

Fabian Tract No. 82.

**THE**  
**Workmen's Compensation Act**

WHAT IT MEANS, AND HOW TO MAKE USE OF IT.

WITH THE TEXT OF THE ACT AND MOST OF THE SCHEDULES.

REVISED AND ENLARGED EDITION, CONTAINING THE MOST  
IMPORTANT LEGAL INTERPRETATIONS OF THE ACT.

[ONE HUNDRED AND FIFTIETH THOUSAND.]

PUBLISHED BY

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JANUARY, 1900.

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## ADDITIONS TO TRACT No. 82.

THERE have been some important legal decisions limiting the operation of the Workmen's Compensation Act, and shedding light on its provisions, since the last edition of this Tract was issued:—

The most important of these declares that the payment of compensation weekly even for ten months does not bind an employer to go on paying, or constitute an admission of liability on his part, unless an agreement has been signed and filed in the County Court.

In all cases of serious accident the right plan is to get at once a written agreement, which must be properly stamped and filed in the County Court. There is no charge for filing it. An honest employer should not object to putting his legal liabilities in writing: a dishonest one should be allowed no loophole to escape the law.

**Important Notice.**—Every workman who is receiving compensation for an accident, and who has *not* yet obtained and filed in court a stamped agreement, should at the end of three months consider whether he is likely to be wholly recovered within six months of the time of the accident. Sometimes complications arise which are worse than the original accident, and in such cases time is apt to slip away unnoticed. Unless he is almost certain to be quite recovered, and able to earn full wages as before: that is to say, unless he is satisfied that he will have no further claim on the employer at the end of six months from the accident, the workman should at once take steps to make his claim a properly registered legal one. Otherwise, the employer may at the end of six months refuse to pay any more, and no action can then be taken to enforce the claim.

Moreover, it must be remembered that claims are usually paid by insurance companies, who cannot give a penny beyond what is legally required of them. Even an employer who is willing to pay may be compelled by his insurance company to stop giving compensation money if payment is not actually enforceable by law, unless he chooses, and few will, to pay it out of his own pocket.

As a general rule, the wisest plan for every workman who is likely to want compensation for more than six months is to consult a solicitor, and get him to make the claim legally enforceable.

The unhappy decisions of the Court of Appeal (1) that a man must have been employed for a clear fortnight before he could obtain compensation, and (2) that proceedings must be commenced, and not merely notice given, within six months of the accident, have now been over-ruled by the House of Lords, and no longer remain operative.

*Note new address:* THE FABIAN SOCIETY,  
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*December, 1900.*

ADDITIONS TO TRACT No. 21

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# THE WORKMEN'S COMPENSATION ACT.

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THE WORKMEN'S COMPENSATION ACT, 1897, is a new law about accidents to workmen. It came into force on 1st July, 1898, and every workman ought to know what it says. If any part of the tract is not clear to any reader, or any point is omitted on which he wants information, he can write to the Secretary of the Fabian Society, 276 Strand, London, W.C., who will send him a full and clear answer free of charge.

To understand the change which the new law will make, it will be well shortly to state the law as it existed up to 1st July, 1898.

## The Old "Common" Law.

Before the first day of January, 1881, if a workman were injured by an accident when working, he could only bring an action at law against his master—

- (i.) where the master employed a servant, knowing that the servant was incompetent to do the work ; or
- (ii.) where a master used bad machinery or plant which he knew was unsafe and dangerous.

But if the master proved (i.) that the workman knew the machinery or plant was unsafe, or (ii.) that the workman was partly to blame for the accident, the workman could not win his action.

The workman could not at this time, therefore, recover compensation for injuries caused by a fellow servant, unless he proved that the employer knew the fellow servant to be incompetent. This is called the Doctrine of Common Employment, and as foremen were generally held to be fellow servants, it was very seldom that a workman could get any compensation for his injuries. This was a flagrant injustice, for which a remedy was badly needed.

## Employers' Liability Act, 1880.

In 1880, however, Parliament made a law called the Employers' Liability Act, 1880, which said that an employer is liable to pay damages to a workman if he be injured, or to his relatives if he be killed,

- (i.) by some defect in the machinery or plant which ought to have been put right by the master or his foreman ;
- (ii.) by the carelessness of a foreman ;
- (iii.) through obeying an order which caused the injury ;
- (iv.) through a fellow workman obeying a rule or order of his master, or
- (v.) by the carelessness of a man in charge of any engine, points, or signal on a railway.

But the master can escape liability by proving that the workman injured knew the danger of the bad machinery, or was partly to blame for the accident.

It will be seen that the Act of 1880 did not abolish the doctrine of common employment except so far as it applied to foremen. A workman could get no compensation for injuries caused by a fellow servant who was not known to be incompetent by the master. For the great majority of accidents, therefore, there was still no remedy against the employer.

The Act of 1880 only applies to manual laborers, and masters are not liable to pay more than three years' wages to the man injured, or, if he is killed, to his relatives. To decide whether the master is liable an action has to be brought in the County Court, either before the judge alone, or the judge and a jury. This costs money, and as the workman may only obtain a verdict for a small sum, in many cases there is not much, if any, left for the workman after paying the legal expenses. Besides, it is difficult to get workmen to give evidence against their master, and so the cases which can safely be brought into the County Court are very few indeed.

And if a master dies before the case is decided in the County Court, the workman cannot obtain any damages at all.

In many cases, an employer formed a society or scheme, by which the men employed by him had to forego any claim under the Act of 1880, and be content with the compensation which would be paid under the scheme. This is called "contracting out."

Such was the state of the law until 1st July, 1898.

But it must be remembered that the Employers' Liability Act, 1880, is not repealed by the new law. It is still open to a workman or his relatives to bring an action under the law of 1880. But, in such cases, although more compensation may sometimes be obtained, the employer can escape liability by proving that the workman was partly to blame for the accident, or knew the danger he was incurring. It will be seen later that in accidents under the new law the employer cannot do so.

### The New Law.

The chief changes made by the new law are as follows:—

1. If a master dies before an injured workman has obtained compensation, the personal representatives, that is, the executors of the will, or the administrators of the estate, of the master, are liable to pay.
2. The new Act applies to more men and women than the Act of 1880.
3. The doctrine of common employment is abolished in the trades to which the new law applies, and, therefore, the master is liable in a great many more cases of injury or death than before.
4. "Contracting out" is only allowed under certain conditions.
5. The new law makes the compensation payable upon a definite principle.
6. It fixes both the highest and the lowest amount to be paid for accidents which cause death, and a maximum amount for accidents only causing injury.

## The Changes Made by the New Act.

### 1. Employers Dying before Compensation is Obtained.—

About this change nothing need be said, except that a workman can proceed just as if his employer were alive.

2. **Trades Included.**—The new law applies to all men or women, whether manual laborers or not, who are employed in certain places. Clerks and apprentices are included. The word "workman" will be used in this tract, in order to save space, to mean also workwoman and workgirl. The following is a list of the places to which the Act applies:—

(1) A railway, including a light railway.

(2) A factory, which includes the following places:—

Print works, bleaching and dyeing works, earthenware or china works, lucifer match works, percussion cap works, cartridge works, paper staining works, fustian cutting works, blast furnaces, foundries, copper mills, iron mills, metal and indiarubber works, paper mills, glass works, tobacco factories, printing works, bookbinding works, flax scutch works.

Also hat works, rope works, bakehouses, lace warehouses, ship-building yards, and pit banks, if steam, water, or other mechanical power is used in aid of the manufacturing process carried on there.

Any premises wherein steam, water or other mechanical power is used in aid of the manufacturing process carried on there, for the making, altering, repairing, ornamenting, finishing, or adapting for sale of any article.

Any premises wherein steam, water, or other mechanical power is used to move or work any machinery employed in preparing, manufacturing, or finishing cotton, wool, hair, silk, flax, hemp, jute, tow, china-grass, cocoanut fibre, or other like material, or any fabric made thereof.

Every laundry worked by steam, water or other mechanical power.

Every dock, wharf, quay, and warehouse, and, so far as relates to the process of loading or unloading therefrom or thereto, all machinery and plant used in that process. [The accident, however, need not arise from the use of the machinery. But unless machinery is used, the Act does not apply. Thus, when a man was employed in unloading cases of cartridges from a ship by means of a crane, and an explosion occurred while he was putting a case into the basket of the crane, the Court of Appeal said his relatives were entitled to compensation, because he was working at a place to which the Act applied, although the accident was not caused by the machinery.]

(3) A mine, which includes coal mines and every other mine used for working minerals.

(4) A quarry, which includes every place (not a mine) in which persons work in getting slate, stone, coprolites, or other minerals, provided it is more than twenty feet deep.

(5) Engineering work, which means any work of construction, alteration, or repair of a railroad, harbor, dock, canal, or sewer, and includes any other work for the construction, alteration, or repair of which, machinery driven by steam, water or other mechanical power is used.

(6) As regards work on buildings, the Act applies only to three classes :

(i.) Any building over thirty feet high, which is either (*a*) being constructed or repaired by means of a scaffolding ; or (*b*) being demolished, even when scaffolding is not used. The building must be actually at least 30 feet high at the time of the accident, the height being measured from the original level of the ground, to the top of the roof. A plank tied to a ladder and resting on a window sill is not scaffolding, and the relations of a man who fell from such a plank and was killed were refused compensation under the Act.

(ii.) Any building on which machinery driven by steam, water or other mechanical power is being used for the purpose of the construction, repair, or demolition of that building ; and

(iii.) Any premises on which machinery worked by steam, water, or other mechanical power is temporarily used for the purpose of the construction of a building, or any structural work in connection with a building.

#### TRADES NOT UNDER THE ACT.

As a general rule, the following important trades do not come under the Act : (i.) agricultural laborers, (ii.) seamen and fishermen, (iii.) domestic servants, (iv.) workshop operatives, (v.) shop assistants, (vi.) persons engaged in transport services, and in tending horses, (vii.) sailors in the navy and soldiers in the army.

**3. Accidents Included.**—When a workman is injured or killed by an accident whilst at work, his employer must pay compensation if the workman is prevented from earning full wages for more than the next two weeks, or when he is killed, to those whom he either entirely or partially supported. The accident must happen on, or near to, the employer's place of business. Compensation is to be paid although the accident is caused by a fellow-servant. It is also payable even though the workman himself was partly to blame. But it is not payable to a workman who is entirely to blame and causes the accident by his own bad behavior. If, however, his fellow-servants are injured at the same time, they can obtain compensation.

As the new Act does not repeal the Employers' Liability of 1880, a workman can still, if injured by the negligence of the employer himself, or of a foreman, bring an action in the County Court under that Act. He can also, in a suitable case, bring an action at Common Law, as explained on page 3.

The cases in which a workman will, with some degree of certainty, obtain a larger sum under the old than he will get under the new law, are few. But, if he does bring an action, either under the Act of 1880, or at Common Law, and the judge who decides the case



decides that the employer is liable under the new Act, but not otherwise, the workman must ask the judge to fix the amount which the employer must pay, and so save further costs.

The following rules determine whether compensation can be claimed :—

(i.) It is not to be paid to a workman who is entirely to blame for the accident and causes the accident by his "serious and wilful misconduct." But though the workman who causes such an accident cannot himself get compensation, his fellow servants who are injured at the same time can get it.

(ii.) It is only payable for those accidents which either kill a workman or *so injure him that he is unable to earn full wages for more than the next two weeks.*

(iii.) It is only to be paid for accidents which happen at or near to the employer's place of business. There is no difficulty in saying whether the accident occurred "on or in" a certain place. But the Act also uses the word "about." The intention of Parliament seems to have been that compensation should only be paid for accidents which either occur on or in the employer's place of business, or so near to it as to be practically the same thing. Thus, a carter employed at timber works to which the Act applied, whilst loading his employer's cart was killed by a piece of timber tilting and knocking him off the cart. The cart was, at the time of the accident, standing in the street near to the entrance of the works. The Court of Appeal, therefore, said that the carter's widow was entitled to compensation. But if a carter employed, for example, by a railway company, is injured by an accident which happens when he is on his rounds, collecting goods to be taken to the station, compensation cannot be obtained. Although such a man would be injured by an accident happening in the course of his employment by the railway company, yet as the accident does not happen "on, in, or about" the railway, compensation cannot be obtained.

(iv.) *Compensation is only to be paid for an accident which happens when the workman was doing his proper work.*—For example, a railway ticket collector, *after* taking the tickets, got on to the foot-board whilst a train was in motion, in order to speak to a young woman of his acquaintance. He slipped, and was killed. The Court of Appeal said his relatives were not entitled to compensation, because he was not doing his work at the time of the accident. He had finished taking the tickets, which it was his duty to take, and got on to the train for his own pleasure.

Another case, showing what is meant by an "accident arising out of and in the course of his employment" can be given: A boy was employed in pottery works to make balls of clay, and hand them to a woman who worked at a moulding machine. He also had to take the moulded pottery away. But he was not employed to do anything to the machine, and was, in fact, forbidden to touch it, it being the foreman's duty to clean it. Whilst the woman had gone to fetch some clay, the boy tried to clean the machine and was injured. The Court of Appeal said he was not entitled to compen-

sation, because the injury was caused not by an accident which arose in the course of his employment, but whilst he was doing something which he was not engaged, and actually forbidden, to do.

It will be seen from these two cases that, in order to get compensation, the accident must happen whilst the workman is discharging his duties. If he is injured whilst doing something else, and the accident would not have occurred to him if he had been attending to his work, compensation cannot be obtained.

In the case of accidents which injure a workman whilst he is assisting in an emergency by doing something outside his ordinary work, compensation will probably be obtained.

4. "**Contracting Out.**"—Under the Act of 1880, an employer could force a workman engaged by him to contract out of the Act, and to join any scheme or society formed by him. In many cases, the benefits under the scheme were very small, and as the workman had to pay contributions, the employer gained more than the workman.

The new law abolishes "contracting out," except under two conditions—

(i.) The employer must not force a workman engaged by him to join any society formed by him. That is to say, if a workman applies for a job the master cannot make it a condition of employment that the workman joins the society or scheme.

(ii.) And before any such scheme can exist the employer must submit it to the Chief Registrar of Friendly Societies.

If the Registrar, *after consulting the workmen as well as the employer*, thinks the men will get as much benefit from it as from the new law, he may grant a certificate. But until the certificate is granted, no scheme or society formed by an employer is legal. The certificate lasts for five years, but if during that time the workmen find that (i.) they lose by the scheme, or (ii.) they are not fairly treated under it, or (iii.) that it is not fully carried out in practice, they may complain to the Registrar. If after enquiry the Registrar thinks the complaint is justified, he may cancel the certificate unless the scheme is made satisfactory and the subject-matter of the complaint remedied.

5. **How to Get Compensation.**—Under the Act of 1880 there is often some doubt whether the accident is one for which compensation can be obtained, for questions arise as to whether there has been negligence by the employer or his foreman, or contributory negligence by the workman. To decide these questions, and to fix the amount of compensation, an action in the County Court is necessary.

The new Act, however, as has been seen, entirely alters the principle on which compensation depends. It has also, to a great extent, made the amount of compensation merely a matter of calculation, as will appear later. Disputes, therefore, are far less frequent than they are under the Act of 1880. The new Act, however, has made certain provisions for settling any disputes which arise.

To make the employer pay, certain steps must be taken.

But, first of all, who is "the employer"? The employer is not of necessity the employer by whom the workman is engaged. The new law says that if an employer undertakes to do a job, and contracts with another employer to do part of that job, it is the employer who has undertaken the whole job who must pay for any accident which happens. But this is only the case where both employers are engaged in the same trade or branch of trade. If they are engaged in different businesses, the employer by whom the workman is engaged must pay compensation for any accident which occurs. For instance, if an employer contracts with a builder to repair his works, and a man employed by the builder is injured by an accident, the employer who owns the works is not liable, but the employer who undertakes the repairs is liable.

**Notice of Accident.**—In order to claim compensation for an injury, notice of the accident must be given to the employer. If the workman is killed, the notice must be given by his family.

The notice must be in writing, and give the following information: (i.) name and address of the injured workman; (ii.) the date of the accident; (iii.) the cause of the injury.

In giving notice, the following rules must be observed: (i.) it must be given as soon as possible after the accident; (ii.) and before the injured workman ceases of his own accord to work for the employer; (iii.) only ordinary language is necessary, and the notice need not be in any special form; (iv.) the notice must be accurate, and all the information already mentioned given—if not, the workman may not be able to claim and get compensation.

The notice may be sent either (i.) by hand or (ii.) by registered letter, to the place of business of the employer, whether the employer is a company, a firm, or a single master, and if the workman knows where his employers or one of them lives, the notice may be sent to their or his house in the same way. Although no definite time is fixed for giving *notice*, yet *claims* for compensation must be made within six months of the accident, whether it results in death or not. Unless the claim is made within the proper time, no compensation can be obtained.

After notice has been given, a dispute may arise as to whether the accident is one for which the employer must pay, or whether the trade in which it happened is within the Act, or as to the amount of compensation. The question is to be settled in one of two ways.

First, if any committee has been formed by the employer and his workmen to settle disputes under the new law, that committee must decide the question.

But if—

(i.) The committee does not settle the dispute within three months from the day when it is asked to do so, or

(ii.) The committee thinks it would be best to have the dispute settled by a single person chosen by them, or

(iii.) Either the employer or workman, before the committee meet to settle the dispute, sends a written notice objecting to the committee deciding the question, then, in any of these cases, the dispute must be settled by arbitration in the following way:—

An arbitrator is to be appointed by the employer and workman if they can agree on a suitable person.

If they cannot agree, the question is to be settled either by the County Court judge, or by an arbitrator appointed by him.

An arbitrator, whether appointed by the parties themselves or by the judge, can submit any questions of law which arise to the judge. An appeal from the judge's decision on questions of law can be made to the Court of Appeal direct, unless the employer and workman have agreed to abide by the County Court judge's decision. But on questions of fact, no appeal can be made.

The judge or arbitrator can order either party to pay the costs, which are fixed by the County Court rules.

In deciding disputes under the Act, if the leave of the judge or arbitrator be obtained, a workman may be represented by a member of his family, or "by an officer or member of any society or other body of persons, of which the workman is a member, or with which he is connected." Thus, an officer of his Trade Union can appear for him. But he is not entitled to any fee except travelling expenses. A member of the workman's family, however, may get an allowance for loss of time, the amount being fixed by the judge or arbitrator.

**6. How much Compensation must be Paid?**—The Act of 1880 does not fix any definite amount of damages which can be obtained, nor does it lay down any principle on which the amount is to be calculated. It does, however, limit the amount to a sum equal to three years' wages of a workman of the same grade, engaged in the same trade and district as that of the injured man. Below this limit, the judge or jury can award any sum they think fit, and this makes the amount a matter of great uncertainty.

The new Act has made a great change. In the first place, it attempts to do away with the uncertainty as to the amount of compensation by laying down a rule by which the amount can in most cases be easily calculated.

Secondly, the Act, in order to simplify matters, divides accidents into two classes—those causing deaths, and those causing injuries which prevent the man injured from earning full wages for more than the next two weeks.

Thirdly, the Act makes the compensation for deaths payable in a lump sum, whilst compensation for injuries is payable in weekly sums.

Fourthly, the Act fixes both (a) a maximum and a minimum amount of compensation where the workman killed leaves relatives *wholly* dependent on him for support; (b) a maximum amount if the relatives were partly kept by him; and (c) a maximum amount of the weekly sum payable for injuries.

## COMPENSATION FOR A DEATH.

How much must be paid if the workman be killed ?

The amount of compensation to be paid depends on whether the workman killed leaves (i.) relatives who were *wholly* supported and kept by him ; or (ii.) relatives who were *partly* kept by him ; or (iii.) *no* relatives kept by him.

(i.) If the workman leaves a wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, stepson or stepdaughter *whom he entirely supported* by his wages, the employer must pay at least £150, but is not liable to pay more than £300. The exact sum to be paid depends on the average weekly earnings of the workman whilst he had worked for his employer.

If he had been employed for three years or more, the amount is fixed by finding out the average wages per week for the three years before the accident. If three years' wages at that average wage per week come to more than £150, the employer must pay a sum equal to them. In other words, the employer must pay 156 times (that is, three years, as there are 52 weeks in the year) the average weekly earnings. But if the workman had not worked for the same employer during the three years before the accident, his average wages per week whilst he had worked for his employer must be found out. When that is done the amount to be paid is three years' wages at that rate, that is, 156 times his average wages, but his relatives must never get less than £150.

(ii.) If the relatives were only partly supported by the workman killed, the highest amount is also £300. But less than £150 may be awarded if the judge, or arbitrator, or committee think a smaller sum will be sufficient compensation.

(iii.) If the workman leaves none of the relatives mentioned living at his death, the employer must pay reasonable funeral expenses, but they must not be more than £10.

Any dispute as to who is a dependant, or as to the amount to be paid to each dependant, is to be settled by arbitration.

## COMPENSATION FOR INJURY.

When the accident does not kill the workman, compensation can only be got if the workman is unable to work for more than two weeks afterwards. At the end of these two weeks he may be entirely unable to work, or he may, though unable to earn full wages, be able to do some work. In either case he is entitled to be paid a weekly sum by the employer until he has completely recovered. The amount depends on his average weekly wages before the accident. (i.) When a man is entirely unable to work, if he has been employed by the master for a year, the sum to be paid is half the average weekly wages earned by him during that period.

If he has not been employed by the master for twelve months, the amount payable is half the average weekly wages earned by him whilst he has been employed by the employer. Thus, if a workman has earned £1 a week for forty weeks, and £1 10s. a week for the last twelve weeks before an accident, his earnings for the year would be

£58. If, therefore, he is unable to work, he would, after the first two weeks, be entitled to a weekly payment of 11s. 2d., that being half of his average weekly earnings, which were 22s. 4d.

But in no case can the workman get more than £1 per week. (ii.) When the injured workman is not entirely prevented from working after the accident, he is still entitled to a weekly sum if he cannot earn full wages. This sum cannot be more than half his weekly wages before the accident, and probably in most cases will be half the difference between what he can get after the accident and what he earned before. If he earned 30s. before the accident, and for some time afterwards can only get £1 per week, he will usually get 5s. a week until he is well again.

But it must be remembered that the employer has not to pay anything for the first two weeks after the accident.

In fixing the weekly payment, any payment, not being wages, made by the employer whilst the workman is unable to work, must be taken into account.

The question remains, who is to say whether the workman can or cannot go to work?

After a workman has given notice of an accident, the employer can send a doctor to examine him; and during the time a workman is getting a weekly payment from his master he must, if the employer wishes it, allow a doctor to examine him. Unless he allows the doctor to do so, he can get no compensation. But if the workman is not satisfied with the doctor, or with any report the doctor makes, he can be examined by another doctor. This doctor must be one specially appointed to report under the new law; he can charge the workman a reasonable fee, which the arbitrator *may* order the masterto repay.

When a weekly payment has been made for six months, the employer may pay a lump sum. If he does so, it will be in full settlement of the weekly payments which would otherwise be payable to the workman.

But at any time while a workman is getting a weekly payment because of the accident preventing him from earning full wages, or from working at all, the workman or employer may want it to be altered. The workman may find that his accident was more serious than he thought, and that he cannot earn as much as he thought he could. The employer may wish to pay less, or to stop the weekly payment altogether, because the workman is better in health and can earn more than was expected. In either case, unless they can agree, the question must be settled by arbitration as already described.

The weekly payment awarded to an injured workman, or a lump sum paid instead of a weekly payment which has been made for six months, cannot be taken for a workman's debts, because it is intended to support him during his sickness.

#### Memorandum of the Amount of Compensation Obtained.

When an accident has happened, and the amount of compensation to be paid by the employer has been fixed, either by agreement, or the committee, or the County Court judge, or the arbitrator, a

memorandum must be sent to the Registrar of the County Court for the district in which the person getting compensation lives. It must contain the decision or agreement arrived at, and will be entered in a special register, without any fee. When registered, the memorandum can be enforced like a County Court judgment, that is, by execution against the goods of the person liable to pay the amount mentioned in the memorandum. It must be signed by the arbitrator, or by the chairman and secretary of the Committee, or by both parties, according as the case was decided by an arbitrator, or a committee, or by agreement between the parties. If not thus registered it cannot be so easily enforced.

### Other Regulations.

When a workman who is killed by an accident has made a will, the compensation must be paid by the employer to the executor of the will. If there is no will, it will be paid to the administrator of the workman's property.

The relatives to whom compensation is payable under the new law, are entitled to administration in the following order: (i.) Wife, or husband; (ii.) child; (iii.) grandchild; (iv.) father; (v.) mother; (vi.) brothers or sisters, or grandfather or grandmother.

The committee or arbitrator, when they find that an employer must pay compensation, may order the money to be invested in the Post Office Savings Bank. It would then be entered in the name of the Registrar of the County Court within whose district the deceased workman lived.

The money may be invested in the purchase of an annuity from the National Debt Commissioners; or it may be paid into the Post Office Savings Bank, although the sum is larger than the amount usually allowed in the Bank.

When the money is invested in the Post Office Savings Bank, it cannot be paid out unless the County Court judge or the Treasury sign a form authorizing it to be paid out.

Although a person who is entitled to money paid as compensation has an account at the Savings Bank of his or her own savings, another account may be opened in order to pay in the compensation money.

In case the employer becomes bankrupt before payment of the compensation awarded, and has insured himself against the Act, the insurers must pay the amount to the workman or his relatives. The money may not be used by the employer to pay his debts.

This applies also where the employer makes any arrangement with his creditors.

If the employer is a company which is insolvent and being wound up, the rule applies as if the company were a private person.

### Regulations as to time under New and Old Law.

NOTICES.—Under the new law, notice of the accident, whether resulting in death or not, has not to be given within any certain time, but as soon as possible.

Under the Act of 1880, notice of the accident has to be given within six weeks of the injury, but in case of death may be excused altogether if the judge thinks the excuse reasonable.

CLAIMS.—Under the new law, compensation must be claimed within six months from the date of the injury or death.

Under the Act of 1880, an action must be started :

- (i.) In case of death, within twelve months from that date ;
- (ii.) In case of injury, within six months of the accident.

If an action is brought under neither the new law nor the Act of 1880, it must be started within twelve months from the date of death.

It will be seen that notice is not really necessary under the new law. But compensation cannot be obtained unless it is claimed within six months of the day of the injury or of the death of the workman. To avoid friction, notice should always be sent within six weeks of the accident, whether the workman is killed or not. In fact, if the workman is injured, and prevented from working for two weeks, notice should be sent immediately the two weeks have expired, so as to get a weekly payment as soon as possible.

#### Alternatives.

As the new law does not repeal the Act of 1880, but expressly states a workman may still where possible bring an action under it in the County Court, it will be useful to consider in what cases such an action is possible.

It must be remembered that it is not every workman injured (or his relatives, if killed), who can bring an action under the Act of 1880. The Act of 1880 applies to manual laborers only, whereas the new law applies to all persons engaged in certain trades, whether as manual laborers or otherwise.

An action under the Employers' Liability Act, 1880, can only be maintained :

- (i.) If the workman is engaged in manual labor at an employment to which the Act applies ;
- (ii.) If the workman is injured or killed in any of the five ways mentioned in the Act of 1880 (see p. 3).
- (iii.) If notice has been given within the time fixed by the Act of 1880.

As the workman or his relatives will be certain in most cases of some compensation under the new Act, actions under the Act of 1880 should be avoided except in cases of very serious injuries to the workman and very clear liability of the employer. The reasons for this are—

- (i.) The difficulty of getting workmen to give evidence against their employer is great ;
- (ii.) The expenses are considerable, as the costs of the employer may have to be paid by the workman if he loses his case ;
- (iii.) The amount of the damages which the judge or jury will award is uncertain ;



(iv.) The employer is not liable if the workman was partly to blame for the accident, or knew of the dangerous state of the machinery or plant. And, of course, an action cannot be brought for injuries caused by a fellow servant.

But as the highest amount of compensation which a workman's relatives can get under the new law is only £300—and this is only where they were entirely kept by the workman killed—it may sometimes be well to claim under the Act of 1880.

It will be remembered that although the case should be lost, yet if the judge finds that the employer is liable to pay compensation under the new law, he may fix the amount to be paid. He can only do so when asked by the workman's relatives, who should, to save further trouble and expense, always ask for it. The expenses of the employer, or part of them, may have to be paid by the relatives if their case is not successful.

In what cases ought such an action to be started?

Now, £300, the highest amount of compensation under the new law, means that the workman was earning on the average £2 a week at the time of his death. The highest amount under the Act of 1880 is three years' average wages of a worker in the same trade, grade, and district, as the worker killed. Therefore, an action under the Act of 1880 should only be started if the workman's wages were at least £2 10s. a week, and even then, as the full amount of three years' wages, viz., £390, may not be obtained, it is only in cases where the employer or his foreman is clearly and seriously to blame, that the expense and uncertainty of such an action should be risked.

Where the workman is injured, he can, under the new law, at most, only get a weekly payment of £1. This is liable to alteration, and if paid for six months, the employer may pay a lump sum instead of continuing the weekly payment. Now £1 a week is only to be paid if the injured workman's wages are at least £2. It may, therefore, be said that actions under the Act of 1880 for injuries should only be started—

- (i.) if the workman's wages were £2 10s. a week ;
- (ii.) if the action is almost certain to be successful because of the employer or his foreman being clearly and seriously to blame ; and
- (iii.) if the workman's injuries are very serious and likely to continue for life.

These conditions are, of course, arbitrary ; but probably a judge and jury would be influenced very much by calculating what a man could get under the new law. But, if a counter prejudice, caused by the injuries and the circumstances of the accident, can be raised in their minds, they may be inclined to penalize the employer.

If (ii.) and (iii.) are not present in the facts, the limit of wages in (i.) should be raised to £3.

#### General Advice.

The Trade Union secretary and members of a workman's family may now appear at an arbitration under the Act, as has been mentioned on p. 10. They should, therefore, obtain the names and

addresses, at least, of those present at an accident. If those persons would write down a short account of what they recollect of the matter it would be very valuable in the event of subsequent proceedings, whether under the new Act or otherwise. From what has been already stated, it will be seen that in most cases the amount of compensation can easily be calculated, and if there is no question of misconduct by the workman no dispute will generally arise. If, unfortunately, some disputed point should crop up, the method of getting it decided has been already indicated.

### Reforms.

So far we have dealt with the way to take advantage of the Act as it stands. The basis upon which further reform should proceed is, that since industry is carried on for the ultimate benefit of the community, therefore the community is bound to see to the welfare of all engaged in industry. This duty has two sides, the prevention of accidents and injury to health by means of labor-protective legislation, and the compensation for accidents and injury when they occur. To the State, therefore, the workman must look for his compensation. The employer can most effectively be dealt with for breach of the protective laws. Here are the chief points on which the present measure needs alteration:—

1. *Extension of the Measure.*—It was admitted by the Government that their Bill was incomplete, but they refused to “overload” it. They pledged themselves to introduce a special Bill for seamen, but it gives no signs of appearing above the political horizon. Seamen, workshop operatives, builders, agricultural laborers, shop assistants, and at least those domestic servants who are engaged in hotels and institutions, should be included. Not the frequency of accidents, but the fact that a worker is injured, should be the test of the applicability of the Act.

Secondly, the employer should be liable not only for accidents, but also for injury to health caused by industrial processes. At present, the wrecks turned out every year from the chemical and white-lead works receive no compensation, while a man who is laid aside for three weeks by a slight accident gets something. This is neither just nor logical.

Thirdly, the present Act does not come into operation until a fortnight after an accident. This limitation should be removed, for a man who is laid up for a week is as much entitled to his proportionate compensation as the man who cannot go to work for a month.\*

2. *Mode of Payment.*—At present, the injured party has to recover from the employer, and if a pension is awarded and the employer goes bankrupt, there is no effectual remedy. At least the payment should be made a preference debt in all cases. As in

\* The importance of this may be seen from the fact that of the accidents which occurred at the Oldbury Alkali Works during the past 17 years, 60 per cent. of the sufferers would have been excluded from the benefits of the new Act in consequence of the 14 days' clause.—*Birmingham Post*, 14th March, 1898.

Germany, the workman should look to the State for compensation, and the State should recover from the employer where possible.

Pensions may now be commuted for a lump sum after six months. Now, a pension is the most favorable form for the injured person, for it cannot be invested and lost. If payment were made by the State, pensions would be quite safe. Compensation should therefore be in the form of pensions.

3. "*Act of God*" Accidents.—The Government has done an injustice to the employers and the capitalists, in making them liable for all kinds of accidents. When negligence is proved, or there has been a contravention of the law, liability is proper; but outside these classes accidents are "acts of God." This will be a very serious matter the first time a big colliery explosion occurs. A certain proportion of accidents is a necessary occurrence in industry. The State can reduce them by imposing more stringent regulations on the employers of labor, and thereby proportionately increase their liability for accidents. But the German experience shows that there will be a remainder of accidents whose number will be statistically a certainty. The workman pays his toll of responsibility in suffering; the State, as profiting by the industry, should bear the financial burden. Otherwise, the employer will be certain to shift the incidence of compensation from his own shoulders to those of the consumer. The State should compensate the workman directly, and, in cases of negligence or breach of the law, should recover the amount from the employer.

4. *Notice*.—As notice of most accidents has already to be given by the employer to the factory-inspector, there is no need for any further notice from the workman to the employer, and the provisions requiring it should be struck out as unnecessary.

5.—*Arbitration*.—The factory-inspector has at present to enquire into the overwhelming majority of accidents. If the primary responsibility for payment is thrown on the State there is no necessity for the elaborate provisions for arbitration. The State should pay on the report of the inspector, and further investigation could be made if the employer resisted the proceedings taken against him to recover penalties for breach of the Factory or other Acts; there would then be no chance of the injured party being forced to the Court of Appeal on a point of law.

6.—*Common Employment: Contributory Negligence*.—With the extension of the principle of compensation to all trades, opportunity should be taken to sweep away these antiquated legal theories which are now abandoned even by lawyers. A bill to abolish this actually passed its second reading in the House of Commons last session.

7. "*Contracting Out*."—The existing compromise on contracting out removes many of the worst features of private compensation schemes, but the eagerness of coalowners to promote schemes under the Act shows that they think such schemes less onerous to them than the schedules of the Act. There is no reason why a workman should contribute at all towards his own compensation, and contracting out should be abolished altogether.

8. *Scale of Compensation.*—The present niggardly scale should be revised in favor of pensions, which should be based on a real living wage. Permanently incapacitated workmen should not be treated as out-door paupers.

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## TEXT OF THE WORKMEN'S COMPENSATION ACT, 1897.

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

(2.) Provided that :—

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

(3.) If any question arises in any proceedings under this Act as to the liability to pay compensation under this Act (including any question as to whether the employment is one to which this Act applies), or as to the amount or duration of compensation under this Act, the question, if not settled by agreement, shall, subject to the provisions of the First Schedule to this Act, be settled by arbitration, in accordance with the Second Schedule to this Act.

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

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

(5.) Nothing in this Act shall affect any proceeding for a fine under the enactments relating to mines or factories, or the application of any such fine, but if any such fine, or any part thereof, has been applied for the benefit of the person injured, the amount so applied shall be taken into account in estimating the compensation under this Act.

**2.—(1.)** Proceedings for the recovery under this Act of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death. Provided always that the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings, if it is found in the proceedings for settling the claim that the employer is not prejudiced in his defence by the want, defect, inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake or other reasonable cause.

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

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

(4.) The notice may also be served by post by a registered letter addressed to the person on whom it is to be served at his last known place of business, and if served by post shall be deemed to have been served at the time when the letter containing the same would have been delivered in the ordinary course of post, and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered.

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

**3.—(1.)** If the Registrar of Friendly Societies, after taking steps to ascertain the views of the employer and workmen, certifies that any scheme of compensation, benefit, or insurance for the workmen of an employer in any employment, whether or not such scheme includes other employers and their workmen, is on the whole not less favorable to the general body of workmen and their dependants than the provisions of this Act, the employer may, until the certificate is revoked, contract with any of those workmen that the provisions of the scheme shall be substituted for the provisions of this Act, and thereupon the employer shall be liable only in accordance with the scheme, but, save as aforesaid, this Act shall apply notwithstanding any contract to the contrary made after the commencement of this Act.

(2.) The registrar may give a certificate to expire at the end of a limited period not less than five years.

(3.) No scheme shall be so certified which contains an obligation upon the workmen to join the scheme as a condition of their hiring.

(4.) If complaint is made to the Registrar of Friendly Societies by or on behalf of the workmen of any employer that the provisions of any scheme are no longer on the whole so favorable to the general body of workmen of such employer and their dependants as the provisions of this Act, or that the provisions of such scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reason exists for revoking the certificate, the Registrar shall examine into the complaint, and, if satisfied that good cause exists for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

(5.) When a certificate is revoked or expires any moneys or securities held for the purpose of the scheme shall be distributed as may be arranged between the employer and workmen, or as may be determined by the Registrar of Friendly Societies in the event of a difference of opinion.

(6.) Whenever a scheme has been certified as aforesaid, it shall be the duty of the employer to answer all such inquiries and to furnish all such accounts in regard to the scheme as may be made or required by the Registrar of Friendly Societies.

(7.) The Chief Registrar of Friendly Societies shall include in his annual report the particulars of the proceedings of the Registrar under this Act.

4.—Where, in an employment to which this Act applies the undertakers as herein-after defined contract with any person for the execution by or under such contractor of any work, and the undertakers would, if such work were executed by workmen immediately employed by them, be liable to pay compensation under this Act to those workmen in respect of any accident arising out of and in the course of their employment, the undertakers shall be liable to pay to any workman employed in the execution of the work any compensation which is payable to the workman (whether under this Act or in respect of personal negligence or wilful act independently of this Act) by such contractor, or would be so payable if such contractor were an employer to whom this Act applies.

Provided that the undertakers shall be entitled to be indemnified by any other person who would have been liable independently of this section.

This section shall not apply to any contract with any person for the execution by or under such contractor of any work which is merely ancillary or incidental to, and is no part of, or process in, the trade or business carried on by such undertakers respectively.

5. (1.) Where any employer becomes liable under this Act to pay compensation in respect of any accident, and is entitled to any sum from insurers in respect of the amount due to a workman under such liability, then in the event of the employer becoming bankrupt, or making a composition or arrangement with his creditors, or if the employer is a company of the company having commenced to be wound up, such workman shall have a first charge upon the sum aforesaid for the amount so due, and the judge of the county court may direct the insurers to pay such sum into the Post Office Savings Bank in the name of the registrar of such court, and order the same to be invested or applied in accordance with the provisions of the First Schedule hereto with reference to the investment in the Post Office Savings Bank of any sum allotted as compensation, and those provisions shall apply accordingly.

(2.) In the application of this section to Scotland, the words "have a first charge upon" shall mean "be preferentially entitled to."

6.—Where the injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person other than the employer to pay any damage in respect thereof, the workman may, at his option, proceed either at law against that person to recover damages, or against his employer, for compensation under this Act, but not against both, and if compensation be paid under this Act, the employer shall be entitled to be indemnified by the said other person.

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

(2.) In this Act—

"Railway" means the railway of any railway company to which the Regulation of Railways Act, 1873, applies, and includes a light railway made under the Light Railways Act, 1896; and "railway" and "railway company" have the same meaning as in the said Acts of 1873 and 1896:

"Factory" has the same meaning as in the Factory and Workshop Acts, 1878 to 1891, and also includes any dock, wharf, quay, warehouse, machinery, or plant, to which any provision of the Factory Acts is applied by the Factory and Workshop Act, 1895, and every laundry worked by steam, water, or other mechanical power:

"Mine" means a mine to which the Coal Mines Regulation Act, 1887, or the Metalliferous Mines Regulation Act, 1872, applies:

"Quarry" means a quarry under the Quarries Act, 1894.

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

"Undertakers" in the case of a railway means the railway company; in the case of a factory, quarry, or laundry, means the occupier thereof, within the meaning of the Factory and Workshop Acts, 1878 to 1895; in the case of a mine means the owner thereof within the meaning of the Coal Mines Regulation Act, 1887, or the Metalliferous Mines Regulation Act, 1872, as the case may be, and in the case of an engineering work means the person undertaking the construction, alteration or repair; and in the case of a building means the persons undertaking the construction, repair, or demolition:

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

"Workman" includes every person who is engaged in an employment to which this Act applies, whether by way of manual labor or otherwise, and whether his agreement is one of service or apprenticeship or otherwise and is expressed or implied, is oral or in writing. Any reference to a workman who has been injured shall, where the workman is dead include a reference to his legal personal representatives or to his dependants, or other person to whom compensation is payable:

"Dependants" means—

(a.) in England and Ireland, such members of the workman's family specified in the Fatal Accidents Act, 1846, as were wholly or in part dependent upon the earnings of the workman at the time of his death; and

(b.) in Scotland, such of the persons entitled according to the law of Scotland to sue the employer for damages or solatium in respect of the death of the workman, as were wholly or in part dependent upon the earnings of the workman at the time of his death.

(3.) A workman employed in a factory which is a shipbuilding yard shall not be excluded from this Act by reason only that the accident arose outside the yard in the course or his work upon a vessel in any dock, river, or tidal water near the yard.

8.—(1.) This Act shall not apply to persons in the naval or military service of the Crown, but otherwise shall apply to any employment by or under the Crown to which this Act would apply if the employer were a private person.

(2.) The Treasury may, by warrant laid before Parliament, modify for the purposes of this Act, their warrant made under section one of the Superannuation Act, 1887, and notwithstanding anything in that Act, or any such warrant, may frame a scheme with a view to its being certified by the Registrar of Friendly Societies under this Act.

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

10.—(1.) This Act shall come into operation on the first day of July, One thousand eight hundred and ninety-eight.

(2.) This Act may be cited as the Workmen's Compensation Act, 1897.

## EXTRACTS FROM SCHEDULES.

### FIRST SCHEDULE.

#### SCALE AND CONDITIONS OF COMPENSATION.

- (1.) The amount of compensation under this Act shall be—
  - (a) where death results from the injury—
    - (i.) if the workman leaves any dependants wholly dependent upon his earnings at the time of his death, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of one hundred and fifty pounds, whichever of those sums is the larger, but not exceeding in any case three hundred pounds, provided that the amount of any weekly payments made under this Act shall be deducted from such sum, and if the period of the workman's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years shall be deemed to be 156 times his average weekly earnings during the period of his actual employment under the said employer;
    - (ii.) if the workman does not leave any such dependants, but leaves any dependants in part dependent upon his earnings at the time of his death, such sum, not exceeding in any case the amount payable under the foregoing provisions, as may be agreed upon, or in default of agreement, may be determined, on arbitration under this Act, to be reasonable and proportionate to the injury to the said dependants; and
    - (iii.) if he leaves no dependants, the reasonable expenses of his medical attendance and burial, not exceeding ten pounds;
  - (b) where total or partial incapacity for work results from the injury, a weekly payment during the incapacity after the second week not exceeding fifty per cent. of his average weekly earnings during the previous twelve months, if he has been so long employed, but if not, then for any less period during which he has been in the employment of the same employer, such weekly payment not to exceed one pound.
- (2.) In fixing the amount of the weekly payment, regard shall be had to the difference between the amount of the average weekly earnings of the workman before the accident and the average amount which he is able to earn after the accident, and to any payment not being wages which he may receive from the employer in respect of his injury during the period of his incapacity.
- (3.) Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, and if he refuses to submit himself to such an examination, or in any way obstructs the same, his right to compensation and any proceeding under this Act in relation to compensation, shall be suspended until such examination takes place.
- (4.) The payment shall, in case of death, be made to the legal personal representative of the workman, or, if he has no legal personal representative, to or for the benefit of his dependants, or, if he leaves no dependants, to the person to whom the expenses are due; and if made to the legal personal representative shall be paid by him to or for the benefit of the dependants or other person entitled thereto under this Act.
- (5.) Any question as to who is a dependant, or as to the amount payable to each dependant, shall, in default of agreement, be settled by arbitration under this Act.
- (6.) The sum allotted as compensation to a dependant may be invested or otherwise applied for the benefit of the person entitled thereto, as agreed, or as ordered by the committee or other arbitrator.
- (7.) Any sum which is agreed or is ordered by the committee or arbitrator to be invested may be invested in whole or in part in the Post Office Savings Bank by the Registrar of the county court in his name as registrar.
- (8.) Any sum to be so invested may be invested in the purchase of an annuity from the National Debt Commissioners through the Post Office Savings Bank, or be accepted by the Postmaster-General as a deposit in the name of the registrar . . .
- (10.) Any person deriving any benefit from any moneys invested in a post office savings bank under the provisions of this Act may, nevertheless, open an account in a post office savings bank or in any other savings bank in his own name . . .



(11.) Any workman receiving weekly payments under this Act, shall, if so required by the employer, or by any person by whom the employer is entitled under this Act to be indemnified, from time to time submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, or such other person; but if the workman objects to an examination by that medical practitioner, or is dissatisfied by the certificate of such practitioner upon his condition when communicated to him, he may submit himself for examination to one of the medical practitioners appointed for the purposes of this Act, as mentioned in the Second Schedule to this Act, and the certificate of that medical practitioner as to the condition of the workman at the time of the examination shall be given to the employer and workman, and shall be conclusive evidence of that condition. If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examination has taken place.

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

(13.) Where any weekly payment has been continued for not less than six months, the liability therefor may, on the application by or on behalf of the employer, be redeemed by the payment of a lump sum, to be settled, in default of agreement, by arbitration under this Act, and such lump sum may be ordered by the committee or arbitrator to be invested or otherwise applied as above mentioned.

(14.) A weekly payment, or a sum paid by way of redemption thereof, shall not be capable of being assigned, charged, or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against the same.

## SECOND SCHEDULE.

### ARBITRATION.

The following provisions shall apply for settling any matter which under this Act is to be settled by arbitration:—

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

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

(3.) Any arbitrator appointed by the county court judge shall, for the purposes of this Act, have all the powers of a county court judge, and shall be paid out of moneys to be provided by Parliament . . . . .

(6.) The costs of and incident to the arbitration and proceedings connected therewith shall be in the discretion of the arbitrator . . . . .

(11.) No court fees shall be payable by any party in respect of any proceeding under this Act in the county court prior to the award.

(12.) Any sum awarded as compensation shall be paid on the receipt of the person to whom it is payable under any agreement or award, and his solicitor or agent shall not be entitled to recover from him, or to claim a lien on, or deduct any amount for costs from, the said sum awarded, except such sum as may be awarded by the arbitrator or county court judge, on an application made by either party to determine the amount of costs to be paid to the said solicitor or agent, such sum to be awarded subject to taxation and to the scale of costs prescribed by rules of court.

[The omitted parts of the Schedules deal with matters which in the main only concern lawyers.]

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