge of—

(a) any premises or place; or

(b) any plant or machinery,

at or in relation to which an injury to a worker has occurred, and who unreasonably refuses to allow the worker, or a person nominated by the worker, to make a reasonable inspection or examination of those premises, that place or that plant or machinery, is guilty of an offence.

Penalty: A fine not exceeding K100.00.

52. Notices, etc., to be displayed.

(1) An employer shall display prominently at his place or places of employment such notices in relation to workers' compensation as the Chief Commissioner determines.

(2) An employer shall keep at his place or places of employment and make available at all reasonable times to all persons employed by him all books, pamphlets, and other documents relating to workers' compensation that may, from time to time, be issued by the Chief Commissioner.

PART V.—RIGHT TO COMPENSATION.

53. Interpretation of Part V.

In this Part, unless the contrary intention appears—

"institution" means trade, technical or other school and university or other place of tertiary education;

"journey" means the passage by any reasonable, direct or convenient route between two places but does not include—

(a) any substantial deviation from that route for purposes unconnected with the employment or other purpose for which the journey was undertaken; or

(b) any substantial interruption of that passage for purposes unconnected with the employment or other purpose for which the journey was undertaken,

unless in the circumstances of that substantial deviation or substantial interruption the nature, extent, degree or content of the risk of injury to the worker was not materially changed or increased by reason only of the deviation or interruption;

"place of abode", in relation to a worker, includes any place at which, under the terms of his employment, or at the request of his employer, he resides temporarily or at which it is necessary or convenient for him to reside temporarily for the purposes of his employment;

"place of employment" includes place of pick-up and where there is no fixed place of employment, the whole area, scope or ambit of employment;

"place of pick-up" means any pre-arranged place at which persons attend and at which employers select and engage persons for employment.

54. Liability of employer to compensate worker for injuries.

(1) If in any employment personal injury arising out of or in the course of the employment is caused to a worker, his employer shall, except as provided in this Act, be liable to pay compensation in accordance with this Act.

(2) Without limiting the generality of Subsection (1), an injury shall be deemed to arise out of or in the course of the employment of a worker if it occurs while the worker—

- (a) is in the course of a daily or other periodic journey between his place of abode and his place of employment, whether such journey is to or from his place of employment; or
- (b) is in the course of a journey between his place of employment or place of abode and an institution which he is required by law to attend, or which he attends at the request of or with the approval of the employer for the purpose of attending a class or undertaking training at such an institution; or
- (c) is in attendance at an institution referred to in Paragraph (b) for a purpose referred to in that paragraph; or
- (d) is in the course of a journey between his place of abode or place of employment and any other place for the purpose of—
 - (i) obtaining a medical certificate in connection with any injury for which he has received compensation or for which a claim for compensation has been admitted; or
 - (ii) receiving attention or treatment in connexion with any such injury, medical, surgical or hospital advice,or is in attendance at any such place for any such purpose; or
- (e) is in attendance at his place of employment for reasons connected with his employment including any period—
 - (i) before he has commenced his work for the day; and
 - (ii) after he has concluded his work for the day; and
 - (iii) during an authorized break in his work,so long as the worker—
 - (iv) is not guilty of any misconduct or breach of his employer's instructions; and
 - (v) did not voluntarily subject himself to any abnormal risk of injury.

(3) While a worker is in the course of a journey from his place of employment under one employer to his place of employment under another employer, this section applies and has effect as if the first-mentioned place of employment were his place of abode.

(4) Notwithstanding any other law, a person who ordinarily engages in employment in connexion with which he customarily attends at a place of pick-up, shall be deemed to be working under a contract of employment—

- (a) with the employer who selected and engaged him at the place of pick-up; or
- (b) if no employer so selected or engaged him—with the last employer who, within the immediately preceding 21 days, selected and engaged him in that employment.

(5) Notwithstanding anything in this Act, compensation under this Act is not payable—

- (a) in respect of any injury that is consequent on or attributable to the serious and wilful misconduct of the worker unless that injury results in the death or permanent total incapacity of the worker; or
- (b) in respect of a deliberately self-inflicted injury.

55. Acting in employment.

For the purposes of Section 54, a worker shall be deemed to be acting in the course of his employment notwithstanding the fact that—

- (a) he was acting in contravention of any statutory or other regulation applicable to the employment; or
- (b) he was acting without instructions from his employer,

if he was so acting for the purposes of, and in connexion with, his employment.

56. Compensation for injuries, etc., received outside the country.

(1) Where an employer in Papua New Guinea employs a worker and that worker, whilst outside the territorial limits of Papua New Guinea—

- (a) receives an injury; or
- (b) dies,

under circumstances which, had the injury been received or the death occurred in Papua New Guinea, would entitle him (or, in the case of the death of the worker, his dependants) to compensation in accordance with the provisions of this Act, that worker is (or, in the case of the death of the worker, his dependants are) entitled to receive compensation in accordance with the provisions of this Act.

(2) For the purposes of Subsection (1), the provisions of this Act apply, with the necessary modifications, to and in relation to the injury or death.

(3) This Act shall not be construed so as to entitle a worker (or, in the case of the death of the worker, his dependants) to receive compensation for the same injury (or for the death) under this Act and under the corresponding law of any place other than Papua New Guinea.

(4) If a worker (or, in the case of the death of a worker, his dependants) receives compensation under this Act in respect of an injury (or death) and subsequently receives compensation under a corresponding law in force in a place other than Papua New Guinea in respect of the same injury (or death), the employer is entitled to recover from the worker (or, in the case of the death of the worker, his dependants) the amount of compensation paid by the employer under this Act.

57. Drivers of certain passenger vehicles under contracts of bailment deemed to be employees.

Notwithstanding anything in this Act, where a person engaged in driving a vehicle used for carrying passengers or goods for reward has the use of that vehicle under a contract of bailment (not being a bona fide contract for the purchase of the vehicle whether by hire-purchase or otherwise) under which he is required to pay any sum or sums (whether of fixed amount or proportionate to mileage or receipts or otherwise) for the use of that vehicle, then for the purposes of this Act—

- (a) such person shall be deemed to be working under a contract of employment with an employer; and

- (b) the person from whom the use of the vehicle is obtained under the contract of bailment shall be deemed to be that employer.

58. Services of employee lent by employer.

Where the services of a worker are lent or let on hire to another person by the person with whom the worker has entered into a contract of employment or apprenticeship, the latter person shall, for the purposes of this Act, be deemed to continue to be the employer of the worker while he is working for that other person.

59. Sub-contracting.

- (1) In this section—

“contractor” means a person with whom a principal contracts for the execution by or under the contractor of the whole or any part of any work undertaken by the principal;

“principal” means a person who, in the course of, or for the purpose of his trade or business, contracts with any other person for the execution by or under that person of the whole or any part of any work.

- (2) Subject to Subsection (3), the principal is liable to pay to any worker employed in the execution of the work by the contractor, any compensation under this Act which he would have been liable to pay if that worker had been immediately employed by him.

- (3) 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 worker under the employer by whom he is immediately employed.

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

- (5) This section does not prevent a worker from recovering compensation under this Act from the contractor instead of the principal.

60. Application of Act to seaman.

- (1) In this section, “Papua New Guinea ship” means a ship which is—

- (a) registered in Papua New Guinea; or
- (b) owned by a corporation established under the laws of Papua New Guinea or having its principal office or place of business in Papua New Guinea, or in the possession of any such corporation by virtue of a charter; or
- (c) owned by a person or corporation whose chief office or place of business in respect of the management of the ship is in Papua New Guinea, or in the possession of any such person or corporation by virtue of a charter.

- (2) Subject to the following modifications, this Act applies to a worker who is a seaman employed on a Papua New Guinea ship or a ship whose first port of clearance and whose destination are in Papua New Guinea:—

- (a) the notice of injury and the claim for compensation may, except where the person injured is a master, be given to the master of the ship as if he were the

employer but, where the injury occurred or the incapacity commences on board the ship, it is not necessary to give notice of the injury; and

- (b) in the case of the death of a seaman, the claim for compensation shall be made within 12 months after news of the death has been received by the claimant; and
- (c) where an injured seaman is discharged or left behind in a foreign country, depositions respecting the circumstances and nature of the injury, taken by a Judge or magistrate or by a Papua New Guinea diplomatic or consular official in the foreign country, shall, in any proceedings for enforcing the claim, be admissible in evidence if authenticated by the signature of the Judge, magistrate or diplomatic or consular official, without proof of the signature or official character of the person appearing to have signed the deposition; and
- (d) in the case of the death of a seaman leaving no dependants, compensation is not payable if the owner of the ship is, under any law in force in Papua New Guinea, liable to pay the expenses of burial; and
- (e) the weekly payment shall not be payable in respect of the period during which the owner of the ship is, under any law in force in Papua New Guinea, liable to defray the expenses of maintenance of an injured seaman; and
- (f) any sum payable by way of compensation shall be paid in full notwithstanding any limitation of liability in any other law; and
- (g) in any proceeding for the recovery of compensation, if it is shown that the ship has 12 months or upwards before the institution of the proceedings left a port of departure, the ship shall, unless it is shown that it has been heard of within 12 months after that departure, be deemed to have been lost with all hands either immediately after the time it was last heard of or at such later time as the tribunal thinks probable; and
- (h) any duplicate agreement or list of the crew made out or statement of change of the crew delivered to a public officer at the time of the last departure of the ship from a port or a certificate purporting to be a certificate from a consular or other public officer at any port, stating that certain seamen were shipped in the ship from the port, shall, if produced or purporting to be produced from proper custody, be, in the absence of proof to the contrary, sufficient proof that the seamen named as belonging to the ship were on board at the time of the loss; and
- (i) in the case of a ship lost with all hands, proceedings for the recovery of compensation shall be maintainable if the claim is made within 18 months of the date at which the ship is deemed under Paragraph (g) to have been lost with all hands.

61. Insolvency of employer.

(1) Where an employer who has entered into a contract with any insurers in respect of any liability under this Act to any worker—

- (a) becomes insolvent; or
- (b) makes a composition or arrangement with his creditors; or

(c) being a company, has commenced to be wound up,
the rights of the employer against the insurers with respect to that liability shall, notwithstanding any Act relating to insolvency or to the winding-up of companies, be transferred to and vest in the worker.

(2) Where a transfer has been effected under Subsection (1), the insurers have the same rights and remedies and are subject to the same liabilities as if they were the employer, but they shall not be under any greater liability to the worker than they would have been under to the employer.

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

62. Persons entitled to compensation on death.

(1) Where an injury results in the death of a worker, the dependants of that worker are entitled to claim compensation under this Act.

(2) Notwithstanding anything in this Act—

- (a) a wife or the wives; and
- (b) the children,

of a deceased worker who was or were wholly or mainly dependent for support on the earnings of the worker at the time of death of the worker or at any other relevant time shall be awarded jointly—

- (c) not less than 50%; or
- (d) such higher percentage as a tribunal considers just,

of the total amount of compensation awarded in respect of the death of the worker.

(3) Subject to this Act and in particular to Subsection (2), any question as to—

- (a) who is a dependant of a deceased worker; and
- (b) the amount payable to each such dependant,

shall be determined by a tribunal.

(4) Where a tribunal has determined to award compensation to a customary dependant or customary dependants of a deceased worker, the tribunal may award the compensation to a nominee dependant nominated by it for distribution by him to the persons who by custom have a right to share in any compensation payable in respect of the deceased worker, and the actual distribution by the nominee dependant shall be deemed to be a determination under Subsection (3).

(5) For the purposes of—

- (a) Subsection (4), the term "customary dependant" does not include a member of the family of a deceased worker who was mainly, wholly or partially dependent on the earnings of the worker at the date of his death, or would, but for the incapacity due to the injury have been so dependent; and
- (b) calculating the total amount of compensation payable under this section, no regard shall be had to any weekly payments awarded under this section.

63. Determination of dependency.

Notwithstanding anything to the contrary in this Act—

- (a) any child of a worker (including an ex-nuptial child) who is under 16 years of age at the time of the death of the worker or at any other relevant time shall, unless the contrary is proved, be deemed to have been—
 - (i) a dependant of the worker (where that fact is relevant); and
 - (ii) wholly dependent on the worker for support, at the time of death or other relevant time; and
- (b) the amount of—
 - (i) any child endowment or similar payment made under the laws of any other country; or
 - (ii) any child allowance paid by the State,in respect of any child shall be disregarded in ascertaining, for the purposes of this Act, whether or not that child is or was dependent on the earnings of the worker at the relevant time; and
- (c) where the wife of a worker has delivered to the employer, or to the Registrar, a statutory declaration made by her declaring that she was wholly, mainly or partially dependent on the earnings of the worker at the time of his death, or at the time of the injury which gave rise to his death or at any other relevant time, the wife shall, unless the contrary is proved, be deemed to have been—
 - (i) a dependant of the worker (where that fact is relevant); and
 - (ii) dependent on his earnings,at the time of death, injury or other relevant time to the extent stated in the statutory declaration.

PART VI.—AMOUNT OF COMPENSATION.

64. Interpretation of Part VI.

In this Part "funeral expenses" includes—

- (a) the transportation of the body of the deceased worker from the place of employment to his place of origin or any other place nominated by his dependants or, in the absence of dependants, his relatives, not being of greater expense of transportation than to his place of origin; and
- (b) if the worker is a citizen, the costs of customary burial rites (if any).

65. Amount of compensation payable on death of worker.

(1) The amount of compensation payable in relation to the death of a worker shall, where the death of the worker results from or is materially contributed to by injury, be calculated as follows:—

- (a) where the worker leaves any dependants wholly dependent on his earnings and whether or not there exist persons who by custom have a right to share in compensation awarded in respect of the death of the worker, the amount of compensation payable—
 - (i) shall, subject to Subparagraphs (ii) and (iii), be an amount equal to eight times the annual earnings of the worker at the time of the injury plus K5.50 per week for each dependant child; and

- (ii) shall be not less than K5 000.00 plus K5.50 per week for each dependant child; and
- (iii) shall be not more than K15 000.00 plus K5.50 per week for each dependant child; and
- (b) where the worker does not leave any dependants wholly dependent on his earnings and whether or not there exist persons who by custom have a right to share in compensation awarded in respect of the death of the worker, the amount of compensation payable shall be such amount as in the opinion of a tribunal is reasonable but shall not exceed the amount specified in Paragraph (a); and
- (c) where there are—
 - (i) total and partial dependants; or
 - (ii) total and partial dependants and persons who by custom have a right to share in any compensation awarded in respect of the death of the worker,
a tribunal may, subject to Section 62, apportion the compensation between the total dependants and the partial dependants and the persons who by custom have a right to share in the compensation; and
- (d) where the worker leaves no dependants totally or partially dependent on his earnings but there are persons who by custom have a right to share in compensation awarded in respect of the death of the worker, the amount of compensation payable shall be such amount as in the opinion of the tribunal is reasonable but shall not exceed the amount specified in Paragraph (a).

(2) If a deceased worker leaves no dependants the employer shall pay—

- (a) reasonable funeral expenses of the deceased worker not exceeding K350.00; and
- (b) the reasonable expenses of medical attendances on the deceased worker,

to the person or authority properly incurring such expenses.

(3) In addition to any compensation paid or payable to them under Subsection (1), the dependants of a deceased worker who have paid or are liable to pay the funeral expenses of the worker are entitled to the amount of such expenses not exceeding K350.00.

(4) Amounts paid or payable before the death of a worker as weekly payments in respect of his total or partial incapacity for work resulting from the injury shall not be taken into consideration in calculating the amount of compensation payable on his death, but any amount paid before the death of a worker in redemption of the liability for weekly payments or in respect of an injury for which compensation is payable in respect of a specified injury (except so much of that amount as in the opinion of a tribunal is referable to compensation for total or partial incapacity before death) shall be deducted from the amount payable on death.

66. Compensation for incapacity.

(1) For the purposes of this section "loss of weekly earnings" means the difference between the amount of the average weekly earnings of the worker before the injury and the average weekly amount that the worker is earning or is able to earn from some suitable employment or business after the injury.

(2) For the purposes of this section where the question of the amount that an injured worker is earning or is able to earn arises and a tribunal considers that, because of the injury

suffered by the worker (including any physical disfigurement of the worker), the worker is or will be unable to obtain employment or to remain in reasonably regular employment, the tribunal may decide that the worker is incapacitated by the injury—

- (a) totally or partially; and
- (b) permanently or temporarily,

as the circumstances of the case require and then compensation in accordance with this Act is payable.

(3) The amount of compensation payable in relation to the incapacity for work of a worker shall, where the incapacity results from or is materially contributed to by injury, be calculated as follows:—

- (a) in the case of total incapacity for work the amount of compensation payable weekly by the employer shall be—

- (i) where the average weekly earnings of the injured worker before the injury was less than K12.00, an amount equal to the average weekly earnings; and
- (ii) where the average weekly earnings of the injured worker before the injury was more than K12.00 and the injured worker has no person wholly or mainly dependent on him, an amount equal to—

(A) 80% of the average weekly earnings to a maximum of K40.00;
or

(B) K12.00,

whichever is the greater; and

- (iii) where the average weekly earnings of the injured worker before the injury was more than K12.00 and the injured worker has a spouse who is wholly or mainly dependent on him for support, an amount equal to—

(A) 80% of the average weekly earnings to a maximum of K50.00;
or

(B) K12.00,

whichever is the greater together with, in the case where the injured worker has a child or children who is or are wholly or mainly dependent on him, an additional maximum amount of K5.50 in respect of each such dependant child,

and where, under this section, a weekly payment becomes payable in respect of a child who is born and becomes dependent on the earnings of the injured worker during the incapacity, that payment shall be made only from the date of the birth of the child; and

- (b) in the case of partial incapacity for work, the amount of the compensation payable weekly by the employer during the incapacity shall be such amount as bears the same ratio to the amount of the weekly payment which would have been payable if the worker was totally incapacitated for work as the worker's loss of weekly earnings bears to the amount of the average weekly earnings of the worker before the injury.

(4) The total liability of an employer in respect of payments to an injured worker under this section shall not exceed—

- (a) K12 000.00 unless the injury results in total incapacity; and
- (b) in any case, K15 000.00.

67. Fixed rates of compensation for certain injuries.

(1) For the purposes of this section—

- (a) an annual wage of K625.00 or less shall be deemed to be an annual wage of K625.00; and
- (b) an annual wage of K1 875.00 and more shall be deemed to be an annual wage of K1 875.00.

(2) Subject to Subsections (3) and (4), the amount of compensation payable for the injuries specified in Column 1 of Schedule 3 shall be assessed in the manner indicated in Column 2 of that Schedule.

(3) Subsection (2) does not apply where, before the amount of compensation is settled, the worker, with the approval of the Registrar, by written notice to the employer, states that he does not desire to have the amount of compensation assessed under that subsection and in that case the amount of compensation shall be calculated as if this section had not been enacted.

(4) Where an injured worker at the time of the injury was receiving an annual salary of K625.00 or more but less than K1 875.00 the amount of compensation payable for the injury shall be calculated in accordance with the formula—

$$C = \frac{(W \times 8) \times P}{100}$$

where—

C is the amount of compensation payable; and

W is the worker's annual wage; and

P is the percentage specified in Column 2 of Schedule 3 opposite the injury specified in Column 1 of that Schedule.

(5) Subsection (4) does not limit the amount of compensation payable for an injury to which that subsection applies during any period of incapacity resulting from that injury occurring before an assessment of compensation is made in accordance with that subsection.

(6) For the purposes of this section, an eye, a 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 of the finger are severed from the hand or rendered permanently and wholly useless.

(7) Where a worker suffers injury to any limb, member, faculty, organ, power or sense specified in Schedule 3 so that the worker permanently has less than the full efficient use of it, the worker shall be entitled to the percentage of the compensation payable under this section for the total loss of that limb, member, faculty, organ, power or sense equal to the percentage of the full, efficient use of it lost by the worker.

(8) Subject to Subsection (9) for the purpose of determining the percentage or the full and efficient use lost by the worker of any limb, member, faculty, organ, power or sense specified in Schedule 3, no regard shall be had to the extent to which that loss may be reduced or limited by the use by the worker of any external and removable artificial aid or appliance.

(9) Where a worker has suffered an injury to his eye the percentage of the full and efficient use of that eye lost by the worker shall be determined by reference—

- (a) to the vision of that eye as corrected; or
- (b) if a refractive error of the eye has been produced or changed by the injury—to the corrected vision or uncorrected vision whichever reference discloses the greater loss.

(10) Where a worker suffers by the same occurrence from more than one of the injuries specified in Schedule 3, he is not entitled in any case to receive in respect of the fixed sums specified in that Schedule more than—

- (a) K15 000.00; or
- (b) subject to Subsection (4), eight times his annual wage,

whichever is the less.

(11) Notwithstanding Subsection (2), where a worker suffers a subsequent injury in respect of which he is entitled to payment of compensation under this section, the amount of compensation payable is the difference between the amount otherwise payable under this section and the amount of compensation that has been paid under this section or under the repealed Act in respect of the prior injury.

(12) In Subsection (11)—

“prior injury” means any injury or disease in respect of which compensation has been paid under this section or the repealed Act;

“subsequent injury” in relation to a prior injury means an injury or disease that is an aggravation, acceleration, exacerbation, deterioration or recurrence of the prior injury.

68. Occupational diseases.

(1) Where a worker contracts an occupational disease which—

- (a) results in the total or partial incapacity (whether of a permanent or temporary nature), or the death, of the worker; and
- (b) is due to the nature of any employment in which the worker was employed at any time prior to the incapacity or death, whether under one or more employers,

the worker (or, in the case of the death of the worker, his dependants) is entitled to compensation under this Act as if that incapacity or death had arisen out of or in the course of employment in respect of which Section 54 applies, and this Act, with the necessary modifications, applies, subject to the following modifications:—

- (c) the incapacity or the death shall be treated as the happening of the injury; and
- (d) where it is proved that the worker, at the time he entered into the employment, wilfully and with intent to deceive, represented in writing that he had not previously suffered from the disease which resulted in the incapacity or death—compensation is not payable; and
- (e) subject to Subsection (3), compensation is recoverable from the employer who last employed the worker in the employment to the nature of which the disease was due, immediately preceding the incapacity or death; and
- (f) the amount of compensation shall be calculated with reference to the earnings of the worker under the employer from whom compensation is recoverable under Paragraph (e) or Subsection (3), as the case requires; and

(g) the notice of incapacity or death—

- (i) shall be given to the employer who last employed the worker immediately preceding the incapacity or death in the employment to the nature of which the disease was due; and
- (ii) may be given notwithstanding that the worker has voluntarily left that employer's employment.

(2) Where a worker suffers incapacity or dies as a result of an occupational disease the worker or his dependants, as the case may be, if required to do so, shall furnish the employer who last employed the worker immediately preceding the incapacity or death in the employment, to the nature of which the occupational disease was due, with such information as he or they possess as to the names and addresses of all other employers who employed him in such employment.

(3) Where information is required to be furnished to an employer under Subsection (2) and that information—

- (a) is not furnished; or
- (b) is furnished in insufficient detail to enable the employer to take proceedings under Subsection (4),

the employer, on proving that the disease was not contracted whilst the worker was in his employment, is not liable to pay compensation.

(4) Where the employer who last employed the worker immediately preceding the incapacity or death in the employment, to the nature of which the occupational disease was due, alleges that the disease was contracted whilst the worker was in the employment of some other employer and not whilst in his employment, he may join the other employer as a party to the proceedings in respect of the claim to compensation and, if the allegation is proved, compensation is recoverable from that other employer.

(5) If the occupational disease which results in the incapacity or death of a worker is of such a nature as to be contracted by a gradual process, the other employers (if any) who employed the worker before his incapacity or death in employment, to the nature of which the disease was due, are liable to make to the employer from whom compensation is payable under Subsection (1)(e) or (4) such contribution as, in default of agreement, may be determined by a tribunal.

(6) Subsections (2) and (3) do not prevent a worker or his dependants, as the case may be, from recovering compensation under this section from any other employer who previously employed the worker in employment, to the nature of which the occupational disease was due, in the event of the employer who last employed the worker in such employment proving that the disease in question was not contracted whilst the worker was in his employment.

(7) For the purposes of this section, the date of the incapacity shall, in the absence of agreement, be such date as a tribunal determines as being the date on which the incapacity commenced and a worker shall not be prejudiced in any claim for compensation under this section by reason only that the notice of incapacity given to the employer, specified some other date.

(8) An employer may, before employing a worker in any trade, industry or process specified in Column 2 of Schedule 2, require the worker to undergo a medical examination by a medical practitioner at the cost of the employer.

(9) Subject to Subsection (10) a worker who refuses to undergo a medical examination required under Subsection (8) is not entitled to recover from that employer compensation under this Act for incapacity or death suffered as a result of an occupational disease.

(10) Subsection (9) does not apply unless the refusal referred to in that subsection is evidenced in writing under the hand of the worker.

(11) Where a worker suffers incapacity or death as a result of an occupational disease specified in Column 1 of Schedule 2, and he was, immediately preceding the incapacity or death, employed in a trade, industry or process specified in Column 2 of that Schedule opposite to the disease, it shall be presumed, until the contrary is proved, that the disease was due to the nature of the employment.

(12) This section does not prejudice the right of a worker to recover compensation under this Act in respect of a disease to which this section does not apply if the disease is a personal injury within the meaning of Section 54.

(13) The Head of State, acting on advice, may by order in the National Gazette amend Schedule 2.

69. Additional compensation.

(1) In this section—

“ambulance services” means transport by a vehicle to a hospital or other place for medical examination or medical treatment or rehabilitation and, where necessary, on the return journey;

“constant attendance service” means the service, not being nursing services, of a person in any case where the injury is of such a nature that the worker must have the regular or constant personal attendance of another person;

“hospital services” means—

- (a) maintenance, attendance and treatment in a hospital; or
- (b) the provision by a hospital of medical and nursing services, medical, surgical and other curative materials, appliances and apparatus; or
- (c) other usual or necessary hospital services;

“medical services” means—

- (a) attendance, examination or treatment of any kind administered by a medical practitioner, by a registered dentist, by a registered optician or on the prescription of a medical practitioner by a registered physiotherapist or by a registered chiroprapist; or
- (b) the provision and the repair, adjustment or replacement of skiagrams, artificial limbs, eyes or teeth, crutches, splints, spectacles, and other medical and surgical aids and curative appliances or apparatus; or
- (c) the repair or replacement of artificial limbs, eyes or teeth, crutches, splints, spectacles or other medical or surgical aids or curative appliances destroyed or damaged at the time of the injury; or
- (d) the provision by a registered pharmaceutical chemist of medicines or curative appliances or materials on the prescription of a medical practitioner; or
- (e) the provision by a medical practitioner, registered dentist, registered physiotherapist, registered optician or registered chiroprapist of any

certificate required by the worker, his legal personal representatives or his dependants for the purposes of this Act;

"nursing services" means nursing services rendered by a registered nurse otherwise than as a member of the nursing staff of a hospital;

"reasonable", in relation to any costs or claims, means reasonable having regard not only to the service or provision actually rendered but also to the necessity of that service or provision in the circumstances of the case.

(2) Where a worker is entitled to compensation under the other provisions of this Act or under Subsection (6), the employer is liable to pay as compensation to the worker such reasonable expenses as were incurred by the worker as a result of his injury—

- (a) for medical services, hospital services, nursing services, constant attendance services and ambulance services; and
- (b) not exceeding K75.00 for repairing or replacing damaged clothing; and
- (c) not exceeding K200.00 for repairing or replacing damaged tools of trade.

(3) Where a person or authority—

- (a) has rendered to or provided for a worker any medical services, hospital services, nursing services, constant attendance services or ambulance services for the cost of which the employer is required under this section to compensate the worker; and
- (b) has not been paid the full amount to which he or it is entitled for those services,

the employer may pay to the person or authority the whole or any part of the amount owing to him or it and such a payment shall, to the extent of the amount paid, be a discharge of the liability of the worker under this section and of the liability of the worker to the person or authority for the service.

(4) The amount for which an employer shall be liable in respect of medical services, hospital services, nursing services, constant attendance services or ambulance services is such as is agreed on by the employer and the worker or, in default of such agreement, as is determined by a tribunal.

(5) The compensation payable under this section is additional to all other compensation payable to the worker and the fact that a worker is entitled to compensation under this section shall not restrict the compensation payable to him under any other provision of this Act.

(6) Where, in any employment, personal injury arising out of or in the course of employment is caused to a worker and the worker is not disabled for at least one day from earning full wages at his work, this section shall apply to the same extent as if the worker was so disabled for at least one day and whether or not the worker is entitled to compensation other than compensation for expenses referred to in this section.

70. Computation of "annual earnings" and "average weekly earnings".

(1) In this Part any reference to the annual earnings of a worker shall be taken to refer to an amount of 52 times his average weekly earnings calculated in accordance with Subsection (2).

(2) In this Part any reference to the average weekly earnings of a worker before an inquiry shall, subject to this subsection, be taken to refer to his average weekly earnings during the period of 12 months immediately preceding the injury if he has been so long employed by the same employer but, if not, then for any lesser period during which he has

been so employed and, in the ascertainment of such average weekly earnings, the following provisions shall be observed:—

- (a) in computing average weekly earnings, amounts paid for overtime worked by the worker shall be included; and
- (b) where, by reason of—
 - (i) the shortness of time during which the worker has been in the employment of his employer; or
 - (ii) the terms of the employment, it is impracticable at the time of the injury to compute the average weekly earnings of the worker under that employer, regard may be had to the average weekly amount which during the 12 months previous to the injury was being earned—
 - (iii) by a person in the same grade employed at the same work by the same employer; or
 - (iv) 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 area; and
- (c) where—
 - (i) the worker 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; or
 - (ii) the worker's employment has been of a casual nature, his average weekly earnings shall be computed as if his earnings under all such contracts or in the employment of his several employers were earnings in the employment of the employer for whom he was working at the time of the injury; and
- (d) employment by the same employer shall be taken to mean employment by the same employer in the grade in which the worker was employed at the time of the injury uninterrupted by absence from work due to illness or other unavoidable cause, and the worker shall be deemed to have been employed in a new grade of employment whenever his rate of payment has been lawfully increased or decreased otherwise than by any cost of living adjustments; and
- (e) where the employer has been accustomed to pay to the worker any 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; and
- (f) in computing average weekly earnings, the value of food and accommodation supplied by an employer, the cost of which is not deducted from the wage of the worker, shall be included; and
- (g) where the worker delivers to the employer a written statement verified by statutory declaration setting out the amount of his earnings during any period the statement is prima facie evidence that the amount was the earnings of the worker during that period.

71. Allowances, etc., to be taken into account in fixing weekly payment.

In fixing the amount of any weekly payment—

- (a) regard shall be had to any payment or allowance or benefit the worker may receive from the employer during the period of his incapacity; and

- (b) regard shall not be had to any sum paid or payable under any contract of assurance or insurance or of any industrial award or determination providing for additional compensation payments.

72. Cessation of weekly payments in respect of dependant children.

A weekly payment in respect of a dependant child referred to in this Part ceases to be payable when the dependant child—

- (a) attains the age of 16 years; or
- (b) marries; or
- (c) dies,

whichever first occurs.

PART VII.—PAYMENT AND INVESTMENT OF WORKERS' COMPENSATION.

73. Certain purported payments of compensation invalid.

(1) A payment, other than a weekly payment under Section 36, shall not be deemed to be a payment of compensation, or valid compromise of any claim under this Act, unless—

- (a) the payment is made under an award of a tribunal; or
- (b) a tribunal orders that the payment is to be deemed to be a payment of compensation.

(2) Where any person, except in accordance with an award of a tribunal, makes any payment, other than a weekly payment under Section 36, in purported payment of compensation or in purported compromise of any claim under this Act—

- (a) the person who makes the payment; and
- (b) if that person is an employer or agent of the employer concerned or of that employer's insurer—the employers or insurer, as the case may be,

are each and severally guilty of an offence.

Penalty: For a first offence—a fine not exceeding K100.00.

For a second or subsequent offence—a fine not exceeding K500.00.

(3) It is a defence to a prosecution for an offence against Subsection (2) if the defendant proves that a tribunal ordered that the payment be deemed to be a payment in full settlement of compensation in accordance with or in valid compromise of the whole claim under this Act.

74. Compromise award by consent of parties.

Where the parties agree on any claim for compensation under this Act, a tribunal may, after such investigation as it thinks proper, make an award by consent of the parties.

75. Investment of compensation.

(1) Unless otherwise ordered, compensation, other than weekly payments, shall be paid into the Office and the receipt of the Registrar shall be sufficient discharge in respect of any amount of compensation so paid in.

(2) If so agreed the payment of compensation in the case of death shall, if the worker 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.

(3) The Chief Commissioner may invest, apply or otherwise deal with any sum paid into the Office under Subsection (1) in such manner as in his discretion he thinks fit for the benefit of the person entitled to it under this Act.

(4) The Chief Commissioner in his administration of any moneys paid into the Office under Subsection (1), is not bound by any law relating to the administration or investment of trust funds but he is bound in administering such moneys to act in good faith.

76. Unlawful discontinuance of weekly payments.

(1) Except where a provision of this Act specifically provides otherwise, a weekly payment made under this Act shall not be discontinued or diminished without the prior consent of the Registrar.

(2) Where the Registrar has given his consent or refused to give his consent under Subsection (1), the worker or employer, as the case may be, may, within 21 days after giving or refusal of consent, apply to the Chief Commissioner for an order by a tribunal that—

- (a) the weekly payments not be discontinued or diminished; or
- (b) the weekly payments be discontinued or diminished,

as the case may be, and such application is to be heard and determined as a proceeding on the summary list.

(3) On the hearing of an application referred to in Subsection (2), the tribunal may—

- (a) adjourn the application on such terms as it thinks fit; or
- (b) dismiss the application; or
- (c) make such order as to the continuance, discontinuance or diminution of weekly payments as it thinks fit.

(4) Any weekly payment may, on the application of the worker, at intervals of not less than 12 months, be reviewed by a tribunal and where the review takes place more than three months after the injury, the amount of the weekly payment may be increased by an amount not exceeding 80% of the cost of living increases that would have been granted to the worker but for the injury.

(5) A hearing or review under this section shall be heard and determined as a proceeding on the summary list and Section 34(1) does not apply.

(6) If weekly payments are discontinued or diminished otherwise than in accordance with this Act, the employer is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(7) A conviction for an offence against Subsection (6) does not affect any liability for the making of weekly payments under this Act.

77. Weekly payments to worker ceasing to reside in Papua New Guinea.

(1) Where a worker who is receiving a weekly payment ceases, without the consent of his employer to reside in Papua New Guinea, he shall cease to be entitled to receive any weekly payment unless a tribunal otherwise orders.

(2) Where, under Subsection (1)—

- (a) the employer consents to the worker ceasing to reside in Papua New Guinea;
- or

- (b) a tribunal orders that the worker continue to be eligible to receive the weekly payment,

the weekly payments shall be paid quarterly in arrears for so long as the worker proves his identity and the incapacity in respect of which the weekly payment is payable in such manner and at such intervals as the tribunal directs.

78. Suspension of payment of weekly payments.

Where a right to compensation is suspended under this Act, weekly payments are not payable in respect of the period of suspension.

79. Weekly payments not assignable.

A weekly payment, or a sum paid by way of redemption of a weekly payment—

- (a) is not capable of being assigned, charged or attached; and
- (b) shall not pass to any other person by operation of law; and
- (c) shall not have any claim set off against it.

80. Weekly sum due to person under a legal disability.

Where a weekly payment is payable under this Act to a person under any legal disability, a tribunal may, on application being made to the Chief Commissioner, order that the weekly payment be paid during the disability into the Office, and the provisions of this Act with respect to sums required by this Act to be paid into the Office, apply to the sums so paid into the Office.

81. Lump sum in redemption of weekly payments.

(1) The liability for weekly payments or other compensation under this Act may, with the approval of a tribunal on application by or on behalf of either the worker or the employer, be redeemed by the payment of a lump sum to be settled by proceedings under this Act.

(2) Proceedings under Subsection (1) may be in the form of an award by consent of the parties.

(3) Where permanent, total or partial incapacity of the worker results from the injury, any weekly payments made prior to an application under Subsection (1) shall be in addition to any such lump sum and, in settling a lump sum payment, the tribunal shall treat a worker as totally incapacitated for work as a result of the injury if he is fitted only for employment of a kind that is not reasonably available to him.

82. Application for payment of award against uninsured employer out of the fund.

(1) Where—

- (a) an award of compensation is made or has been made under this Act or the repealed Act in respect of the death, incapacity or disablement of a worker or the costs of medical, hospital, nursing or ambulance services or of cremation or burial, and an employer whose liability in respect of that death, incapacity or disability, or those costs, is not covered by a policy of insurance or indemnity in accordance with this Act; and
- (b) any payment required to be made under that award, whether of a lump sum or any weekly payment and whether as compensation or for costs or

otherwise, remains unpaid for a period of not less than one month after the due date for its payment,

the person or the agent of the person in whose favour the award was made may, after giving such notices as are prescribed, apply to the Chief Commissioner for an order for payment out of the Fund of all or any of the moneys payable or to become payable under that award.

(2) Where, in or in relation to any application under Subsection (1), it is alleged that the liability of an employer in respect of the death, incapacity or disablement of any worker is not covered by a policy of insurance or indemnity in force under this Act, that liability, unless the contrary is proved, shall, for the purposes of this section, be deemed not to be covered.

(3) Where an application has been made under Subsection (1), the Insurance Commissioner shall represent the Fund and is entitled by himself or his representative to show cause to a tribunal why an order should not be made.

(4) Where, on the hearing of an application under Subsection (1), the tribunal is satisfied that the award is not likely to be fully satisfied except under this section—

- (a) the tribunal may direct that all or any part of the payments required to be made under the award, whether payable at the date of the order or to become payable afterwards, shall be paid out of the Fund; and
- (b) after presentation of a certificate of the tribunal's order to the Secretary for Finance, the payments specified in the order shall be made out of the Fund.

(5) Where any compensation is paid out of the Fund under Subsection (4), the Registrar may institute civil proceedings against the employer for the recovery of the amount of compensation paid, and any moneys received as a result of the proceedings shall be paid into the Fund.

83. Tribunal may make interim awards.

(1) Where, in respect of a claim, a tribunal is reasonably satisfied that compensation is payable under this Act but it is unable for any reason to make an award in settlement of the claim promptly, it may, if it is satisfied that the total amount payable will not be less than a specific sum, make an interim award for payment of the whole or any part of that sum.

(2) The making of an interim award under Subsection (1), does not—

- (a) preclude a tribunal from later making, in respect of the claim, a further interim award or final award; or
- (b) prejudice the rights of either of the parties in respect of any further or final claim.

PART VIII.—ALTERNATIVE REMEDIES.

84. Liability independently of Act.

(1) This Act, except as expressly provided in it, does not affect any liability which exists independently of it.

(2) Where a worker or his dependants, as the case may be, has received or is entitled to receive, compensation under this Act or under the repealed Act, in respect of an injury, he shall not bring an action against the employer for damages in respect of the same injury unless he commences that action within three years from the day on which the injury occurred.

(3) Where a worker has recovered judgement against an employer independently of this Act for damages in respect of an injury, he shall not commence or continue any proceedings for or in relation to compensation under this Act in respect of the same injury.

(4) A worker shall not commence or continue any proceedings against his employer for damages independently of this Act in respect of any injury after he has obtained a final award against his employer, under which his employer is liable to pay compensation under this Act in respect of the same injury.

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

(6) Any sum received by a worker from an employer by way of compensation under this Act or under a law of any other country in respect of an injury shall be deducted from the sum recoverable by the worker from the employer by way of damages in respect of the same injury.

85. Action brought for injury under this Act.

(1) If, within the time limited by this Act for taking proceedings, an action is brought to recover damages independently of this Act for an injury, and it is determined in that action that the injury is one for which the employer is not liable but that he would have been liable to pay compensation under this Act, the action shall be dismissed, but the court in which the action is tried—

- (a) shall, if either party so chooses, proceed to assess the compensation; and
- (b) may deduct from the compensation all or part of the costs which, in its judgement, have been caused by the plaintiff bringing the action instead of proceeding under this Act.

(2) If, within the time limited by this Act for taking proceedings, an action is brought to recover damages independently of this Act for an injury and it is determined in the action that—

- (a) the person against whom the action was brought would have been liable to pay compensation under this Act in respect of that injury; and
- (b) the damages that would have been recovered in that action would have been less than the amount of compensation that the person would have been liable to pay under this Act,

proceedings in the action may be stayed and the court in which the action is tried—

- (c) shall, if either party so chooses, proceed to assess the compensation; and
- (d) may deduct from the compensation all or part of the costs which, in its judgement, have been caused by the plaintiff bringing the action instead of proceeding under this Act.

(3) In any proceedings under this section, when the court in which the action is tried 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 the certificate shall have the force and effect of an award of a tribunal under this Act.

(4) A copy of the certificate referred to in Subsection (3) shall be transmitted to the Registrar by the proper officer of the court referred to in that subsection.

86. Remedies against employer and stranger.

(1) In this section "the third party" means a person other than the employer having a legal liability to pay damages in respect of an injury for which compensation is payable under this Act.

(2) Where the injury for which compensation is payable under this Act was caused by a third party—

- (a) the worker may take proceedings both against the third party to recover damages and against the employer for compensation; and
- (b) a worker who receives any money from a third party in respect of an injury and compensation under this Act shall repay to the employer such amount of that compensation as does not exceed the amount recovered from the third party; and
- (c) on notice to the third party, the employer shall have a first charge on moneys payable by the third party to the worker, to the extent of any compensation which the employer has paid to the worker; and
- (d) if the worker has received compensation under this Act, but no damages or less than the full amount of damages to which he is entitled—
 - (i) the third party shall be liable to indemnify the employer against so much of the compensation paid to the worker as does not exceed the damages for which the third party is still liable; and
 - (ii) the employer may enforce the indemnity against the third party by action by the employer; and
- (e) payment of money by a third party to the employer under Paragraph (d) shall, to the extent of the amount paid, be a satisfaction of the liability of the third party to the worker.

87. Where claim exists elsewhere as well as in Papua New Guinea.

(1) If a claim for compensation has already been made by the claimant in respect of the injury under any law not being a law of Papua New Guinea, and compensation has been recovered under that claim, compensation under this Act shall not be allowed to the claimant.

(2) A person referred to in Subsection (1) having a claim under any law not being a law of Papua New Guinea shall not claim under this Act unless he declares in writing that he has not claimed, and will not claim, compensation or damages for the injury under any such law.

88. Contracting out.

This Act applies notwithstanding any contract to the contrary.

PART IX.—COMPULSORY WORKERS' COMPENSATION INSURANCE.

89. Licensed insurers only may carry on workers' compensation business.

A person, other than a licensed insurer within the meaning of the *Insurance Act*, who carries on workers' compensation business for the purposes of this Act is guilty of an offence.

Penalty: A fine not exceeding K1 000.00.

90. Compulsory insurance.

(1) An employer other than—

(a) the State; or

(b) a statutory authority approved by the Minister responsible for financial matters by notice in the National Gazette,

who employs any worker in any employment unless there is in force in relation to that worker a policy of insurance or indemnity issued by a licensed insurer for the full amount of the liability of the employer under this Act (other than additional liability under Section 35) for any injury to the worker arising out of or in the course of his employment, is guilty of an offence.

Penalty: For a first offence—a fine not exceeding K500.00.

For a second or subsequent offence—a fine not exceeding K1 000.00.

(2) Where an employer employs workers, the Chief Commissioner or any person authorized by him may require the employer to produce for inspection by the Chief Commissioner or authorized person any policy of insurance or indemnity effected for the purpose of Subsection (1) or a cover note in respect of such policy of insurance or indemnity.

91. Certain conditions to be of no effect.

(1) Any condition in a policy of insurance or indemnity issued for the purposes of this Part which provides that no liability shall arise under the policy or that any liability so arising is to cease in the event of some specified thing being done or omitted to be done after the happening of the injury giving rise to the claim under the policy shall be of no effect on a claim made by a worker under this Act.

(2) Subsection (1) does not render void any provision in a policy of insurance or indemnity issued under this Part requiring an insured employer to repay to the insurer any such claims which the insurer may have paid under the policy in satisfaction of any such claim.

92. Record of wages, etc., to be kept and supplied.

(1) Every employer applying to an insurer to issue or review a policy of insurance or indemnity under this Part must supply to the insurer a full and correct statement of all wages paid to workers in his employment during the period relevant to the determination of the premium payable by him for the policy.

(2) An employer who fails to supply a full and correct statement of wages in respect of his workers as required by Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(3) Every employer shall keep accurate records of—

(a) all wages paid to workers employed by him; and

(b) the trade, occupation or calling of each worker employed by him; and

(c) such other matters relating to wages as may be prescribed,

and shall retain those records in his possession in good order and condition for three years.

(4) The records required to be kept under Subsection (3) may be combined with other records of wages required by any other Act to be kept by an employer.

(5) The Insurance Commissioner may, on application by an insurer who has issued a policy of insurance or indemnity to an employer, and whether or not the policy is still in force, order the employer—

(a) to supply to the insurer within a time specified in the order—

(i) a full and correct statement of all wages paid during a period so specified, being a period during which the policy was in force and which commenced not more than three years before the making of the application, to the workers in the employment of that employer; and

(ii) such information as to trade, occupation or calling of the workers and other prescribed matters relating to those wages as may be specified; and

(b) to make available at or within such time or times and at such place as is specified in the order for inspection by—

(i) an officer authorized for the purpose by the Insurance Commissioner; or

(ii) a person authorized for the purpose by the specified insurer,

the records required by this subsection to be kept by the employer and, at the time of the order, to be retained by him in respect of a specified period, being a period when the policy was in force.

(6) Any officer or person authorized under Subsection (5) may inspect such records in accordance with the terms of the order and make copies of them and take extracts from them.

(7) An employer who fails to comply with an order issued under Subsection (5) is guilty of an offence.

Penalty: A fine exceeding K1 000.00.

(8) Subsection (7) does not affect the authority of the Insurance Commissioner to make a further order or orders against the employer under Subsection (5).

93. Worker may require name, etc., of insurer.

A worker may require his employer to supply him with the name and address of the insurer from whom the employer has obtained a policy of insurance or indemnity under Section 90.

94. Deductions towards compensation not lawful.

An employer, insurer or other person on behalf of any employer or insurer shall not directly or indirectly take or receive any money from any worker, whether by way of deduction from wages or otherwise in respect of any liability of an employer to pay compensation under this Act and all moneys so taken or received from any worker, whether with the consent of the worker 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.

PART X.—MISCELLANEOUS.

95. Annual report.

The Chief Commissioner shall prepare and furnish to the Minister on or before 31 March in each and every year a report for presentation to the Parliament containing—

- (a) a statement in detail of the receipts and expenditure of the Fund; and
- (b) a statement of the Office's activities relating to the Fund; and
- (c) such other matters as the Minister directs,

relating to the preceding year ended 31 December.

96. General penalty.

Any person who commits an offence against this Act for which no special penalty is provided in this Act is liable to a fine not exceeding K200.00.

97. Offences to be dealt with summarily.

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

98. Regulations.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular prescribing matters for and in relation to—

- (a) the fees and expenses to be paid for medical examinations and medical attendances; and
- (b) the forms to be used in connexion with this Act; and
- (c) the procedure and practice before a tribunal; and
- (d) the matters in which fees shall be paid and the fees to be paid; and
- (e) the manner of doing or performing anything by this Act required to be done or performed; and
- (f) the imposition of penalties of fines not exceeding K150.00 for offences against the regulations.

SCHEDULES.

SCHEDULE 1.

Sec. 14.

DECLARATION OF OFFICE.

I, _____, do promise and declare that I will well and truly serve the Independent State of Papua New Guinea and its People in the office of _____ and that I will in all things uphold the Constitution and the laws of the Independent State of Papua New Guinea and that I will do right to all manner of people in accordance therewith, without fear or favour, affection or ill-will.

SCHEDULE 2

Secs., 1, 68.

OCCUPATIONAL DISEASE.

Column 1. Description of disease.	Column 2. Nature of trade, industry or process.
Poisoning by lead	Any occupation involving the use or handling of, or exposure to the fumes, dust or vapour of lead, or a compound of lead, or a substance containing lead.
Poisoning by mercury	Any occupation involving the use of or handling of, or exposure to the fumes, dust or vapour of mercury or a compound of mercury or a substance containing mercury.
Anthrax	Any process involving the handling of wool, hair, bristles, hides or skins or other animal products or residues or contact with animals infected with Anthrax.
Silicosis	Any process involving exposure to silica dust.
Poisoning by phosphorus	Any occupation involving the use or handling of or exposure to the fumes, dust or vapour of phosphorus or a compound of phosphorus or a substance containing phosphorus.
Poisoning by arsenic	Any occupation involving the use or handling of or exposure to the fumes, dust or vapour of arsenic or a compound of arsenic or a substance containing arsenic.
Poisoning by benzine or a homologue of benzine	Any occupation involving the use or handling of, or exposure to the fumes of, or vapour containing benzine or any of its homologues.
Poisoning by a nitro-derivative or amido-derivative of benzine or a homologue of benzine	Any occupation involving the use or handling of, or exposure to the fumes of, or vapour containing a nitro-derivative or amido-derivative of benzine or a homologue of benzine.
Poisoning by halogen derivatives of hydrocarbons of the aliphatic series	Any process involving the production, liberation or utilization of halogen derivatives of hydrocarbons of the aliphatic series.
Pathological manifestations due to radium or other radioactive substances or X-Rays	Any process involving exposure to the action of radium, radioactive substances or X-rays.
Primary epitheliomatous cancer of the skin	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of those substances.

SCHEDULE 3.

Sec., 67.

COMPENSATION FOR SPECIFIED INJURIES.

Column 1. Nature of injury.	Column 2. The ratio which the fixed sum payable as compensation under Section 67 bears to K15 000.00.
Permanent and incurable loss of mental capacity resulting in total inability to work	%
Total and incurable paralysis of the limbs	100
Eye injuries— total loss of sight of both eyes	100

Column 1. Nature of injury.	Column 2. The ratio which the fixed sum payable as compensation under Section 67 bears to K15 000.00.
	%
total loss of sight of one eye	50
total loss of sight of one eye, the vision in the other eye being less than 6/60 Snellens type with correction or absent	100
Hearing injuries—	
total loss of hearing	75
Speech loss—	
total loss of the power of speech	75
Sensory loss—	
total loss of senses of taste and smell	50
total loss of sense of taste	25
total loss of sense of smell	25
Arm injuries—	
loss of arm at or above elbow	90
loss of arm below elbow	80
Hand injuries—	
loss of both hands	100
loss of hand and foot	100
loss of hand or loss of thumb and four fingers	80
loss of thumb	35
loss of forefinger	25
loss of middle finger	20
loss of ring finger	20
loss of little finger	14
total loss of movement of joint of thumb	15
loss of distal phalanx of thumb	17
loss of portion of terminal segment of thumb involving one-third of its flexor surface without loss of distal phalanx	15
loss of distal phalanx of forefinger	11
loss of distal phalanx of other fingers	9
Leg injuries—	
loss of leg at or above knee	90
loss of leg below knee	80
Foot injuries—	
loss of both feet	100
loss of foot and hand	100
loss of foot	75
loss of great toe	25
loss of any other toe	10
loss of two phalanges of any other toe	8
loss of phalanx of great toe	11
loss of phalanx of any other toe	7
Miscellaneous—	
loss of genitals	50
severe facial scarring or disfigurement to a maximum of	80
severe bodily, other than facial, scarring or disfigurement to a maximum of	50

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 179.

Workers' Compensation Regulation.

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Discretion as to forms, etc.
2. Application in general form.
3. Completion of form.

PART II.—ADMINISTRATION.

4. Form, etc., of seal.
5. Form of register.
6. Method of numbering, etc.

PART III.—PROCEDURE.

7. Application for compensation.
8. Copy to be served, etc.
9. Fixing of time, etc., for hearing.
10. Amendment of application, etc.
11. Application by dependants.
12. Notice of injury.
13. Award to be signed, etc.
14. Certificate.
15. Application for order.
16. Records of proceedings.
17. Rescission, etc., of order, etc., by tribunal.
18. Form of authorization.
19. Claim by employer against third party.
20. Failure of third party to appear.
21. Directions of tribunal.
22. Tribunal may decide costs, etc.
23. Transfer of rights.
24. Notice to employer.
25. Application for award by consent.
26. Application to discontinue, etc., weekly payments.
27. Application where worker no longer resident.
28. Application for payment into Office.
29. Application for payment of lump sum.
30. Application for payment out of Fund.
31. Admission of liability.
32. Appeals.

Workers' Compensation

PART IV.—MISCELLANEOUS.

- 33. Medical examination.
- 34. Conditions of search.
- 35. Service.
- 36. Costs.
- 37. Fees.

SCHEDULE 1.

- FORM 1.—Application in the General Form.
- FORM 2.—Register of Workers' Compensation Claims.
- FORM 3.—Application for Compensation. (Personal injury.)
- FORM 4.—Application for Compensation. (Death of worker.)
- FORM 5.—Application for Funeral and Medical Expenses where Deceased Worker leaves no Dependants.
- FORM 6.—Notice to Employer as to Application for Compensation.
- FORM 7.—Employer's Answer to Application for Compensation.
- FORM 8.—Notice of Fixing Time and Place for Hearing.
- FORM 9.—Summons to Witness.
- FORM 10.—Notice to Employer of Injury by or on behalf of Worker.
- FORM 11.—Notice by Employer of Injury to Worker.
- FORM 12.—Notice by Employer of an Injury to Worker resulting in Death.
- FORM 13.—Certificate under Section 30 of the Act.
- FORM 14.—Application for an Order by a Tribunal that Section 36(1) of the Act is not to Apply.
- FORM 15.—Appointment of Agent.
- FORM 16.—Third Party Notice.
- FORM 17.—Notice by Employee Declining Assessment of Compensation under Section 67(3) of the Act.
- FORM 18.—Application for an Award by Consent.
- FORM 19.—Application to Discontinue or Diminish a Weekly Payment.
- FORM 20.—Application for an Order by a Tribunal under Section 76(2) of the Act.
- FORM 21.—Application by Worker for Review of Weekly Payment.
- FORM 22.—Application by a Worker Ceasing to Live in Papua New Guinea for an Order by a Tribunal that he Continue to Receive Weekly Payments.
- FORM 23.—Application for Payment into Office of Workers' Compensation.
- FORM 24.—Application for Lump Sum Payment in Redemption of Weekly or Other Payments.
- FORM 25.—Application for an Order for Payment of Compensation from the Workers' Compensation Fund.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 179.

Workers' Compensation Regulation.

MADE under the *Workers' Compensation Act.*

PART I.—PRELIMINARY.

1. Discretion as to forms, etc.

(1) Proceedings under the Act shall not fail for want of form, defect, error or omission unless in the opinion of a tribunal, a party to it has been affected prejudicially.

(2) Where a party has been affected prejudicially due to want of form, defect, error or omission, a tribunal shall make such order, including an order as to costs, as may be necessary to effect substantial justice.

2. Application in general form.

Where a matter or thing is not specifically provided for under the Act, application may be made to the Registrar in Form 1 for direction appropriate to the matter or thing.

3. Completion of form.

Where a party to a proceeding is incapacitated or unable to complete a form required under the Act, it may be completed on his behalf by—

- (a) his agent; or
- (b) an officer; or
- (c) a Deputy Registrar; or
- (d) a labour officer appointed under the *Employment Act.*

PART II.—ADMINISTRATION.

4. Form, etc., of seal.

(1) The seal of the Office shall bear the crest of Papua New Guinea with the words "Office of Workers' Compensation" above and the words "Papua New Guinea" below it.

(2) The seal of the Office shall be in the custody of the Registrar, who shall affix it to all awards and orders of a tribunal.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Office affixed to a document and shall presume that it was duly affixed.

5. Form of register.

For the purposes of Section 12 of the Act, the register shall be in Form 2.

6. Method of numbering, etc.

(1) The Registrar shall mark with an identifying number the first document lodged with him by an applicant, and any document lodged subsequently by any party in relation to the application shall be marked with the same number by the party lodging it.

(2) The Registrar may refuse to receive any document that is not marked with the number referred to in Subsection (1).

(3) The Registrar shall file under their respective numbers and keep separate the records of all applications under the Act.

PART III.—PROCEDURE.

7. Application for compensation.

(1) For the purposes of this section, "dependant" includes and extends to a person who claims, or may be entitled to claim to be a dependant, but as to whose claim to rank as a dependant any question arises.

(2) An application for compensation made by or on behalf of—

(a) a worker not in receipt of weekly payments under Section 36 of the Act, shall be in Form 3; and

(b) a dependant, shall be in Form 4.

(3) An application for funeral expenses and for medical expenses for a deceased worker who leaves no dependants shall be in Form 5.

(4) An application under this section shall be lodged in duplicate with the Registrar.

8. Copy to be served, etc.

(1) The Registrar shall cause to be served on the employer named in the application—

(a) a copy of the application for compensation referred to in Section 7; and

(b) a notice in Form 6 informing the employer that he must, within one month after service of the notice, or within such further period as the Chief Commissioner on special request allows, lodge with the Registrar a written answer.

(2) The answer referred to in Subsection (1)(b)—

(a) shall be in Form 7; and

(b) shall contain a concise statement of the extent and grounds of the employer's opposition to the claim; and

(c) shall be lodged for filing together with sufficient copies for each other party to the proceeding.

(3) The Registrar shall, as soon as practicable after receiving the copies referred to in Subsection (2)(c) cause them to be served on the parties to the proceedings.

(4) Where the employer—

(a) fails to comply with Subsection (2); or

(b) fails to appear at a time and place fixed under Section 9,

a tribunal may make such an award as it thinks fit.

9. Fixing of time, etc., for hearing.

(1) Where a matter is referred to a tribunal, a Chief Commissioner, a Commissioner, the Registrar or a person or court under a delegated power, that body, person or Clerk of the Court may, of his own motion, fix a time and place for the hearing.

(2) A notice of hearing under Subsection (1)—

(a) shall be in Form 8; and

(b) shall be served on the parties to the hearing at least 14 days before the date of hearing, unless the parties agree to an earlier hearing.

(3) A summons to a witness to attend a hearing shall be in Form 9.

10. Amendment of application, etc.

(1) Where—

(a) an applicant wishes to amend his application or any particulars submitted with it; or

(b) an employer wishes to amend his answer to an application,

the person making the amendment shall promptly lodge with the Registrar a written notice of the amendment.

(2) The Registrar shall, on receipt of an amendment under Subsection (1), serve a copy of it on any other party to the proceedings.

11. Application by dependants.

(1) In any proceedings in which the amount payable as compensation has been agreed on or ascertained, and a question arises as to—

(a) who is a dependant; or

(b) the amount payable to each dependant,

an application for determination of the question by a tribunal may be made by a lawyer or agent on behalf of a dependant.

(2) Where an application is made under Subsection (1)—

(a) if the employer has paid the agreed or ascertained amount of compensation—it is not necessary for him to attend the hearing of a tribunal as a party to the dispute; or

(b) if the employer has not paid in full the agreed or ascertained amount of compensation—he shall be a party to the dispute.

(3) Where the employer is a party to a dispute, he may pay the amount of compensation in his hands into the custody of the Office to be dealt with as the tribunal directs.

(4) Where the employer pays the compensation into the custody of the Office under Subsection (3), he ceases to be a party to the dispute.

12. Notice of injury.

(1) A notice of injury under Section 41 of the Act shall be in Form 10.

(2) A notice under Section 42 of the Act in respect of—

(a) total or partial incapacity of a worker shall be in Form 11; and

(b) the death of a worker shall be in Form 12.

(3) A notice referred to in this section—

(a) shall be submitted to the Registrar in duplicate; and

(b) is not an admission of liability; and

(c) shall not be used as evidence in any proceedings under the Act.

13. Award to be signed, etc.

(1) An award of a tribunal shall be—

- (a) signed by the Chairman of the tribunal; and
- (b) sealed in accordance with Section 4; and
- (c) filed with the Registrar.

(2) A person in whose favour an award or order has been made by a tribunal may file or cause to be filed a certificate issued under Section 30 of the Act in the District Court having jurisdiction in the province where the employer or third party, as the case may be, resides.

(3) Where a certificate is filed under Subsection (2), the Clerk of the Court shall enter judgement for the person for the sum of the certificate.

(4) A judgement entered under Subsection (3) shall be subject to the *District Courts Act* and shall be enforceable and be regarded for all purposes as a judgement of the District Court.

14. Certificate.

A certificate to be issued by the Registrar under Section 30 of the Act shall be in Form 13.

15. Application for order.

An application under Section 36(3) of the Act shall be in Form 14.

16. Records of proceedings.

(1) A member of a tribunal, the Chief Commissioner, a Commissioner, the Registrar, a person or court under a delegated power shall cause to be kept a sufficient record of proceedings before it or him, as the case may be, including:—

- (a) a record of the parties appearing or represented; and
- (b) the submissions (if any) made by each party and the reasons (if any) stated in support of the submissions; and
- (c) the decision or recommendation made in the proceedings.

(2) The record of the proceedings prescribed under Subsection (1), together with all other documents in connexion with the proceedings, shall be forwarded by the party causing them to be kept, as soon as practicable after the conclusion of the proceedings, to the Registrar.

17. Rescission, etc., of order, etc., by tribunal.

(1) Where a tribunal is satisfied that—

- (a) an award, order, decision or determination made by a tribunal as to the application of an amount awarded or agreed on as compensation,
 - (i) has been obtained by fraud or other improper means; or
 - (ii) should be set aside or varied for any other sufficient reason; or
- (b) any person who is not in fact a dependant as defined in the Act has been included in any award, order, decision or determination as a dependant; or

- (c) any person who in fact is a dependant as defined in the Act, has been omitted from any award, order, decision or determination,

the tribunal may rescind, alter or amend any award, order, decision or determination previously made, and may make an order including an order as to any sum already paid under an award, order, decision or determination as under the circumstances it thinks just.

(2) An application to rescind, alter or amend an award, order, decision or determination under this section shall be in Form 1.

(3) An application to rescind or alter an award, order, decision or determination under this section shall not be made after the expiration of six months after the date of the award, order, decision or determination except, subject to Subsection (4) by leave of the Chief Commissioner.

(4) Leave of the Chief Commissioner under Subsection (3) shall not be granted unless he is satisfied that the failure to make the application within the period specified in that subsection was due to mistake, absence or any other reasonable cause.

18. Form of authorization.

(1) Authorization for a person to act as agent for a party to any proceedings before a tribunal shall be in Form 15, and a copy of the authorization shall be lodged with the Registrar.

(2) An authorization referred to in Subsection (1) shall be witnessed by a Commissioner for Oaths, a Town Clerk or an officer of the Public Service.

19. Claim by employer against third party.

(1) Where an employer claims to be entitled under Section 59 of the Act to indemnity against a person who is not a party to the proceedings (in this section called the "third party"), he shall, not less than seven days before the day appointed for the proceedings, or such further time as the tribunal allows, file with the Registrar a notice in duplicate of his claim in Form 12.

(2) The Registrar shall cause to be delivered to the third party—

- (a) a copy of the notice referred to in Subsection (1); and
- (b) a copy of the application for compensation referred to in Section 7; and
- (c) a copy of the notice referred to in Section 24 that has been served on the employer.

20. Failure of third party to appear.

(1) Where the third party referred to in Section 19, having been duly served with the documents in accordance with that section, fails to appear before the tribunal on the date appointed for proceeding with the application, or on any subsequent date appointed by the tribunal for the purposes of this section, of which due notice has been given to him in accordance with the notice fixing the date for hearing, he shall be deemed to admit—

- (a) the validity of any determination for compensation in the proceeding, whether by consent or otherwise; and
- (b) his liability to indemnify the respondent to the extent claimed in Section 19, and the tribunal may make such determination as it thinks fit in favour of the employer against the third party.

(2) A tribunal may set aside or vary an award made against a third party under this section on such terms as it thinks just.

21. Directions of tribunal.

(1) The employer of the third party referred to in Section 19 may, at any time prior to the determination of the proceedings to which the notice referred to in Section 7 relates, apply to the tribunal for directions.

(2) On an application for directions under Subsection (1), the tribunal may—

- (a) order any question, as to the liability of the third party to make the indemnity claimed, to be determined before, at or after the determination of the proceedings to which the claim relates; or
- (b) give the third party leave to—
 - (i) resist the applicant's claim; or
 - (ii) appear and take part in the proceedings relating to the claim; or
- (c) give directions as to the mode or extent to which the third party shall be bound or made liable by the determination in the proceedings; or
- (d) give any further or other directions as it thinks fit.

22. Tribunal may decide costs, etc.

Subject to Section 36, a tribunal may decide all questions of costs as between a third party and other parties to any proceedings or give such directions as to costs as it thinks fit.

23. Transfer of rights.

Where, under Section 61 of the Act, the rights of an employer against an insurer under a contract between the employer and the insurer in respect of any right, remedy or liability under the Act to a worker are transferred and vested in the insurer, the following provisions apply:—

- (a) where a worker is, or claims to be, entitled to compensation from an employer to whom Section 61 of the Act applies, and he is unable to ascertain that the employer has entered into a contract in respect of his liability with an insurer—
 - (i) the worker may apply to the Chief Commissioner by affidavit setting out the facts on which he makes application for an examination of the employer by a tribunal; and
 - (ii) the tribunal may make such order as necessary in the circumstances to procure the attendance and examination of the employer; and
- (b) the provisions of the Act as to settlement of matters in dispute shall, with the necessary modifications, apply to the settlement as between the worker and the insurer of any question—
 - (i) as to the liability of the insurer to the worker, or the amount of his liability; and
 - (ii) that would, under the Act, be the subject of proceedings between the worker and the employer if the rights, remedies and liabilities of the employer had not been transferred to the insurer.

24. Notice to employer.

(1) The notice by a worker under Section 67(3) of the Act shall be submitted to the Registrar in Form 17.

(2) The Registrar shall endorse on the notice referred to in Subsection (1), his approval or rejection of it, and shall cause a copy to be forwarded to the employer and the worker.

25. Application for award by consent.

An application for an award by consent of the parties under Section 74 of the Act shall be in Form 18.

26. Application to discontinue, etc., weekly payments.

(1) An application under Section 76 of the Act—

(a) to the Registrar for consent—shall be in Form 19; and

(b) to the Chief Commissioner for an order by a tribunal—shall be in Form 20.

(2) An application by a worker under Section 76(4) of the Act shall be in Form 21.

27. Application where worker no longer resident.

An application by a worker ceasing to reside in the country for continuance of weekly payments under Section 77 of the Act shall be in Form 22.

28. Application for payment into Office.

An application for payment into the Office under Section 80 of the Act shall be in Form 23.

29. Application for payment of lump sum.

An application for redemption of weekly payments by payments of a lump sum under Section 81 of the Act shall be in Form 24.

30. Application for payment out of Fund.

(1) An application for payment out of the Fund under Section 82 of the Act shall be in Form 25.

(2) On receipt of the application referred to in Subsection (1), the Registrar shall—

(a) make enquiries and obtain information that may be necessary, or as directed by the Chief Commissioner; and

(b) report to—

(i) a tribunal; and

(ii) the Insurance Commissioner,

on all matters relevant to the application.

(3) The Registrar shall notify—

(a) the applicant; and

(b) the employer; and

(c) the Insurance Commissioner; and

(d) if it appears proper to do so—an insurer,

of the time and place fixed for the hearing of the application by a tribunal.

(4) The Registrar may appear at the hearing of an application under Subsection (1) and may assist the tribunal by placing before it any information relative to the application, and may summon any witness that he thinks fit or as directed by the tribunal.

31. Admission of liability.

Subject to any answer filed in accordance with this Regulation—

- (a) the applicant's particulars; and
- (b) in the case of a claim for compensation—the liability of the employer to pay compensation under the Act,

shall, unless a tribunal otherwise orders, be taken to be admitted.

32. Appeals.

(1) Where an appeal under Section 49 of the Act has been decided, the order of the National Court or a certified copy of it shall be deposited with the Registrar, who shall file it.

(2) An order under Subsection (1) shall have the same effect as a decision of a tribunal.

PART IV.—MISCELLANEOUS.

33. Medical examination.

(1) Where a worker is required under Section 46 of the Act to submit himself for examination by a medical practitioner, the examination shall be made during normal consulting hours of the practitioner, unless another time is agreed to by the worker.

(2) Where a worker is in receipt of weekly payments under the Act, he shall not be required—

- (a) after one month from the date of the first payment of compensation; or
- (b) where payment is made under an order or award of a tribunal, after the date of the order or award,

to submit himself against his will for examination by a medical practitioner at intervals more frequent than once weekly during the second month and once fortnightly during each subsequent month after the date of the first payment or date of the order or award, as the case may be.

34. Conditions of search.

A person shall not, without the prior permission of the Registrar, be permitted to search the proceedings in any matter unless he is a party to the proceedings or bound by them or in the opinion of the Registrar, is liable to be bound by them.

35. Service.

Except where specifically provided for otherwise, every notice required by the Act shall be given—

- (a) by delivering it; or
- (b) by prepaid registered post,

to the last known residence or place of business or employment of the person to whom it is given.

36. Costs.

The provisions of the *District Courts Act* relating to costs in civil claims apply to and in relation to proceedings under the Act.

37. Fees.

There shall not be any fees for proceedings under the Act.

SCHEDULES.

SCHEDULE 1.

PAPUA NEW GUINEA.

Workers' Compensation Act.

Reg., Sec. 2, 17(2).

Form 1.

Register No. 19

IN RESPECT OF

(full name of worker) of (address), a worker

AND

(full name of employer) of (address), the employer.

APPLICATION IN THE GENERAL FORM.

The Registrar,

Office of Workers' Compensation.

Application is made by (full name of applicant) of (address) against (full name of person against whom application is made) of (address).

The circumstances in which the application is made are shortly as follows (state circumstances briefly):—

The relief or order which the applicant claims is shortly as follows:—

Dated 19 . (Signature of Applicant.)

NOTE: This application may be made by the applicant, his lawyer or other agent.

Ch. No. 179

Workers' Compensation

PAPUA NEW GUINEA.

Workers' Compensation Act.

Act, Sec. 12(a).

Form 2.

Reg., Sec. 5.

REGISTER OF WORKERS' COMPENSATION CLAIMS.

Date claim lodged.	Nature of application.	Names and addresses of parties, their respective lawyers or agents.			Name of employer's insurer.	Date of hearing.	Order made	Remarks.
		Worker.	Employer.	Names of dependants if worker deceased.				

PAPUA NEW GUINEA.

Workers' Compensation Act.

Reg., Sec. 7(2)(a).

Form 3.

Register No. 19

IN RESPECT OF

(full name of worker) of (address), a worker

AND

(full name of employer) of (address), the employer.

APPLICATION FOR COMPENSATION.

(For use in respect of personal injury.)

The Registrar,

Office of Workers' Compensation.

1. On 19 , personal injury arising out of or in the course of his employment was caused to the abovenamed worker.
2. Application is made under the *Workers' Compensation Act* for a determination by a tribunal in respect of compensation payable, as provided by that Act, as a consequence of personal injury in accordance with the particulars set out below.

Dated 19

(Signature of Applicant.)

NOTES: (1) The application may be signed by a Deputy Registrar, the injured worker, the lawyer or other agent for a dependant.

(2) The original and two copies are to be submitted to the Registrar.

PARTICULARS TO BE SUPPLIED WHERE KNOWN.

PART A.—Details of Worker.

- 1. Occupation:
- 2. Average weekly earnings: K
- 3. Date of birth, sex and marital status:
- 4. Name and address of spouse:
- 5. Name address and age of children.
- 6. Average weekly amount which the worker is earning or able to earn in a suitable employment during period of incapacity:
- 7. Payment of allowance or benefit received from employer during period of incapacity:

PART B.—Details of Employer.

- 1. Place and nature of business:
- 2. Full name, place and nature of any party who is a contractor with the employer and under whom the worker was employed:
- 3. Details of place at which worker was employed at the time of injury, the nature of the work on which he was then engaged or other relevant circumstances under Section 54 of the Act and the cause of the injury (*in the case of injury to a seaman include the name of the ship, its owner and port of registry*):
- 4. If injury is a disease contracted by a gradual process, names and addresses of all other employers by whom the worker was employed during the three years preceding the day on which the worker became totally or partially incapacitated by reason of his injury:

PART C.—Details of Injury and Incapacity.

- 1. Details of the nature and extent of the injury sustained and the disabilities resulting from it:
- 2. Particulars of incapacity for work, whether total or partial and estimated duration of incapacity:

PART D.—Compensation Claimed.

- 1. Details of compensation claimed (*include medical expenses*):

PART E.—Insurer.

- 1. Name and address of insurer:

PART F.—Details of Applicant.

- 1. Name and address of person making application:

PAPUA NEW GUINEA.
 Workers' Compensation Act.

Reg., Sec. 7(2)(b).

Form 4.

Register No. 19
 IN RESPECT OF
 (full name of worker) of (address), a worker
 AND
 (full name of employer) of (address), the employer.

APPLICATION FOR COMPENSATION.

(For use in respect of death of worker.)

The Registrar,
 Office of Workers' Compensation.

- 1. On 19 , personal injury arising out of or in the course of his employment was caused to the abovenamed worker whose death resulted from or was materially contributed to by the injury.
- 2. Application is made under the *Workers' Compensation Act* for a determination by a tribunal in respect of the compensation payable and the settlement of questions as to who are dependants as provided by that Act, as a consequence of the personal injury in accordance with the particulars set out below.

Dated 19 .

(Signature of Applicant.)

NOTES: (1) This application may be made by a Deputy Registrar, a dependant or dependants, or a lawyer or other agent for a dependant.

(2) The original and two copies are to be submitted to the Registrar.

PARTICULARS.

PART A.—Details of Deceased Worker.

1. Occupation of deceased worker prior to death:
2. Annual earnings at time of injury of deceased worker: K
3. Date of birth, sex and marital status of deceased worker:
4. Place of origin (*where applicable give village, district and province*):
5. Date and place of death of deceased worker:
6. Details of any compensation benefits paid prior to death of worker:

PART B.—Details of Employment and Injury.

1. Place and nature of business of employer:
2. If applicable, full name, place and nature of any party who is a contractor with the employer and under whom the deceased worker was employed:
3. Details as to place at which deceased worker was employed at the time of the injury, the nature of the work on which he was then engaged or other relevant circumstances under Section 54 of the Act and the cause of the injury (*in the case of injury to a seaman, include name of ship, its owner and port of registry*):
4. If injury is a disease contracted by a gradual process, names and addresses of all other employers by whom the deceased worker was employed during the three years preceding the day on which the deceased worker was injured:
5. Details of the nature and extent of the injury sustained and the date the injury was sustained:

PART C.—Details of Dependants.

1. Name and address of spouse of deceased worker (if any):
2. Names, address and age of children of deceased worker:
3. Details of dependance of spouse and children of deceased worker:
4. Names and addresses of dependants, other than spouse and children, who were wholly dependant on the earnings of the deceased worker at the time of his death or who would but for the incapacity due to the injury have been so dependant:
5. Details of dependants including degree of dependance of any persons listed in Paragraph 4 of this Part:
6. Names and addresses of persons who by custom have a right to share in any compensation awarded (*a nominal dependant in accordance with Section 62(4) of the Act may be named but indication is to be given as to numbers and relationship of such customary dependants and a separate sheet or sheets may be used and attached for this purpose*):

PART D.—Compensation Claimed.

1. State compensation being claimed:
2. Give details of any medical expenses being claimed:
3. Give details of any funeral expenses being claimed:

PART E.—Insurer.

1. Name and address of insurer:

PART F.—Details of Applicant.

1. Name and address of person making application:
2. Person or persons for whom the application is made:

Workers' Compensation

Ch. No. 179

PAPUA NEW GUINEA.

Workers' Compensation Act.

Act, Sec. 65(2).

Form 5.

Reg., Sec. 7(3).

Register No. 19

IN RESPECT OF

(full name of worker) of (address), a deceased worker

AND

(full name of employer) of (address), the employer.

APPLICATION FOR FUNERAL AND MEDICAL EXPENSES WHERE DECEASED WORKER
LEAVES NO DEPENDANTS.

The Registrar,

Office of Workers' Compensation.

1. On 19 , personal injury arising out of his employment was caused to the abovenamed worker whose death resulted from, or was materially contributed to by, the injury.
2. The deceased worker left no dependants within the meaning of the Act.
3. A question has arisen as to (specify concisely the question or questions).
4. Application is made for a determination by a tribunal in respect of the settlement of the question.
5. Particulars are annexed.

Dated 19

(Signature of Applicant.)

NOTE: This application may be signed by the applicant, his lawyer or other agent.

PARTICULARS.

1. Nature of employment of deceased at time of accident and whether employed by the abovenamed employer or under a contract with him (name and address of contractor (if any) to be stated):
2. Date and place of accident, nature of work on which deceased was then engaged and the nature of the accident and the cause of injury:
3. Nature of the injury to deceased and date of death:
4. Name and address of applicant:
5. Character in which applicant applies for a tribunal:
6. Particulars as to any other persons who claim that expenses in respect of which compensation is payable are due to them.
7. Particulars of amount claimed as compensation and the manner in which the applicant desires such amount to be apportioned and applied.

Ch. No. 179

Workers' Compensation

PAPUA NEW GUINEA.

Workers' Compensation Act.

Reg., Sec. 8(1)(b).

Form 6.

Register No. 19

IN RESPECT OF

(full name of worker) of (address), a worker

AND

(full name of employer) of (address), the employer.

NOTICE TO EMPLOYER AS TO APPLICATION FOR COMPENSATION.

TAKE NOTICE that, if you intend to oppose the application, of which a copy is served with this notice, you must lodge with me, within one calendar month after the service, a written answer to it containing a concise statement of the extent and grounds of your opposition.

AND FURTHER TAKE NOTICE that in default of your lodging with me, within the time specified, a written answer as required a tribunal may make such an award as it deems just and expedient.

Dated 19

Registrar.

PAPUA NEW GUINEA.

Workers' Compensation Act.

Reg., Sec. 8(2).

Form 7.

Register No. 19

IN RESPECT OF

(full name of worker) of (address), a worker

AND

(full name of employer) of (address), the employer.

EMPLOYER'S ANSWER TO APPLICATION FOR COMPENSATION.

The Registrar,

Office of Workers' Compensation.

The employer intends to oppose the application for compensation.

The following is a concise statement of the extent and grounds of his opposition:—

Dated 19

(Signature of Employer.)

Place:

NOTE:

The answer may be signed by the employer, his lawyer or other agent.

Workers' Compensation

Ch. No. 179

PAPUA NEW GUINEA.

Workers' Compensation Act.

Reg., Sec. 9(2).

Form 8.

Register No. 19

IN RESPECT OF

(full name of worker) of *(address)*, a worker

AND

(full name of employer) of *(address)* the employer.

NOTICE OF FIXING TIME AND PLACE FOR HEARING.

Issued to State Tribunal, Chief Commissioner, Registrar or Court as applicable.

TAKE NOTICE that at *(place of hearing)* at a.m./p.m. on 19 or as soon after as the matter may be heard, in the matter of *(nature of matter)* in relation to the abovenamed worker and employer will proceed to commence hearings.

Dated 19

(Signature and authority.)

PAPUA NEW GUINEA.

Workers' Compensation Act.

Act, Sec. 25(1)(d)

Form 9.

Reg., Sec. 9(3).

Register No. 19

IN RESPECT OF

(full name of worker) of *(address)*, a worker

AND

(full name of employer) of *(address)*, the employer.

SUMMONS TO WITNESS.

To *(full name)* of *(address)*.

YOU ARE SUMMONSED TO ATTEND BEFORE the Tribunal/Chief Commissioner/Commissioner/Registrar/Court* at *(place of hearing)* at a.m./p.m. on 19, and from day to day until the hearing into the matter of *(nature of matter)* in relation to the abovenamed worker and employer is completed, or until you are excused from further attendance, to give evidence in relation to the subject matter of these proceedings.

You are required to bring with you and produce the following books, documents and things *(state books, etc., as required)*:—

Dated 19

(Signature and title of person issuing summons.)

* Strike out whichever is inapplicable.

Ch. No. 179

Workers' Compensation

PAPUA NEW GUINEA.

Workers' Compensation Act.

Act, Sec. 41.

Form 10.

Reg., Sec. 12(1).

Register No. 19

IN RESPECT OF

(full name of worker) of (address), a worker

AND

(full name of employer) of (address), the employer.

NOTICE TO EMPLOYER OF INJURY BY OR ON BEHALF OF WORKER.

Notice is given that on 19 , the abovenamed worker was injured at and the injury resulted in partial incapacity/total incapacity/death*. The cause of the injury was:—

And notice is given that in consequence of the injury compensation is being claimed.

Dated 19

(Signature and address of person giving notice.)

* Strike out whichever is inapplicable.

PAPUA NEW GUINEA.

Workers' Compensation Act.

Act, Sec. 42.

Form 11.

Reg., Sec. 12(2)(a).

Register No. 19

IN RESPECT OF

(full name of worker) of (address), a worker

AND

(full name of employer) of (address), the employer.

NOTICE BY EMPLOYER OF INJURY TO WORKER.

The Registrar,

Office of Workers' Compensation.

TAKE NOTICE that on 19 , personal injury possibly arising out of or in the course of his employment as a worker was caused to the abovenamed worker.

PARTICULARS.

PART A.—Personal Details of Worker.

1. Age, sex and marital status:
2. Place of origin (where applicable state village, district and province):
3. If injury is to finger or hand state whether left or right handed:

PART B.—Details of Employment.

1. Occupation:
2. The place of employment where injury occurred:
3. The nature of employment where injury occurred:
4. Average weekly wage (see Sections 70 and 71 of the Act): K

PART C.—Details of Injury.

1. The nature and extent of injury:
2. Cause of injury (if due to machinery state—
 - (a) type of machine; and
 - (b) part responsible; and

PART D.—Details of Dependents.

1. Name of spouse:
2. Place of origin of spouse (if applicable give village, district, and province):
3. Names and ages of children:

PART E.—Other Employment Details. (Complete where relevant.)

1. Nature of business of employer:
2. Full name, place and nature of business of any party who is a contractor with the employer and under whom the worker was employed at time of injury:
3. If injury is a disease contracted by gradual process, names and addresses of all other employers by whom the worker was employed during the three years preceding the day of the injury:

PART F.—Details of Insurance.

1. Name of insurer:
2. Address of insurer:

PART G.—Weekly Payment.

1. The worker is being paid at a weekly rate of: K
2. An application for an order by a tribunal that Section 36(1) of the Act is not to apply/will not be made/is attached/is being submitted*.

Dated 19

(Signature of Employer or his Lawyer.)

* Strike out whichever is inapplicable.

PAPUA NEW GUINEA.
Workers' Compensation Act.

Act, Sec. 42.
Reg., Sec. 12(2)(b).

Form 12.

Register No. 19

IN RESPECT OF
(full name of worker) of (address), a worker

AND
(full name of employer) of (address), the employer.

NOTICE BY EMPLOYER OF AN INJURY TO WORKER RESULTING IN DEATH.

The Registrar,
Office of Workers' Compensation.

TAKE NOTICE that on 19, personal injury possibly arising out of or in the course of his employment as a worker was caused to the abovenamed worker and that death resulted from the injury or was contributed to by the injury.

PARTICULARS.

PART A.—Details of Deceased Worker.

1. Any other known names:
2. Age, sex and marital status:
3. Place of origin (where applicable give village, district and province):

PART B.—Details of Employment of Deceased Worker.

- 1. Occupation:
- 2. The place of employment where injury occurred:
- 3. The nature of employment where injury occurred:
- 4. Average weekly wage (see Sections 70 and 71 of the Act): K

PART C.—Details of Injury.

- 1. Date of death:
- 2. Place of death:
- 3. The nature and extent of injury:
- 4. Cause of injury (if injury due to machine, state—
 - (a) the type of machine; and
 - (b) part responsible; and
 - (c) source of power by which machine operated);

PART D.—Details of Dependents.

- 1. Name of spouse:
- 2. Place of origin of spouse (where applicable give village, district and province):
- 3. Names and ages of children:
- 4. Names and place of origin of any other known dependants:

PART E.—Other Employment Details.

- 1. Nature of business of employer:
- 2. Full name, place and nature of business of any party who is a contractor with the employer and under whom the worker was employed:
- 3. If injury was a disease contracted by gradual process, names and addresses of all other employers by whom the worker was employed during the three years preceding the day on which the worker died from the injury:

PART F.—Details of Insurance.

- 1. Name of insurer:
- 2. Address of insurer:

Dated 19 .

(Signature of Employer or his Lawyer.)

NOTE: Section 12(3) of the *Workers Compensation Regulation* states that a notice under the section is not an admission of liability.

Workers' Compensation

Ch. No. 179

PAPUA NEW GUINEA.
Workers' Compensation Act.

Act, Sec. 30.
Reg., Sec. 14.

Form 13.

CERTIFICATE UNDER SECTION 30 OF THE ACT.

Title.	Form or nature of proceedings.	Name and address of person in whose favour award has been made.	Name and address of person against whom award has been made.	Date of award.	Amount due under award and other relevant particulars.

I certify that this Certificate correctly sets out the particulars of an award or determination of a tribunal, constituted under the *Workers' Compensation Act*, made on 19
Dated 19

Registrar.

Ch. No. 179

Workers' Compensation

**PAPUA NEW GUINEA.
Workers' Compensation Act.**

Act, Sec. 36(3).

Form 14.

Reg., Sec. 15.

Register No. 19

IN RESPECT OF

(full name of worker) of (address), a worker

AND

(full name of employer) of (address), the employer.

APPLICATION FOR AN ORDER BY A TRIBUNAL THAT SECTION 36(1) OF THE ACT IS NOT TO APPLY.

The Chief Commissioner,
Office of Workers' Compensation.

1. An application is made for an order by a tribunal that the requirement of the making of weekly payments under Section 36(1) of the Act is not to apply.
2. (Specify the grounds on which the order is sought).
3. Notice of injury in respect of the injury was lodged on 19 , (or is attached).

Dated 19

(Signature of Employer.)

NOTE: Application may be signed by the employer, his lawyer or other agent.

**PAPUA NEW GUINEA.
Workers' Compensation Act.**

Act, Sec. 24(2).

Form 15.

Reg., Sec. 18.

Register No. 19

IN RESPECT OF

(full name of worker) of (address), a worker

AND

(full name of employer) of (address), the employer.

APPOINTMENT OF AGENT.

I authorize of , whose signature appears below, to appear and act on my behalf in any proceedings connected with the *Workers' Compensation Act*.

Dated 19

(Signature of Party.)

(Witness.)

(Address.)

(Description.)

(Signature of Agent.)

NOTE: This form must be witnessed by a Commissioner for Oaths, a Town Clerk or Officer of the Public Service of Papua New Guinea.

Workers' Compensation

Ch. No. 179

**PAPUA NEW GUINEA.
Workers' Compensation Act.**

Act, Sec. 59.
Reg., Sec. 19.

Form 16.

Register No. 19
IN RESPECT OF
(full name of worker) of (address), a worker
AND
(full name of employer) of (address), the employer.

THIRD PARTY NOTICE.

TAKE NOTICE that an application for compensation has been made, a copy of which is annexed, for the hearing and determination of a claim for compensation under the *Workers' Compensation Act*, in respect of the abovenamed worker and employer.

The employer claims to be indemnified by you against any liability on the part of the employer on the following grounds (specify grounds relied on):—

Particulars are as follows (specify concise particulars of facts and circumstances relied on as constituting the above grounds):—

AND FURTHER TAKE NOTICE that if you wish to dispute the claim for compensation or your liability as claimed in this notice, you must cause an answer to the claim to be filed on your behalf at the Office of Workers' Compensation within _____ days after the service of this notice on you.

IN DEFAULT of your so doing, you will be deemed to have admitted the validity of any determination for compensation made in the above proceeding, whether by consent, award or otherwise, and your liability as claimed in this notice, and an award may be made against you accordingly without further notice.

Dated 19 _____

(Signature of Employer.)

NOTE: This notice may be signed by the employer, his lawyer or other agent.

**PAPUA NEW GUINEA.
Workers' Compensation Act.**

Act, Sec. 67(3).
Reg., Sec. 24.

Form 17.

Register No. 19
IN RESPECT OF
(full name of worker) of (address), a worker
AND
(full name of employer) of (address), the employer.

NOTICE BY EMPLOYEE DECLINING ASSESSMENT OF COMPENSATION UNDER SECTION 67(3) OF THE ACT.

The Registrar,
Office of Workers' Compensation (and) (name of employer).

1. Take notice that the abovenamed worker does not desire to have compensation assessed under Section 67(3) of the Act.
2. The approval of the Registrar in accordance with Section 67(3) of the Act is sought.

Dated 19 _____

(Signature of Employee.)

Registrar.

Approved/Not approved.

NOTE: (1) This notice may be signed by the employee, his lawyer or other agent.
(2) To be submitted in duplicate to the Registrar in the first instance.

Ch. No. 179

Workers' Compensation

**PAPUA NEW GUINEA.
Workers' Compensation Act.**

Act, Sec. 74.

Form 18.

Reg., Sec. 25.

Register No. 19
IN RESPECT OF
(full name of worker) of (address), a worker

AND
(full name of employer) of (address), the employer.

APPLICATION FOR AN AWARD BY CONSENT.

The Chief Commissioner,
Office of Workers' Compensation.

Application is made for a consent award by a tribunal in respect of an agreement reached between the abovenamed worker and employer, particulars of the agreement are as follows:—

Dated 19

Signed by or on behalf of
the worker

Signed by or on behalf of
the employer

In the presence of

In the presence of

**PAPUA NEW GUINEA.
Workers' Compensation Act.**

Act, Sec. 76(1).

Form 19.

Reg., Sec. 26(1)(a).

Register No. 19
IN RESPECT OF
(full name of worker) of (address), a worker

AND
(full name of employer) of (address), the employer.

APPLICATION TO DISCONTINUE OR DIMINISH A WEEKLY PAYMENT.

The Registrar,
Office of Workers' Compensation.

Application is made for your consent to discontinue/diminish* the weekly payment made to the abovenamed worker. In support of this application the following particulars are appended:—

PARTICULARS.

1. Date of commencement of weekly payments:
2. Amount of current weekly payments:
3. Grounds on which discontinuance/diminition* is sought:
4. If diminition sought, amount suggested:
5. Facts or circumstances on which suggestion is based:

Dated 19

(Signature of Employer.)

* Strike out whichever is inapplicable.

NOTE: The application may be made by the employer or his lawyer or other agent.

DECISION OF REGISTRAR.

I consent/decline to consent to the above application.

Registrar.

Dated 19

Workers' Compensation

Ch. No. 179

PAPUA NEW GUINEA.
Workers' Compensation Act.

Act, Sec. 76(2).

Form 20.

Reg., Sec. 26(1)(b).

Register No. 19

IN RESPECT OF

(full name of worker) of *(address)*, a worker

AND

(full name of employer) of *(address)*, the employer.

APPLICATION FOR AN ORDER BY A TRIBUNAL UNDER SECTION 76(2) OF THE ACT.

The Chief Commissioner,

Office of Workers' Compensation.

Application is made for an order by a tribunal that weekly payments to the abovenamed worker be discontinued/diminished/are not to be discontinued/are not to be diminished*.

In support of this application the following particulars are appended:—

PARTICULARS.

1. Date the Registrar gave his consent or declined to consent:
2. Grounds on which an order is sought:

Dated 19

(Signature of Employer.)

OR

(Signature of Employee.)

* Strike out whichever is inapplicable.

NOTE: This application may be signed by the employer, employee, his lawyer or agent.

PAPUA NEW GUINEA.
Workers' Compensation Act.

Act, Sec. 76(4).

Form 21.

Reg., Sec. 26(2).

Register No. 19

IN RESPECT OF

(full name of worker) of *(address)*, a worker

AND

(full name of employer) of *(address)*, the employer.

APPLICATION BY WORKER FOR REVIEW OF WEEKLY PAYMENT.

The Chief Commissioner,

Office of Workers' Compensation.

Application is made for a review by a Tribunal of weekly payments made to me, the abovenamed worker.

Workers' Compensation

In support of this application the following particulars are appended:—

PARTICULARS.

- 1. Date of commencement of weekly payments:
- 2. Date of last review (if any):
- 3. Amount of current weekly payment:
- 4. Current place of abode:
- 5. Grounds on which the review is sought.

Dated 19 .

(Signature of Employee.)

NOTE: This application may be made by the employee, his lawyer or agent.

PAPUA NEW GUINEA.

Workers' Compensation Act.

Act, Sec. 77.

Form 22.

Reg., Sec. 27.

Register No. 19 .

IN RESPECT OF

(full name of worker) of *(address)*, a worker

AND

(full name of employer) of *(address)*, the employer.

APPLICATION BY A WORKER CEASING TO LIVE IN PAPUA NEW GUINEA FOR AN ORDER BY A TRIBUNAL THAT HE CONTINUE TO RECEIVE WEEKLY PAYMENTS.

The Chief Commissioner,
Office of Workers' Compensation.

Application is made for an order by a tribunal that the abovenamed worker, who intends ceasing to live in Papua New Guinea, continue to receive weekly payments currently received under the Act.

In support of this application the following particulars are appended:—

PARTICULARS.

- 1. Date of intended departure from Papua New Guinea:
- 2. Intended address of worker:
- 3. Amount currently received as weekly payment:
- 4. Grounds on which an order is sought:

Dated 19 .

(Signature of Employee.)

NOTE: This application may be signed by the employee, his lawyer or agent.

Workers' Compensation

Ch. No. 179

PAPUA NEW GUINEA.
Workers' Compensation Act.

Act, Sec. 80.
Reg., Sec. 28.

Form 23.

Register No. 19
IN RESPECT OF
(full name of worker) of (address), a worker

AND

(full name of employer) of (address), the employer.

APPLICATION FOR PAYMENT INTO OFFICE OF WORKERS' COMPENSATION.

The Chief Commissioner,
Office of Workers' Compensation.

Application is made for an order by a tribunal that weekly payment be paid to the abovenamed worker during his disability into the Office of Workers' Compensation.

In support of this application, the following particulars are appended:—

PARTICULARS.

1. Current rate of weekly payment:
 2. Present capacity—
 - (a) totally disabled; or
 - (b) partially disabled:
 3. If partially disabled, is worker fitted only for employment of a kind that is not reasonably available to him:
 4. Particulars of spouse and children of worker at the time of application:
 5. Grounds on which the approval is sought:
- Dated 19 .

(Signature of Employer)

OR

(Signature of Employee.)

NOTE: This application may be signed by the employer, employee, his lawyer or other agent.

PAPUA NEW GUINEA.
Workers' Compensation Act.

Act, Sec. 81.
Reg., Sec. 29.

Form 24.

Register No. 19
IN RESPECT OF
(full name of worker) of (address), a worker

AND

(full name of employer) of (address), the employer.

APPLICATION FOR LUMP SUM PAYMENT IN REDEMPTION OF WEEKLY OR OTHER PAYMENTS.

The Chief Commissioner,
Office of Workers' Compensation.

Application is made for approval of a tribunal that the weekly payments made to the abovenamed worker be redeemed by the payment of a lump sum.

In support of this application the following particulars are appended:—

PARTICULARS.

- 1. Current rate of weekly payment:
- 2. Present capacity—
 - (a) totally disabled; or
 - (b) partially disabled:
- 3. If partially disabled, is worker fitted only for employment of a kind that is not reasonably available to him:
- 4. Particulars of spouse and children of worker at the time of application:
- 5. Grounds on which the approval is sought:

Dated 19 .

(Signature of Employer.)

or

(Signature of Employee.)

NOTE: This application may be signed by the employer, employee, his lawyer or other agent.

PAPUA NEW GUINEA.

Workers' Compensation Act.

Act, Sec. 82(1).

Form 25.

Reg., Sec. 30.

Register No. 19 .

IN RESPECT OF

(full name of worker) of (address), a worker

AND

(full name of employer) of (address), the employer.

APPLICATION FOR AN ORDER FOR PAYMENT OF COMPENSATION FROM THE WORKERS' COMPENSATION FUND.

The Chief Commissioner,

Office of Workers' Compensation.

Application is made for an order for the payment of compensation out of the Workers' Compensation Fund.

In support of this application the following particulars are appended:—

PARTICULARS.

- 1. On 19 , personal injury was received by:
- 2. An award for compensation was made on 19 .
A copy of the award is attached.
- 3. The details of compensation awarded are (state name of persons, relationship and amount ordered):
- 4. Compensation received is (if no compensation received—state nil):
- 5. Inquiry has been made of and it is evident that the liability of the employer under the Workers' Compensation Act is not covered by a policy of insurance or indemnity.
- 6. Name and address of person on behalf of whom this application is made:
- 7. Name and address of person making application if made on behalf of another person*.

Dated 19 .

(Signature of Applicant.)

* Strike out if inapplicable.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 179.

Workers' Compensation.

APPENDIXES.

APPENDIX 1.

SOURCE OF THE WORKERS' COMPENSATION ACT.

Part A.—Previous Legislation.

Workers' Compensation Act 1978 (No. 59 of 1978).

Part B.—Cross References.

Section, etc. in Revised Edition.	Previous Reference ¹ .	Section, etc. in Revised Edition.	Previous Reference ¹ .
1	1	30	30
2	2	31	31
3	3	32	32
4	4	33	33
5	5	34	34
6	6	35	35
7	7	36	36
8	8	37	37
9	9	38	38
10	10	39	39
11	11	40	40
12	12	41	41
13	13	42	42
14	14	43	43
15	15	44	44
16	16	45	45
17	17	46	46
18	18	47	47
19	19	48	48
20	20	49	49
21	21	50	50
22	22	51	51
23	23	52	52
24	24	53	53
25	25	54	54
26	26	55	55
27	27	56	56
28	28	57	57
29	29	58	58

¹Unless otherwise indicated, references are to the Act set out in Part A.

Workers' CompensationPart B.—Cross References.—*continued.*

Section, etc. in Revised Edition.	Previous Reference.	Section, etc. in Revised Edition.	Previous Reference.
59	59	81	81
60	60	82	82
61	61	83	83
62	62	84	84
63	63	85	85
64	72	86	86
65	64	87	87
66	65	88	88
67	66	89	89
68	67	90	90
69	68	91	91
70	69	92	92
71	70	93	93
72	71	94	94
73	73	95	95
74	74	96	96
75	75	97	97
76	76	98	98
77	77	Schedule 1	14
78	78	Schedule 2	Schedule 1.
79	79	Schedule 3	67
80	80		

APPENDIX 2.

SOURCE OF THE WORKERS' COMPENSATION REGULATION.

Part A.—Previous Legislation.

Workers' Compensation Regulation 1983 (Statutory Instrument No. 22 of 1983.)

Part B.—Cross References.

Section, etc. in Revised Edition.	Previous Reference ¹ .	Section, etc. in Revised Edition.	Previous Reference ¹ .
1	1	20	20
2	2	21	21
3	3	22	22
4	4	23	23
5	5	24	24
6	6	25	25
7	7	26	26
8	8	27	27
9	9	28	28
10	10	29	29
11	11	30	30
12	12	31	31
13	13	32	32
14	14	33	33
15	15	34	34
16	16	35	35
17	17	36	36
18	18	37	37
19	19	Schedule 1	Schedule.

¹Unless otherwise indicated, references are to the regulation set out in Part A.

