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PRYS 6d. [No. 2909.

DEPARTMENT OF THE PRIME MINISTER AND
OF EXTERNAL AFFAIRS.

The following Government Notice is published for
general information.

No. 703.

14th May, 1941.

It is notified that His Excellency the Governor-General
has been pleased to assent to the following Act which
is hereby published for general information:—

No. 30 of 1941; Workmen's Compensation Act, 1941 ii

DEPARTEMENT VAN DIE EERSTE MINISTER
EN VAN BUITELANDSE SAKE.

Onderstaande Goewermentskennisgewing word vir
algemene informasie gepubliseer.

No. 703.

14 Mei 1941.

Hierby word bekendgemaak dat dit Sy Eksellensie die
Goewerneur-generaal behaag het om sy goedkeuring te
heg aan onderstaande wet wat hiernee, vir algemene
informasie, gepubliseer word:—

BLADSY.

No. 30 van 1941: Ongevallewet, 1941 , , iii

No. 30, 1941.]

ACT

To amend and consolidate the laws relating to compensation for disablement caused by accidents to or industrial diseases contracted by workmen in the course of their employment, or for death resulting from such accidents and diseases.

(Signed by the Governor-General in Afrikaans.)
(Assented to 5th May, 1941.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

INTRODUCTORY.

Division of Act.

1. This Act is divided as follows :—

CHAPTER I.

Definitions and application of the Act Sections two to eleven

CHAPTER II.

Administration Sections twelve to twenty-six.

CHAPTER III.

Right to compensation Sections twenty-seven to thirty-six.

CHAPTER IV.

Liability for compensation .. . Section thirty-seven.

CHAPTER V.

Amount and method of compensation Sections thirty-eight to forty-nine.

CHAPTER VI.

Recovery of compensation :

(A) Notice of accidents .. . Sections fifty to fifty-three.

(B) Lodging of claim .. . Sections fifty-four and fifty-five.

(C) Procedure for determination of claims Sections fifty-six to sixty-three.

CHAPTER VII.

The Accident and Reserve Funds :

(A) Establishment of funds .. . Sections sixty-four to sixty-seven.

(B) Rendering of wage returns by employers Section sixty-eight.

(C) Levying and recovery of assessments and other charges Sections sixty-nine to seventy-four.

CHAPTER VIII.

Medical aid Sections seventy-five to eighty-one.

CHAPTER IX.

Compensation for natives .. . Sections eighty-two to eighty-eight.

CHAPTER X.

Industrial Diseases Sections eighty-nine to ninety-four.

CHAPTER XI.

Miscellaneous Sections ninety-five to one hundred and ten.

CHAPTER I.

DEFINITIONS AND APPLICATION OF THE ACT.

Definitions.

2. In this Act, unless inconsistent with the context—“accident” means an accident arising out of and in the course of a workman's employment and resulting in a personal injury;

WET

Tot wysiging en konsolidering van die wette op skadeloosstelling vir arbeidsongesiktheid veroorsaak deur ongevalle of bedryfsiektes opgedoen deur werkmense in die loop van hul diens, of vir dood as gevolg van sodanige ongevalle of siektes.

(Deur die Goewerneur-generaal in Afrikaans geteken.)
(Goedgekeur op 5 Mei 1941.)

DIT WORD BEPAAL deur Sy Majestieit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg :—

INLEIDING.

1. Hierdie Wet is as volg ingedeel :—

Indeling van Wet.

HOOFSTUK I.

Woordomskrywing en toe- Artikels *twee tot elf*.
passing van die Wet.

HOOFSTUK II.

Uitvoering Artikels *twaalf tot ses-en-twintig*.

HOOFSTUK III.

Reg op skadeloosstelling .. Artikels *sewe-en-twintig tot ses-en-dertig*.

HOOFSTUK IV.

Aanspreeklikheid vir skade- Artikel *sewe-en-dertig*.
loosstelling

HOOFSTUK V.

Bedrag en wyse van skade- Artikels *agt-en-dertig tot nege-en-veertig*.
loosstelling

HOOFSTUK VI.

Invordering van skadeloosstelling :

- (A) Kennisgewing van on- Artikels *vyftig tot drie-en-gevalle vyftig*.
- (B) Indiening van eise .. Artikels *vier-en-vyftig en vyf-en-vyftig*.
- (C) Prosedure by beslis- Artikels *ses-en-vyftig tot sing oor eise drie-en-sestig*.

HOOFSTUK VII.

Die Ongevalle- en Reserwefondse :

- (A) Instelling van fondse Artikels *vier-en-sestig tot sewe-en-sestig*.
- (B) Verstrekking van Artikel *agt-en-sestig*.
loonstate deur werk-
gewers
- (C) Heffing en verhaal van Artikels *nege-en-sestig tot aanslag en ander vor- vier-en-sewentig.
derings*

HOOFSTUK VIII.

Geneeskundige behandeling Artikels *vyf-en-sewentig tot een-en-tagtig*.

HOOFSTUK IX.

Skadeloosstelling aan natu- Artikels *twee-en-tagtig tot agt-en-tagtig*.
relle

HOOFSTUK X.

Bedryfsiektes Artikels *nege-en-tagtig tot vier-en-negentig*.

HOOFSTUK XI.

Diverse Artikels *vyf-en-negentig tot honderd-en-tien*.

HOOFSTUK I.

WOORDOMSKRYWING EN TOEPASSING VAN DIE WET.

2. In hierdie Wet, tensy met die samehang onbestaanbaar, Woordomskrywing, beteken—

„ongeval”, ‘n ongeval wat uit ‘n werksman se diens ontstaan en in die loop daarvan plaasvind, en wat persoonlike besering tot gevolg het;

- “accident fund” means the fund established under section *sixty-four*;
- “actuary” means a Fellow of the Institute of Actuaries (London) or of the Faculty of Actuaries in Scotland or any other person recognized as such by the Minister for the purposes of this Act;
- “airman” means a workman employed in any capacity in an aircraft;
- “agriculture” means any employment on a farm connected with farming, including horticulture and forestry irrespective of whether such employment necessitates the employee temporarily leaving the farm in the course of his employment;
- “annual wages” means—
- (a) the amount of wages referred to in paragraph (a) of sub-section (1) of section *sixty-eight* if accepted by the commissioner as correct; or
 - (b) the amount of wages ascertained by the commissioner where he is satisfied that the amount referred to in the said paragraph (a) is less than the amount actually paid; or
 - (c) the estimate of wages referred to in paragraph (b) of the said sub-section (1), if accepted by the commissioner as correct; or
 - (d) the estimate of wages made by the commissioner in terms of sub-section (4) of the said section;
- “assessment” means an assessment, or a provisional assessment, or any instalment of an assessment, made in terms of Part (C) of Chapter VII;
- “business” means any industry, undertaking, trade or occupation, or any activity in which any workman is employed;
- “child” means a son or daughter under the age of sixteen years and includes an illegitimate child of a workman or his wife, a posthumous child, a step-child and an adopted child if the commissioner is satisfied that the child was in fact adopted;
- “commissioner” means the Workmen’s Compensation Commissioner appointed under sub-section (1) of section *twelve*;
- “compensation” means compensation under this Act;
- “contractor” means a person referred to as a contractor in section *nine*;
- “dependant” means a person referred to as a dependant in section *four*;
- “disablement” means disablement for employment or permanent injury or serious disfigurement;
- “earnings” means the average remuneration of the workman at the time of the accident, calculated in the manner provided in section *forty-one*;
- “employer” means a person defined as an employer in section *five* and includes a principal;
- “employer individually liable” means an employer who in terms of section *seventy* is exempt from paying assessments to the accident fund, or who falls within the category of employers referred to in sub-section (2) of section *thirty-seven*;
- “employers’ organization” means an employers’ organization registered as such under the provisions of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937);
- “excavation” includes loosening, taking out and removing stone, soil and other material in connection with the making and repairing, re-opening and closing of any shaft, trench, sewer, tunnel or similar excavation but does not include any such work in connection with a mine as defined in section *two* of the Mines and Works Act, 1911 (Act No. 12 of 1911);
- “excavation work” means any work connected with an excavation involving exposure to the inhalation of silicon dioxide;
- “financial year” means the period between the first day of January and the thirty-first day of December in any year, both dates included;
- “fixed date” means the date fixed by proclamation in terms of the proviso to section *one hundred and ten*;

- „ongevallefonds”, die fonds ingestel ingevolge artikel *vier-en-sestig*;
- „aktuaris”, ’n „Fellow” van die „Institute of Actuaries” (Londen) of van die „Faculty of Actuaries in Scotland” of enige ander persoon wat as sulks deur die Minister vir die doeleinnes van hierdie Wet erken word;
- „vliegenier”, ’n werksman wat in enige hoedanigheid in ’n lugvaartuig in diens is;
- „landbou”, enige diens op ’n plaas in verband met boerdery met inbegrip van tuinbou en bosbou onverskillig of sodanige diens dit nodig maak dat die werkneemster in die loop van sy diens die plaas tydelik verlaat;
- „jaarlikse lone”—
- (a) die loonbedrag genoem in paragraaf (a) van sub-artikel (1) van artikel *agt-en-sestig* indien dit deur die kommissaris as juus aangeneem word; of
 - (b) die loonbedrag deur die kommissaris vasgestel indien na sy oordeel die in voormalde paragraaf (a) bedoelde bedrag minder is as die bedrag wat werklik betaal is; of
 - (c) die loonberaming genoem in paragraaf (b) van voormalde sub-artikel (1) indien dit deur die kommissaris as juus aangeneem word; of
 - (d) die loonberaming wat deur die kommissaris ingevolge sub-artikel (4) van bedoelde artikel gemaak is;
- „aanslag”, ’n aanslag, of ’n voorlopige aanslag of enige termynbetaling van ’n aanslag gedoen ingevolge deel (C) van hoofstuk VII;
- „besigheid”, enige nywerheid, onderneming, bedryf of werkzaamheid of enige bedrywigheid waarin enige werksman in diens is;
- „kind”, ’n seun of dogter onder sestienjarige leeftyd en sluit in ’n onegte kind van die werksman of sy vrou, ’n nagebore kind, ’n stiefkind en ’n aangename kind indien die Kommissaris van oordeel is dat die kind werklik aangeneem is;
- „kommissaris” die Ongevallekommissaris kragtens sub-artikel (1) van artikel *twaalf* aangestel;
- „skadeloosstelling”, skadeloosstelling ingevolge hierdie Wet;
- „aannemer”, ’n persoon na wie in artikel *nege* as ’n aannemer verwys word;
- „nabestaande”, ’n persoon na wie in artikel *vier* as ’n nabestaande verwys word;
- „arbeidsongeskiktheid”, ongeskiktheid vir diens of blywende besering of ernstige vermindering;
- „verdienste”, die gemiddelde besoldiging van die werksman ten tyde van die ongeval, bereken volgens die in artikel *een-en-veertig* bepaalde wyse;
- „werkgewer”, ’n persoon wat in artikel *vyf* as ’n werkgewer omskryf word, en ook ’n lasgewer;
- „werkgewer individueel aanspreeklik”, ’n werkgewer wat ingevolge artikel *sewentig* vrygestel is daarvan om aanslae in die ongevallefonds te stort of wat binne die in sub-artikel (2) van artikel *sewe-en-dertig* bedoelde kategorie werkgewers val;
- „werkgewersorganisasie”, ’n werkgewersorganisasie geregtree as sulks ingevolge die bepalings van die Nywerheidsversoeningswet, 1937 (Wet No. 36 van 1937);
- „uitgraving”, ook die losmaak, uithaal en verwydering van klip, grond en ander materiaal in verband met die maak, repareer, heropening of toemaak van ’n skag, sloot, riool, tunnel of dergelyke uitgraving, maar sluit nie in nie sodanige werk in verband met ’n myn soos in artikel *twee* van die „Mynen en Bedrijven Wet, 1911” (Wet No. 12 van 1911), omskryf;
- „uitgrawingswerk”, enige werk in verband met ’n uitgraving, wat blootstelling tot inaseming van kiesel-dioxied meebring;
- „boekjaar”, die tydperk tussen die eerste dag van Januarie en die een-en-dertigste dag van Desember van enige jaar, albei datums ingesluit;
- „vasgestelde datum”, die datum vasgestel by proklamasie ingevolge die voorbehoudsbepaling van artikel *honderd-en-tien*;

- “institution” includes any charitable, educational or like institution, whether conducted by the State or by any other body or person;
- “local authority” means any divisional council, city council, municipal council, borough council, or town council;
- “medical aid” means medical, surgical, or hospital treatment, skilled nursing services and the supply and repair of any artificial part of the body or any device necessitated by disablement;
- “medical practitioner” means a person duly registered as such under the law relating to the registration of medical practitioners in the Union;
- “Minister” means the Minister of Labour or any other Minister of State acting in his stead, or any other Minister of State to whom the Governor-General may from time to time assign the administration of this Act;
- “mutual association” means a mutual association licensed as such under sub-section (1) of section *ninety-five*.
- “native” means any person belonging to one or other of the following categories—
- (a) aboriginal tribes or races of Africa, including Bushmen, Hottentots and Korannas, and
 - (b) persons upon whom is levied general or local tax in terms of section *two* of the Natives Taxation and Development Act, 1925 (Act No. 41 of 1925) or any tax substituted for any such tax, but does not include American negroes, Eurafricans, Eurasians, or persons commonly known as Cape Malays, Griquas, Mauritians or St. Helenians;
- “pension” means a pension referred to in section *thirty-nine* or in paragraph (a), (b), (c) or (d) of sub-section (1) of section *forty*;
- “periodical payment” means a periodical payment of compensation in respect of temporary disablement;
- “person under disability” means a minor, a lunatic, or any person who by law is subject to curatorship or tutorship;
- “prescribed” means prescribed under this Act or by regulation;
- “principal” means a person referred to as the principal in section *nine*;
- “regulation” means a regulation made under this Act;
- “reserve fund” means the fund established under section *sixty-six*;
- “scheduled disease” means any disease specified in the Second Schedule to this Act;
- “seaman” means a workman within the meaning of section *three* employed in any capacity on board a ship by the owner or master;
- “serious and wilful misconduct” means—
- (a) drunkenness; or
 - (b) a contravention of any law or statutory regulation made for the purpose of ensuring the safety or health of workmen or of preventing accidents to workmen if the contravention is committed deliberately or with a reckless disregard of the terms of such law or regulation; or
 - (c) any other act or omission which the commissioner, having regard to all the circumstances, considers to be serious and wilful misconduct.
- “ship” means a vessel of any description used in navigation, other than an aircraft: and “Union ship” means a ship which—
- (a) is registered in the Union under any law relating to merchant shipping and is not registered in any other country under a similar law; or
 - (b) is owned or chartered by a person whose principal office or place of business is in the Union, or by a person who resides in the Union:
- “silicosis” means a pathological condition of the lungs due to the inhalation of silicon dioxide;

- „inrigting”, ook 'n liefdadigheidsinrigting, 'n opvoedingsinrigting of 'n dergelike inrigting, onverskillig of dit gedryf word deur die Staat of deur enige ander liggaam of persoon ;
- „plaaslike bestuur”, enige afdelingsraad, stadsraad, munisipale raad of dorpsraad ;
- „geneeskundige behandeling”, genees- of heelkundige of hospitaalbehandeling, deskundige verplegingsdienste en die verskaffing en herstelling van 'n kunsmatige liggaamsdeel of 'n toestel nodig gemaak deur arbeidsongeskiktheid ;
- „geneesheer”, beteken 'n persoon wat behoorlik as sulks geregistreer is kragtens enige wetsbepaling ten opsigte van die registrasie van geneeshere in die Unie ;
- „Minister”, beteken die Minister van Arbeid of 'n ander Staatsminister wat namens hom optree of 'n ander Staatsminister aan wie die Goewerneur-generaal van tyd tot tyd die uitvoering van hierdie Wet mag opdra ;
- „onderlinge vereniging”, 'n onderlinge vereniging wat as sulks gelisensieer is ingevolge sub-artikel (1) van artikel *vyf-en-negentig* ;
- „naturel”, iemand wat tot een van die volgende kategorieë behoort—
- (a) inboorlingstamme of -rasse van Afrika, met inbegrip van Boesmans, Hottentotte en Korannas ; en
- (b) persone op wie 'n algemene of plaaslike belasting gehef word, kragtens artikel *twee* van die „Naturelle Belasting en Ontwikkeling Wet, 1925” (Wet No. 41 van 1925) of 'n belasting wat daar die belasting vervang, maar daaronder word nie ingesluit nie Amerikaanse Negers, Eurafrikane, Eurasiate of persone gewoonlik Kaapse Slamaaiers, Grikwas, Maurisiërs of St. Helenas genoem ;
- „pensioen”, 'n pensioen waarna in artikel *negen-en-dertig* of in paragraaf (a), (b), (c) of (d) van sub-artikel (1) van artikel *veertig* verwys word ;
- „periodieke uitkering”, 'n periodieke uitkering van skadeloosstelling ten opsigte van tydelike arbeidsongeskiktheid ;
- „onbevoegde persoon”, 'n minderjarige, 'n sielsieke of 'n persoon wat regtens onder kuratele of voogdyskap staan ;
- „voorgeskryf” of „voorgeskrewe”, ingevolge hierdie Wet of 'n regulasie voorgeskryf ;
- „lasgewer”, 'n persoon na wie in artikel *nege* as die lasgewer verwys word ;
- „regulasie”, 'n regulasie ingevolge hierdie Wet uitgevaardig ;
- „reservewefonds”, die fonds ingestel ingevolge artikel *ses-en-sestig* ;
- „vergoedingspligtige siekte”, 'n siekte wat in die Tweede Bylae tot hierdie Wet genoem word ;
- „seeman”, 'n werksman luidens artikel *drie* wat aan boord van 'n skip in watter hoedanigheid ookal in diens is by die eienaar of skipper ;
- „ernstige en opsetlike wangedrag”—
- (a) dronkenskap ; of
- (b) 'n oortreding van 'n wet of wetlike regulasie wat uitgevaardig is tot beveiliging of vir die gesondheid van werksmense of ter voorkoming van ongevalle, as die oortreding opsetlik of met roekeloze verontagsaming van die bepalings van daardie wet of regulasie begaan word ; of
- (c) enige ander handeling of versium wat die kommissaris met inagneming van al die omstandighede as ernstige en opsetlike wangedrag beskou ;
- „skip”, 'n vaartuig van watter aard ook wat vir skeepvaart gebruik word behalwe 'n lugvaartuig ; en
- „Unie-skip”, 'n skip wat—
- (a) in die Unie geregistreer is ingevolge enige regsbepaling betreffende koopvaardy en nie in 'n ander land ingevolge 'n soortgelyke regsbepaling geregistreer is nie ; of
- (b) behoort aan of kragtens 'n vragkontrak gehuur is deur 'n persoon wie se hoofkantoor of besighedsplek in die Unie is of 'n persoon wat in die Unie woon ;
- „silikose”, 'n patologiese toestand van die longe veroorsaak deur inaseming van kieseldioxied ;

" temporary partial disablement " in relation to a workman means the temporary inability of such workman as the result of an accident in respect of which compensation is payable to perform the whole of the work at which he was employed at the time of such accident or to resume work at a rate of earnings not less than that which he was receiving at the time of such accident ;

" temporary total disablement " in relation to a workman means the temporary inability of such workman as the result of an accident in respect of which compensation is payable, to perform the work at which he was employed at the time of such accident, or work similar thereto ;

" this Act " includes the schedules thereto and any regulation ;

" trade union " means a trade union registered as such under the provisions of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937) ;

" Union aircraft " means any aircraft registered or licensed in the Union, the owner of which resides or has a place of business in the Union.

Definition of
"workman".

3. (1) Subject to the provisions of sub-section (2) and unless inconsistent with the context, " workman " in this Act means any person who has entered into or works under a contract of service or of apprenticeship or learnership, with an employer, whether the contract is expressed or implied, is oral or in writing, and whether the remuneration is calculated by time or by work done, or is in cash or in kind ; and includes—

- (a) any person whose occupation is conveying for gain, persons or goods by means of any vehicle, ship or aircraft, the use of which he has obtained under any contract other than a purchase or hire-purchase agreement, whether or not the remuneration of such person under such contract be partly an agreed sum and partly a share in takings, but shall not include any such person whose remuneration is fixed solely by a share in takings ;
- (b) when a workman is dead or under disability, his representative, his dependants and any other person to whom or for whose benefit compensation is payable ; and
- (c) at the discretion of the commissioner, any contractor—
 - (i) whose average annual personal wages and profits do not in the opinion of the commissioner, exceed seven hundred and fifty pounds ;
 - (ii) who habitually includes himself in his statement of annual wages referred to in section *sixty-eight* and who requests that he shall be dealt with as a workman ; and
 - (iii) whose personal wages and profits are specified in such statement and included in the estimate for the current year :

Provided that if in any claim for compensation under this Act it appears to the commissioner that the contract of service or apprenticeship or learnership under which the injured workman was working at the time when the accident causing the injury happened was invalid for any reason whatever the commissioner may in his discretion deal with the matter as if such contract had at the time aforesaid been valid.

(2) The following persons shall not be regarded for the purposes of this Act as workmen—

- (a) persons in naval or military service under the Crown or the Government of the Union or of any British dominion, colony or possession, or members of " the services " as defined in section *one hundred and one* of the Public Service Act, 1923 (Act No. 27 of 1923) ;
- (b) persons whose earnings calculated in the manner set forth in section *forty-one* exceed seven hundred and fifty pounds a year ;
- (c) persons employed casually and not for the purpose of the employer's business ;
- (d) outworkers, that is to say, persons to whom articles or materials are given out by employers to be made up, cleaned, washed, ornamented, finished, repaired, adapted for sale, altered or otherwise worked with on premises not under the control of the employer ;

„tydelike gedeeltelike arbeidsongeskiktheid”, met betrekking tot 'n werksman, tydelike onbekwaamheid van daardie werksman as gevolg van 'n ongeval waarvoor skadeloosstelling betaalbaar is, om al die werk te doen waaraan hy werksaam was ten tyde van daardie ongeval of om werk te hervat teen 'n skaal van verdienste nie minder nie as wat hy ten tyde van daardie ongeval ontvang het;

„tydelike algehele arbeidsongeskiktheid”, met betrekking tot 'n werksman die tydelike onbekwaamheid van daardie werksman as gevolg van 'n ongeval waarvoor skadeloosstelling betaalbaar is, om dieselfde of dergelike werk te doen as die waaraan hy werksaam was ten tyde van daardie ongeval;

„hierdie Wet”, ook die bylaes daar toe en enige regulasie; „vakvereniging”, 'n vakvereniging geregistreer as sulks ingevolge die bepalings van die Nywerheid-versoeningswet, 1937 (Wet No. 36 van 1937);

„Unie-lugvaartuig”, enige lugvaartuig wat in die Unie geregistreer of gelisensieer is en die eienaar waarvan in die Unie woon, of 'n besigheidsplek binne die Unie het.

3. (1) Behoudens die bepalings van sub-artikel (2) en tensy Woordomskrywing met die samehang onbestaanbaar, beteken „werksman” in van „werksman”. hierdie Wet, enige persoon wat met 'n werkewerker 'n diens- of vakleerlingskap- of leerlingskapkontrak aangegaan het of daaronder werk, hetsy die kontrak uitdruklik of stilswyend, of mondeling of skriftelik is, en hetsy die besoldiging volgens tyd of gedane werk bereken word, of in kontant of in natura is; en ook—

- (a) 'n persoon wie se werksaamheid dit is om vir wins persone of goedere te vervoer deur middel van 'n voertuig, skip of lugvaartuig waarvan hy die gebruik verkry het kragtens 'n ander kontrak as 'n koop- of huurkoopkontrak, onverskillig of die besoldiging van bedoelde persoon ingevolge daardie kontrak al dan nie bestaan gedeeltelik uit 'n afgesproke bedrag en gedeeltelik uit 'n aandeel in die ontvangste; maar dit sluit nie so 'n persoon in as sy beloning alleen uit 'n aandeel in die ontvangste bestaan nie;
- (b) as 'n werksman dood is of 'n onbevoegde persoon is, sy verteenwoordiger, sy nabestaandes en enige ander persoon aan wie of ten bate van wie skadeloosstelling betaalbaar is;
- (c) na goeddunke van die kommissaris, enige aannemer—
 - (i) wie se gemiddelde jaarlikse persoonlike loon en winste na oordeel van die kommissaris nie sewehonderd-en-vyftig pond te bowe gaan nie;
 - (ii) wat homself gereeld by sy in artikel *agt-en-sestig* bedoelde staat van jaarlikse lone insluit en wat versoek dat hy as 'n werksman behandel word; en
 - (iii) wie se persoonlike loon en winste in bedoelde staat opgegee word en inbegrepe is by die beraming vir die lopende jaar:

Met dien verstande dat wanneer dit by 'n eis vir skadeloosstelling ingevolge hierdie Wet aan die kommissaris blyk dat die diens- of vakleerlingskap- of leerlingskapkontrak waaronder die beseerde werksman gewerk het ten tyde van die ongeval wat die besering veroorsaak het, om watter rede ook ongeldig is, die kommissaris na goeddunke met die saak kan handel asof daardie kontrak op die bedoelde tydstip wel geldig was.

(2) Vir die doeleindes van hierdie Wet word die volgende persone nie as werksmense beskou nie :

- (a) persone in marine- of militêre diens onder die Kroon of die Regering van die Unie of van enige Britse vrygewes, kolonie, of besitting of lede van „de diensten” soos omiskryf in artikel *honderd-en-een* van die „Staatsdienst Wet, 1923” (Wet No. 27 van 1923);
- (b) persone wie se verdienste, bereken op die wyse uiteengesit in artikel *een-en-veertig*, sewehonderd-en-vyftig pond per jaar te bowe gaan;
- (c) persone wat by geleentheid en nie vir die doel van die werkewerker se besigheid in diens geneem word nie;
- (d) buitewerkers, dit wil sê, persone aan wie artikels of materiaal deur werkewerkers uitgegee word om op 'n perseel wat nie onder die beheer van die werkewerker staan nie, opgemaak, skoongemaak, gewas, versier, afgewerk, herstel, vir verkoop reggemaak, verander of andersins bewerk te word ;

- (e) persons who contract for the carrying out of work and themselves engage other persons to perform such work unless they are included in the statement of annual wages referred to in section *sixty-eight* and are regarded as workmen by the commissioner in terms of paragraph (c) of sub-section (1) of this section;
- (f) domestic servants employed as such—
 - (i) in a private household; or
 - (ii) in a boarding house or institution in which are ordinarily employed not more than five such servants;
- (g) persons employed in agriculture unless such employment is in connection with any vehicle or machine driven by mechanical power;
- (h) persons employed as seamen or airmen, save as provided in section *eleven*;
- (i) persons employed outside the Union save as provided in sections *ten* and *eleven*; or
- (j) persons employed in connection with digging for or winning alluvial diamonds, alluvial gold or corundum, or in prospecting for alluvial diamonds, alluvial gold or base minerals unless such employment is in connection with the use of explosives or any vehicle or machine driven by mechanical power.

Dependants of a workman.

4. (1) Subject to the further provisions of this section and unless inconsistent with the context, "dependant" in this Act means—

- (a) the widow or invalid widower, if married to the workman at the time of the accident;
- (b) if there is no widow, any woman with whom the workman was in the opinion of the commissioner living as man and wife at the time of the accident;
- (c) any child: Provided that in the case of an adopted child the commissioner is satisfied that the child was adopted prior to the accident;
- (d) a parent or step-parent or an adoptive parent who adopted such workman if the commissioner is satisfied that the workman was in fact adopted and in either case that the workman was adopted prior to the accident;
- (e) a son or daughter (other than a child as defined): a brother, sister, half-brother, or half-sister: a sister or brother of a parent: a grand-parent or grandchild: or
- (f) any other person who, at the time of the accident, was wholly dependent upon the workman for the necessities of life;

Provided that—

- (i) a dependant other than one referred to in paragraph (f) shall not be entitled to compensation unless, at the time of the accident, he was wholly or partly dependent upon the workman for the necessities of life;
- (ii) any right to compensation shall *ipso facto* cease upon the death of the dependant to whom such compensation was payable; and
- (iii) unless the contrary is proved, the widow or child of a workman or a person referred to in the second proviso to paragraph (c) of sub-section (1) of section *forty* who would if under sixteen years of age, be the child of the workman, shall be deemed to be dependent for the necessities of life upon such workman.

(2) In the case of an Asiatic workman, "widow" or "widower" means the surviving spouse of a marriage recognized as valid in terms of section *one* or *two* of the Indians Relief Act, 1914 (Act No. 22 of 1914) or of any other law in force in the Union.

(3) In the case of a native, "widow" includes any woman who was associated with a deceased native workman in a conjugal relationship according to native law and custom, where neither the man nor the woman was a party to a subsisting marriage.

Definition of "employer."

5. (1) Subject to the further provisions of this section and unless inconsistent with the context, "employer" in this Act means a person who employs a workman and includes the State and any person controlling the business of an employer.

(2) If the services of a workman are temporarily lent or let on hire by his employer to another person, such employer shall be deemed to continue to be the employer of such workman whilst he is working for that other person.

- (e) persone wat werk aanneem en wat self ander persone in diens neem om bedoelde werk te verrig, tensy hulle by die in artikel *agt-en-sestig* bedoelde staat van jaarlike lone inbegrepe is en deur die kommissaris ingevolge paragraaf (c) van sub-artikel (1) van hierdie artikel as werksmense beskou word ;
- (f) bediendes in diens as sulks—
 - (i) in 'n private huishouding ; of
 - (ii) in 'n losieshuis of inrigting waarin nie meer as vyf sodanige bediendes gewoonlik in diens is nie ;
- (g) persone in diens in landbou tensy bedoelde diens in verband staan met 'n voer- of werktuig wat deur meganiese krag gedryf word ;
- (h) persone in diens as seeliede of vliegeniers behalwe soos in artikel *elf* bepaal ;
- (i) persone in diens buite die Unie behalwe soos in artikels *tien* en *elf* bepaal ; of
- (j) persone in diens in verband met die graaf of wen van alluwiale diamante, alluwiale goud of korundum, of by die prospekteer vir alluwiale diamante, alluwiale goud of onedele minerale tensy bedoelde diens in verband staan met die gebruik van springstowwe of enige voer- of werktuig wat deur meganiese krag gedryf word.

4. (1) Behoudens die verdere bepalings van hierdie artikel¹ Nabestaandes van en tensy met die samehang onbestaanbaar, beteken „nabestaande“ in hierdie Wet—

- (a) die weduwee of sieklike wewenaar, indien ten tyde van die ongeval met die werksman getroud ;
- (b) wanner daar geen weduwee is nie, enige vrou met wie die werksman ten tyde van die ongeval na oordeel van die kommissaris as man en vrou geleef het ;
- (c) 'n kind : Met dien verstande dat in die geval van 'n aangename kind aan die kommissaris bewys word dat die kind voor die ongeval aangeneem is ;
- (d) 'n ouer of stiefouer of aangename ouer wat die werksman aangeneem het, indien aan die kommissaris bewys word dat die werksman werklik, en in enige geval voor die ongeval aangeneem is ;
- (e) 'n seun of dogter (behalwe 'n kind soos omskryf) : 'n broer, suster, halfbroer of halfsuster : 'n suster of broer van 'n ouer : 'n grootouer of kleinkind ; of
- (f) enige ander persoon wat, ten tyde van die ongeval, geheel afhanklik was van die werksman vir lewensbehoeftes :

Met dien verstande dat—

- (i) 'n nabestaande behalwe een wat in paragraaf (f) bedoel word, nie op skadeloosstelling geregtig is nie, tensy hy, ten tyde van die ongeval, geheel of gedeeltelik afhanklik was van die werksman vir lewensbehoeftes ;
- (ii) 'n reg tot skadeloosstelling eindig *ipso facto* met die afsterwe van die nabestaande aan wie bedoelde skadeloosstelling betaalbaar was ; en
- (iii) tensy die teenoorgestelde bewys word, die weduwee of kind van 'n werksman of 'n persoon vermeld in die tweede voorbehoudsbepaling by paragraaf (c) van sub-artikel (1) van artikel *veertig* wat, indien hy nog nie sestien jaar oud was nie, die kind van die werksman sou wees, geag word afhanklik te wees van bedoelde werksman vir lewensbehoeftes.

(2) In die geval van 'n Asiatisese werksman beteken „wedewe“ of „wewenaar“ die oorlewende eggenoot of eggenote van 'n huwelik wat geldig is ingevolge artikel *een* of *twee* van die „Indiërs Verlichting Wet, 1914“ (Wet No. 22 van 1914) of ingevolge enige ander wet wat in die Unie van krag is.

(3) In die geval van 'n naturel word onder „wedewe“ inbegrepe enige vrou wat met 'n naturellewerksman in 'n egtelike verhouding ooreenkomsdig naturellereg en -gebruik saamgeleef het, waar nog die man nog die vrou 'n party by 'n bestaande huwelik was.

5. (1) Behoudens die verdere bepalings van hierdie artikel Woordomskrywing en tensy met die samehang onbestaanbaar, beteken „werk- gewer“ in hierdie Wet, 'n persoon wat 'n werksman in diens het en ook die Staat en iemand wat die besigheid van 'n werkewer beheer.

(2) As die dienste van 'n werksman deur sy werkewer aan 'n ander persoon tydelik geleent of verhuur word, dan word daardie werkewer geag die werkewer van bedoelde werksman te bly terwyl hy vir daardie ander persoon werk.

(3) In respect of a workman whose occupation is conveying for gain any persons or goods by means of any vehicle, ship or aircraft, the use of which the workman obtained from some other person under a contract other than a purchase or hire-purchase agreement, such other person shall for the purposes of this Act be deemed to be the employer.

(4) In respect of a workman employed by a club or an association of persons, the members of the managing committee, the secretary or other responsible officer of the association or club shall be deemed to be the employer.

(5) For the purposes of the giving or receiving of statements, notices or other documents under this Act, the term "employer" shall include the manager, secretary, accountant, treasurer, duly authorized agent or other responsible person.

Application of Act
in respect of
accidents and
industrial
diseases.

6. Subject to the provisions of sections *twenty-seven, eighty-nine, and one hundred and ten*, this Act shall apply in respect of accidents happening and scheduled diseases contracted on or after the fixed date.

Substitution of
compensation for
other legal remedy.

7. From and after the fixed date—

- (a) no action at law shall lie by a workman or any defendant of a workman against such workman's employer to recover any damages in respect of an injury due to accident resulting in the disablement or the death of such workman; and
- (b) no liability for consideration on the part of such employer shall arise save under the provisions of this Act in respect of any such disablement or death.

Recovery from
third party by
workman of
damages and by
commissioner or
employer of com-
pensation paid.

8. (1) Where an accident, in respect of which compensation is payable, was caused in circumstances creating a legal liability in some person, other than the employer, to pay damages in respect thereof :—

- (a) the workman may both claim compensation under this Act and take proceedings in a court of law against such other person to recover damages: Provided that before the workman institutes such proceedings, he shall, in writing, notify the commissioner or the employer individually liable of his intention and the commissioner or such employer as the case may be shall have the right to intervene in the proceedings: Provided further that when any such proceedings have been taken and damages are awarded thereon, the court shall, in estimating the damages, have regard to the amount which that person will be liable to pay to the commissioner or the employer concerned under the provisions of paragraph (b);
- (b) the commissioner or the employer individually liable by whom compensation is payable shall be reimbursed by the person ordered to pay damages, in respect of the compensation which the commissioner or the employer individually liable is obliged to pay as a result of the accident; and all questions as to the right to and amount of such reimbursement shall, in default of agreement, be settled by the court before which such proceedings are taken; and
- (c) any contract whereby a workman settles or relinquishes any claim for damages against such other person without the written consent of the commissioner shall be null and void.

(2) If the injury or death in respect of which compensation is payable was caused in circumstances *prima facie* creating a legal liability in some third person to pay damages to the workman, and if the workman has intimated that he does not propose to take proceedings against such other person, or does not take such proceedings within a period fixed by the commissioner, the commissioner or the employer individually liable, as the case may be, shall have a right of action against such other person as if the commissioner or that employer were the workman.

(3) If, after deduction of all costs and necessary expenses, as determined by the commissioner, the balance of the damages recovered under sub-section (2) by the commissioner or employer

(3) Ten opsigte van 'n werksman wie se werkzaamheid dit is om vir wins persone of goedere te vervoer deur middel van 'n voertuig, skip of lugvaartuig waarvan daardie werksman die gebruik verkry het van 'n ander persoon kragtens 'n ander kontrak as 'n koop- of huurkoopkontrak, word daardie ander persoon vir die doeleindes van hierdie Wet as die werkewer beskou.

(4) Ten opsigte van 'n werksman, in diens van 'n klub of 'n vereniging van persone, word die lede van die bestuur, die sekretaris of ander verantwoordelike beampete van die vereniging of klub as die werkewer beskou.

(5) Vir die verstrekking of ontvangs van state, kennisgewings of ander dokumente ingevolge hierdie Wet, beteken die uitdrukking „werkewer” ook die bestuurder, sekretaris, rekenmeester, penningmeester, behoorlik gevoldagte verteenwoordiger of ander verantwoordelike persoon.

6. Behoudens die bepalings van artikels *sewe-en-twintig*, *nege-en-tagtig* en *honderd-en-nege* is hierdie Wet van toepassing op ongevalle wat gebeur en vergoedingspligtige siektes wat opgedoen is op of na die vasgestelde datum.

7. Vanaf die vasgestelde datum—

- (a) kan geen regsgeding volgens wet deur 'n werksman of 'n nabestaande van 'n werksman teen die werkewer van bedoelde werksman ingestel word nie tot verhaal van enige skadevergoeding ten opsigte van 'n besering veroorsaak deur 'n ongeval wat arbeidsongeskiktheid of die dood van daardie werksman tot gevolg het; en
- (b) kan geen aanspreeklikheid vir skadeloosstelling aan die kant van sodanige werkewer ontstaan nie behalwe ingevolge die bepalings van hierdie Wet ten opsigte van sodanige arbeidsongeskiktheid of dood.

8. (1) Wanneer die ongeval ten opsigte waarvan skadeloosstelling betaalbaar is in omstandighede veroorsaak is wat 'n persoon, behalwe die werkewer regtens aanspreeklik maak vir die betaling van skadevergoeding ten opsigte daarvan—

- (a) kan die werksman ingevolge hierdie Wet skadeloosstelling eis sowel as geregtelike stappe doen in 'n gereghof teen sodanige ander persoon om skadevergoeding te verhaal: Met dien verstande dat voor dat die werksman bedoelde stappe doen hy die kommissaris of die werkewer individueel aanspreeklik skriftelik in kennis stel van sy voorname, en die kommissaris of bedoelde werkewer, na gelang van die geval, het die reg om in die geding tussenbeide tree: Met dien verstande verder dat as enige sodanige geregtelike stappe gedoen is en skadevergoeding daarop toegestaan word, moet die hof, by die beraming van skadevergoeding die bedrag in ag neem wat daardie persoon aan die kommissaris of die betrokke werkewer sal moet betaal ingevolge die bepalings van paragraaf (b);
- (b) word die kommissaris of die werkewer individueel aanspreeklik deur wie skadeloosstelling betaalbaar is, vergoed deur die persoon wat gelas is om skadevergoeding te betaal, ten opsigte van die skadeloosstelling wat die kommissaris of die werkewer individueel aanspreeklik verplig is om te betaal as gevolg van die ongeval; en alle vroeë betreffende die reg tot en die bedrag van sodanige vergoeding, moet by gebreke aan ooreenkoms, beslis word deur die hof waarvoor sodanige geregtelike stappe gedoen word; en
- (c) is 'n kontrak waardeur 'n werksman sonder die skriftelike toestemming van die kommissaris 'n eis om skadevergoeding teen sodanige ander persoon skik, of daarvan afstand doen, van nul en gener waarde.

(2) Indien die besering of dood ten opsigte waarvan skadeloosstelling betaalbaar is, onder omstandighede veroorsaak is wat *prima facie* 'n wetlike aanspreeklikheid aan 'n derde persoon ople deur die betaling van skadevergoeding aan die werksman, en indien daardie werksman te kenne gegee het dat hy geen geregtelike stappe teen daardie persoon gaan doen nie, of nie sulke geregtelike stappe doen binne 'n tydperk deur die kommissaris vasgestel nie, het die kommissaris of die werkewer individueel aanspreeklik, al na die geval, 'n vorderingsreg teen daardie persoon asof die kommissaris of die werkewer self die werksman was.

(3) Indien na aftrekking van alle koste en noodsaaklike onkoste soos deur die kommissaris vasgestel, die balans van die vergoeding wat deur die kommissaris of die werkewer individueel aanspreeklik, ingevolge sub-artikel (2) verhaal word,

individually liable exceeds the compensation payable, such excess shall be paid to the workman in such manner as the commissioner may direct.

(4) For the purpose of this section "compensation" shall include medical aid and, in the case of a continuing liability, also the capitalized value, as determined by the commissioner, of any pension or periodical or other payment under such liability or allowance under sub-section (2) of section *forty* or section *forty-four*.

Principals and contractors.

9. (1) Where any person (in this section referred to as the principal) in the course of or for the purposes of his business contracts with any other person (in this section referred to as the contractor) for the execution by or under the supervision of the contractor of the whole or any part of any work undertaken by the principal, any workman engaged upon such work shall be deemed to be the workman of the principal unless and until such contractor is in respect of such work assessed as an employer and has paid all assessments due by him to the accident fund for the current year, and any reference in this Act to the employer shall be deemed to be a reference to the principal, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

(2) Where a principal has paid an assessment or compensation which, but for the provisions of sub-section (1) he would not have been liable to pay he shall be entitled to reimbursement by the contractor to such extent as the commissioner finds that such contractor would have been liable had he been deemed under this Act to be the employer of the workman.

(3) It shall be the duty of the principal to ensure that any assessment for which the contractor is liable is paid, and if any such principal fails to do so he shall be personally liable to pay such assessment to the commissioner and the provisions of this Act with regard to enforcing assessments shall apply to him. The principal shall be entitled to reimbursement by the contractor of any sum paid under this sub-section.

(4) Where a principal, in terms of sub-section (2) or (3) has paid to the commissioner any assessment or compensation he shall, unless he has been reimbursed by the contractor, be entitled to deduct an amount determined in accordance with sub-section (2) from any moneys due by him to the contractor.

(5) Notwithstanding the preceding provisions of this section the workman or the commissioner may recover compensation from the contractor instead of the principal, and, in the event of failure to recover fully from one of them, may recover the balance from the other of them.

(6) This section shall not impose any liability on the principal in respect of any accident which occurs elsewhere than on or about premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

Extra-territorial application of Act.

10. (1) Where an employer carries on business chiefly within the Union and the usual place of employment of his workman is in the Union, and an accident happens to his workman while the workman is temporarily employed by him out of the Union, the workman shall be entitled to compensation in the same manner as if the accident had happened in the Union: Provided that the amount of compensation shall be determined on the basis of the earnings which the workman, in the opinion of the commissioner, would have received if he had remained in the Union: Provided further that this sub-section shall cease to apply to a workman after he has been employed out of the Union for a continuous period of twelve months, save by arrangement between the commissioner, the workman and the employer concerned, and subject to such conditions as the commissioner may determine.

(2) (a) Where an employer carries on business chiefly outside the Union and an accident happens to his workman ordinarily employed outside the Union, but temporarily employed by him in the Union, such workman shall not be entitled to compensation out of the accident fund unless the employer has previously agreed with the commissioner that such workman shall be entitled to compensation, and has paid assessment.

die betaalbare skadeloosstelling oorskry, word so 'n oorskot aan die werksman op 'n deur die kommissaris bepaalde wyse betaal.

(4) Vir die doeleindes van hierdie artikel sluit „skadeloosstelling“ geneeskundige behandeling in, en in die geval van 'n voortdurende verpligting, ook die gekapitaliseerde waarde, soos deur die kommissaris vasgestel, van 'n pensioen of periodieke of ander uitkering wat ingevolge daardie verpligting verskuldig is, of toelae kragtens sub-artikel (2) van artikel *veertig* of artikel *vier-en-veertig*.

9. (1) Ingeval enige persoon (in hierdie artikel genoem die lasgewart) in die loop of vir die doeleindes van sy besigheid met enige ander persoon (in hierdie artikel genoem die aannemer) 'n kontrak aangaan vir die uitvoering deur of onder toesig van die aannemer van die hele stuk werk wat deur die lasgewart onderneem is of 'n gedeelte daarvan, dan word enige werksman in diens by sodanige werk geag die werksman van die lasgewart te wees tensy bedoelde aannemer ten opsigte van bedoelde werk as 'n werkewer aangeslaan word en alle aanslae deur hom verskuldig aan die ongevallefonds vir die lopende jaar betaal het; en enige verwysing in hierdie Wet na 'n werkewer word geag as 'n verwysing na die lasgewart, behalwe dat die bedrag van skadeloosstelling bereken word volgens die verdienste van die werksman by die werkewer by wie hy onmiddellik in diens is.

(2) Wanneer 'n lasgewart 'n aanslag of skadeloosstelling betaal het, waarvoor hy nie aanspreeklik sou gewees het nie, was dit nie vir die bepalings van sub-artikel (1) nie, is hy geregtig op terugbetaling deur die aannemer na mate die kommissaris bepaal dat daardie aannemer aanspreeklik sou gewees het indien hy ingevolge hierdie Wet as die werkewer van die werksman beskou was.

(3) Die lasgewart is verplig om te sorg dat enige aanslag waarvoor die aannemer aanspreeklik is, betaal word, en as so 'n lasgewart versuim om dit te doen, is hy persoonlik aanspreeklik vir die betaling van daardie aanslag aan die kommissaris en die bepalings van hierdie Wet met betrekking tot die invordering van 'n aanslag is op hom van toepassing. Die lasgewart is geregtig op terugbetaling deur die aannemer van alle bedrae ingevolge hierdie sub-artikel betaal.

(4) Wanneer 'n lasgewart ingevolge sub-artikel (2) of (3) aan die kommissaris 'n aanslag of skadeloosstelling betaal het, is hy geregtig om van enige geld, wat hy aan die aannemer skuld, 'n volgens sub-artikel (2) bepaalde bedrag af te trek, tensy die aannemer hom vergoed het.

(5) Nieteenstaande die voorgaande bepalings van hierdie artikel kan die werksman of die kommissaris skadeloosstelling op die aannemer in plaas van die lasgewart verhaal en ingeval die volle bedrag nie van een van hulle ingevorder word nie, die tekort op die ander verhaal.

(6) Geen aanspreeklikheid ingevolge hierdie artikel berus op 'n lasgewart wanneer die ongeval elders plaasgevind het as op of in die nabijheid van 'n perseel waarop die lasgewart onderneem het om die werk te verrig, of wat andersins onder sy toesig of beheer is.

10. (1) Wanneer 'n werkewer hoofsaaklik in die Unie besigheid dryf en die plek waar sy werksman gewoonlik sy diens verrig binne die Unie is, en sy werksman 'n ongeval oorkom terwyl daardie werksman tydelik buite die Unie in sy diens werksaam is, dan is die werksman op dieselfde wyse op skadeloosstelling geregtig asof die ongeval in die Unie plaasgevind het: Met dien verstande dat die bedrag van die skadeloosstelling vasgestel word op grondslag van die verdienste van die werksman wat hy, na oordeel van die kommissaris, sou ontvang het as hy in die Unie gebly het: Met dien verstande verder dat hierdie sub-artikel ophou om van toepassing te wees op 'n werksman nadat hy, vir 'n onafgebroke tydperk van twaalf maande, buite die Unie in diens was, behalwe by ooreenkoms tussen die kommissaris, die werksman en die betrokke werkewer, en behoudens sodanige voorskrifte as wat die kommissaris mag vasstel.

(2) (a) Wanneer 'n werkewer hoofsaaklik buite die Unie besigheid dryf en sy werksman wat gewoonlik buite die Unie maar tydelik in die Unie in sy diens werksaam is, 'n ongeval oorkom, dan is daardie werksman nie op skadeloosstelling uit die ongevallefonds geregtig nie, tensy die werkewer vooraf met die kommissaris ooreengekom het dat daardie werksman op skadeloosstelling geregtig sal wees en aanslag betaal het.

**Lasgewers en
aannemers.**

Toepassing van
hierdie Wet buite
die landsgrense.

(b) Any such workman so employed for a continuous period of more than twelve months shall be deemed to be ordinarily employed by such employer in the Union.

(3) Where by the law of the country in which an accident happens, a workman in the circumstances described in sub-section (1) is entitled to compensation in respect of such accident, or where an accident happens to a workman in the Union and he would be entitled to compensation under the law of any other country as well as under this Act, he shall, by notice to the commissioner, elect to claim compensation either under this Act, or under the law of the other country: Provided that—

(a) if he elects to claim compensation under this Act, he shall—

- (i) present a claim under this Act, and
- (ii) cede to the commissioner or the employer, as the case may be, his claim under the law of the other country, and if the amount recoverable under such other law exceeds the amount of the compensation under this Act, the cession shall be effective in respect of so much of the claim as equals the amount of such compensation;

(b) if he elects to claim compensation under the law of the other country—

- (i) where the amount so recoverable is less than the compensation which would have been payable under this Act, the commissioner may, in his discretion, award compensation not exceeding the amount of such difference; and
- (ii) where the claim lies against an employer who has paid assessments, the commissioner shall reimburse such employer to the extent of the compensation payable under this Act.

Application of Act
to seamen and
airmen.

11. This Act shall apply in respect of an accident to a seaman or airman whose remuneration is not fixed solely by a share in the takings—

- (a) while employed on a Union ship or aircraft: Provided that if the accident happened outside the Union, the provisions of the Act shall not apply unless the workman is ordinarily resident in the Union; or
- (b) subject to the provisions of sub-section (2) of section ten, while employed in the Union on any other ship or aircraft.

CHAPTER II.

ADMINISTRATION.

Appointment of
Commissioner and
staff.

12. (1) Subject to the laws governing the public service, the Governor-General may from time to time, appoint any person to be the Workmen's Compensation Commissioner (in this Act referred to as the commissioner).

(2) Subject to the laws governing the public service, the Minister, after consultation with the commissioner, may appoint such other persons as are in his opinion necessary to enable the commissioner to administer this Act, and may delegate any power or function of the commissioner to any such person.

Appointment of
assessors.

13. (1) Subject to the provisions of this section the Minister may from time to time appoint for such period and on such conditions as he may determine, assessors who, in the manner prescribed, shall assist the commissioner, in the discharge of his functions under this Act.

(2) For the purpose of appointing assessors, the Minister shall, by notice in the *Gazette*, specify the industries, undertakings or occupations, in respect of which assessors shall be appointed, and may define any such industry, undertaking or occupation. In so specifying or defining, the Minister may use any method of grouping, discrimination or differentiation he may deem advisable.

(3) The Minister may in like manner amend or withdraw any notice made under sub-section (2).

(4) The Minister shall, after consultation with the trade unions and employers' organizations which in his opinion are concerned, appoint two assessors, one to represent workmen and one to represent employers, in respect of each industry, undertaking or occupation, or group of industries, undertakings

(b) Enige sodanige werksman vir 'n onafgebroke tydperk van meer as twaalf maande aldus in diens, word geag gewoonlik in die diens van bedoelde werkewer in die Unie werksaam te wees.

(3) Wanneer 'n werksman onder die omstandighede in sub-artikel (1) beskryf, volgens die regsbepalings van die land, waarin 'n ongeval plaasvind, ten opsigte van daardie ongeval op skadeloosstelling geregtig is of wanneer 'n werksman in die Unie 'n ongeval het en hy kragtens die regsbepalings van 'n ander land sowel as ingevolge hierdie Wet op skadeloosstelling geregtig sou wees, moet hy by kennisgewing aan die kommissaris kies of om ingevolge hierdie Wet of die wet van die ander land skadeloosstelling te eis: Met dien verstande dat—

(a) indien hy kies om ingevolge hierdie Wet skadeloosstelling te eis, hy—

(i) 'n eis ingevolge hierdie Wet moet indien; en

(ii) sy eis ingevolge die wet van die ander land aan die kommissaris of aan die werkewer, al na die geval, moet oordra en as die bedrag, verhaalbaar ingevolge daardie ander wet, die bedrag van skadeloosstelling ingevolge hierdie Wet oorskry, geld die oordrag ten opsigte van soveel van die eis as wat gelykstaan met die bedrag van daardie skadeloosstelling;

(b) indien hy kies om ingevolge die wet van die ander land skadeloosstelling te eis—

(i) wanneer die bedrag aldus verhaalbaar minder is as die skadeloosstelling wat ingevolge hierdie Wet betaalbaar sou wees, die kommissaris na goed-dunke skadeloosstelling wat nie die bedrag van bedoelde verskil te boewe gaan nie, kan toeken; en

(ii) wanneer die eis invorderbaar is teen 'n werkewer wat aanslag betaal het, die kommissaris daardie werkewer moet vergoed tot die bedrag van die skadeloosstelling wat volgens hierdie Wet betaalbaar sou wees.

11. Hierdie Wet is ten opsigte van 'n ongeval van toe-passing op 'n seeman of vliegenier wie se beloning nie uitsluitlik uit 'n aandeel in die ontvangste bestaan nie—

(a) terwyl in diens op enige Unie-skip of lugvaartuig: Met dien verstande dat indien die ongeval buite die Unie plaasgevind het, die bepalings van hierdie Wet nie van toepassing is nie tensy die werksman gewoonlik binne die Unie woon; of

(b) behoudens die bepalings van sub-artikel (2) van artikel *tien* terwyl hy in die Unie in diens is op enige ander skip of lugvaartuig.

HOOFTUK II.

UITVOERING.

12. (1) Met inagneming van die wette wat die Staatsdiens reël kan die Goewerneur-generaal van tyd tot tyd enige persoon aanstel om die Ongevallekommisaris te wees (in hierdie Wet die kommissaris genoem).

(2) Met inagneming van die wette wat die Staatsdiens kan die Minister, na beraadslaging met die kommissaris, sodanige ander persone aanstel as wat na sy oordeel nodig is om die kommissaris in staat te stel om hierdie Wet uit te voer, en kan hy enige bevoegdheid of amptsply van die kommissaris aan enige sodanige persoon oordra.

13. (1) Behoudens die bepalings van hierdie artikel kan die Minister van tyd tot tyd vir so 'n tydperk en op sodanige voorwaardes as wat hy mag vasstel assessore aanstel wat die kommissaris op die voorgeskrewe wyse sal bystaan in die vertigting van sy werksaamhede ingevolge hierdie Wet.

(2) Vir die doel van die aanstelling van assessor, stel die Minister by kennisgewing in die *Staatskoerant* vas die nywerhede, ondernemings of werksaamhede ten opsigte waarvan assessor aangestel moet word en hy kan enige sodanige nywerheid, onderneming of werksaamheid omskryf. By so 'n vasstelling of omskrywing kan die Minister enige basis van groepering, diskriminasie of onderskeiding gebruik wat hy raadsaam ag.

(3) Die Minister kan op dieselfde wyse 'n kragtens sub-artikel (2) uitgevaardigde kennisgewing wysig of intrek.

(4) Na beraadslaging met die vakverenigings en werkewersorganisasies, wat na sy mening daarby betrokke is, stel die Minister twee assessor aan, een om werkemers en een om werkewers te verteenwoordig, ten opsigte van elke nywerheid, onderneming of werksaamheid of groep nywerhede, onder-

Toepassing van
die Wet op seeliede
en vliegeniers.

or occupations, specified in terms of sub-section (2) or (3), and may appoint different assessors for different areas.

(5) The Minister may remove from office any assessor who in his opinion has been guilty of misbehaviour or neglect of duty, or is unable adequately to fulfil the functions of an assessor.

(6) The Minister may appoint alternate assessors to act during the temporary inability of any assessor to carry out his duties, and the provisions of this section in regard to the appointment of assessors shall apply in respect of any such alternates.

(7) There shall be paid to assessors out of the accident fund the prescribed remuneration and travelling and subsistence allowances.

Functions of com-
missioner.

14. Subject to the provisions of this Act the commissioner shall—

- (a) receive notices of accidents and claims for compensation;
- (b) enquire into or cause enquiry to be made into accidents;
- (c) adjudicate upon all claims and other matters coming before him for decision;
- (d) issue an order in the prescribed form for the payment of compensation in respect of any award made by him;
- (e) determine whether any person is a workman, employer, principal or contractor for the purposes of this Act;
- (f) decide any question relating to—
 - (i) the right to compensation;
 - (ii) the submission, consideration and determination of claims for compensation;
 - (iii) the computation of earnings;
 - (iv) the degree of disablement of any workman;
 - (v) the amount and method of payment of any compensation;
 - (vi) the award, withholding, revision, discontinuance, suspension, increase or reduction of any compensation;
- (g) determine whether any person is a dependant under this Act and, if so, the degree of dependency, and, where there is more than one dependant, which shall receive compensation and the allocation of compensation among them;
- (h) consider and decide upon applications in terms of sections *thirty-two* and *sixty-three*;
- (i) determine any question arising in respect of the necessity for or the character or sufficiency of any medical aid;
- (j) determine any question relating to liability for assessment, rates of assessment, amount of assessment, method of payment of assessment and any other matter falling within his purview under parts (B) and (C) of Chapter VII;
- (k) determine any other question falling within his purview in connection with the application of this Act to or in respect of any employer or workman;
- (l) administer the accident and reserve funds as provided in Chapter VII;
- (m) give effect to any scheme which he deems suitable—
 - (i) for the prevention of accidents or scheduled diseases;
 - (ii) for aiding injured workmen to return to work; or
 - (iii) for assisting workmen in reducing or removing any handicap resulting from their injuries;
- (n) after the conclusion of each financial year make a report to the Minister upon the administration of this Act during that year;
- (o) collect, and record statistics and information relating to the occurrence or cause of accidents and scheduled diseases and the grant of benefits to persons under this Act;
- (p) make any investigation and perform such other functions as may be prescribed, or as he deems necessary for the administration of this Act.

Power of commis-
sioner to acquire
and to alienate
property.

15. Subject to the approval of the Minister of Finance, the commissioner may purchase or otherwise acquire property required wholly or partly for the purposes of this Act and

nemings of werksaamhede kragtens sub-artikel (2) of (3) vasgestel en kan verskillende assessorre vir verskillende gebiede aanstel.

(5) Die Minister kan 'n assessor ontslaan wat, na sy oordeel skuldig was aan wangedrag of pligsversuim of wat nie in staat is om die ampspligte van 'n assessor behoorlik te verrig nie.

(6) Die Minister kan plaasvervangende assessorre aanstel om op te tree gedurende die tydelike onvermoë van enige assessor om sy pligte uit te voer, en die bepalings van hierdie artikel in verband met die aanstelling van assessorre is ten opsigte van sodanige plaasvervangers van krag.

(7) Aan assessorre word betaal uit die ongevallefonds die voor- geskrewe beloning en reis- en onderhoudstoelaes.

14. Behoudens die bepalings van hierdie Wet moet die kommissaris— Ampspligte van kommissaris.

- (a) aangiftes van ongevalle en eise vir skadeloosstelling ontvang ;
- (b) ongevalle ondersoek of laat ondersoek ;
- (c) alle eise en ander sake wat voor hom ter beslissing kom, besleg ;
- (d) ten opsigte van elke toewysing deur hom gemaak 'n bevel vir die betaling van skadeloosstelling in die voor- skrewe vorm uitvaardig ;
- (e) besluit of enige persoon 'n werksman, werkgewer, lasgewer of aannemer vir die doeleindes van hierdie Wet is ;
- (f) beslis oor enige vraag met betrekking tot—
 - (i) die reg op skadeloosstelling ;
 - (ii) die voorlegging, oorweging en beslegting van eise op skadeloosstelling ;
 - (iii) die berekening van verdienstes ;
 - (iv) die mate van arbeidsongeskiktheid van 'n werksman ;
 - (v) die bedrag en wyse van betaling van enige skade- loosstelling ;
 - (vi) die toewysing, terughouding, hersiening, staking, opskorting, vermeerdering of vermindering van enige skadeloosstelling ;
- (g) besluit of 'n persoon 'n nabestaande ingevolge hierdie Wet is en, indien wel, die mate waarin hy van die werksman afhanklik is, en, ingeval daar meer as een nabestaande is, diegene wat skadeloosstelling moet ontvang en die verdeling van die skadeloosstelling tussen hulle ;
- (h) aansoeke ingevolge artikels *twee-en-dertig* en *drie-en- sestig* oorweeg en daaroor beslis ;
- (i) beslis oor enige vraag wat ontstaan ten opsigte van die noodsaaklikheid, die aard of die genoegsaamheid van enige geneeskundige behandeling ;
- (j) beslis oor enige vraag betreffende die aanspreeklik- heid vir aanslag, aanslagskaal, die bedrag van aanslag, wyse van betaling van aanslag, en enige ander saak wat binne sy bevoegdheid val ingevolge dele (B) en (C) van Hoofstuk VII ;
- (k) beslis oor enige ander vraag wat binne sy bevoegd- heid val in verband met die toepassing van hierdie Wet op of met betrekking tot enige werkgewer of werksman ;
- (l) die ongevalle- en reserwefondse beheer soos bepaal in Hoofstuk VII ;
- (m) maatreëls toepas wat hy geskik ag—
 - (i) vir die voorkoming van ongevalle of vergoedings- pligtige siektes ;
 - (ii) om beseerde werksmense te help om na werk terug te keer ; of
 - (iii) om werksmense by te staan om enige nadeel wat uit beserings ontstaan te verminder of te ver- wyder ;
- (n) na afloop van elke boekjaar 'n verslag by die Minister indien oor die uitvoering van hierdie Wet gedurende daardie jaar ;
- (o) statistiek en informasie betreffende die voorval of oorsaak van ongevalle en vergoedingspligtige siektes en die toekenning van voordele aan persone ingevolge hierdie Wet versamel en aanteken ;
- (p) enige onderzoek instel en sodanige ander werksaam- hede verrig as wat voorgeskryf mag wees of wat hy nodig ag vir die uitvoering van hierdie Wet.

15. Behoudens die goedkeuring van die Minister van Finansies, kan die kommissaris eiendom wat geheel of gedeel- lik benodig is vir die doeleindes van hierdie Wet, aankoop of Bevoegdheid van kommissaris om eiendom te verwerven en te vervreem.

alienate any property so acquired. All property so acquired shall be held in the name of the commissioner in trust for the accident fund.

Powers in regard
to witnesses and
issue of subpoena.

16. (1) The commissioner may subpoena any person who in his opinion is able to give material information concerning the subject of any investigation under this Act or who he suspects or believes has in his possession or custody or under his control any book, document or thing which has any bearing on the investigation, to appear before him at a time and place specified in the subpoena, to be interrogated or to produce that book, document or thing. The commissioner may retain for further examination any book, document or thing so produced.

(2) A subpoena under sub-section (1) shall be signed by the commissioner.

(3) The commissioner may call and administer an oath to any person present at an investigation who was or might have been subpoenaed in terms of sub-section (1); and the commissioner and any assessor may interrogate him and require him to produce any relevant book, document or thing in his possession or custody or under his control.

(4) (a) If any person having been duly subpoenaed under sub-section (1) fails, without sufficient cause to attend at the time and place specified in the subpoena, he shall be guilty of an offence.

(b) If any person such as is referred to in paragraph (a) or any person called in terms of sub-section (3) fails to remain in attendance until excused by the commissioner from further attendance or refuses to be sworn as a witness or fails to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him, or to produce any book, document or thing in his possession or custody or under his control when lawfully required to do so he shall be guilty of an offence: Provided that in connection with the interrogation of any such person by, or the production of any such book, document or thing, before the commissioner, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or produce any book, document or thing before a court of law, shall apply.

(5) Any witness who, after having been sworn, gives a false answer to any question put to him or makes a false statement on any matter, knowing that answer or statement to be false, shall be deemed to be guilty of perjury.

(6) The interrogation of a witness shall be conducted in public unless the commissioner otherwise decides.

(7) A person subpoenaed to appear before the commissioner may, if the commissioner is satisfied that he has by reason of such appearance suffered any pecuniary loss or been put to any expense, be paid out of the accident fund the prescribed allowances, or the amount of such loss and such expense, whichever is the less.

(8) Any person who wilfully hinders the commissioner in the exercise of any of the powers conferred upon him by this section shall be guilty of an offence.

(9) The commissioner may, in respect of any investigation which he considers it necessary to make, delegate his powers under this section to any assessor, member of his staff, officer of the public service or medical practitioner, and in this section the "commissioner" includes any such assessor, member, officer or practitioner while acting within the scope of such delegation.

Authority to
inspect and
investigate.

17. (1) The commissioner may authorize any assessor, member of his staff, officer of the public service or medical practitioner to investigate any specified matter or all matters falling within the commissioner's purview and to report thereon, and every person so authorized shall have power to require and take affidavits or declarations as to any matter to which the investigation relates or to take any other declarations required under this Act.

(2) Every person authorized under sub-section (1) (hereinafter referred to as an authorized person) shall be furnished with a certificate to that effect signed by the commissioner.

(3) For the purpose of carrying on his functions under this Act, any authorized person may—

(a) without previous notice at any time enter any premises whatsoever and take with him on to the premises an interpreter or other assistant or any member of the police force;

andersins verwerf en enige aldus aangeskafte eiendom vreem. Alle eiendom aldus verwerf word in die naam van die kommissaris in trust vir die ongevallefonds gehou.

16. (1) Die kommissaris kan enige persoon wat sy insiens in staat is om ter sake dienende inligting te verstrek aangaande die onderwerp van enige ondersoek ingevolge hierdie Wet, of wat na die vermoede of mening van die kommissaris, in sy besit of bewaring of onder sy beheer, 'n boek of geskrif of ding het wat ewigsins betrekking het op die ondersoek, dagvaar om voor hom te verskyn op 'n in die dagvaarding vasgestelde tyd en plek om ondervra te word of bedoelde boek, geskrif of ding voor te lê. Die kommissaris kan bedoelde boek, geskrif of ding vir nader ondersoek behou.

(2) 'n Dagvaarding kragtens sub-artikel (1) word geteken deur die kommissaris.

(3) Die kommissaris kan enige by 'n ondersoek teenwoordige persoon wat ingevolge sub-artikel (1) gedagvaar is of kon geword het, oproep en aan hom 'n eed ople; en die kommissaris of 'n assessor kan bedoelde persoon ondervra en van hom eis dat hy enige ter sake dienende boek, geskrif of ding in sy besit of bewaring of onder sy beheer voorlê.

(4) (a) 'n Persoon wat kragtens sub-artikel (1) behoorlik gedagvaar is en sonder afdoende rede versuim om op die in die dagvaarding vasgestelde tyd en plek, te verskyn, is aan 'n misdryf skuldig.

(b) 'n Persoon in paragraaf (a) bedoel of 'n persoon kragtens sub-artikel (3) opgeroep, wat versuim oni aanwesig te bly totdat die kommissaris hom van verdere bywoning vrystel, of wat weier om die getuie-eed af te lê, of wat versuim aan hom wettiglik gestelde vrae ten volle en op bevredigende wyse na sy beste vermoë en geloof te beantwoord, of wat in gebreke bly om op wettiglike aanvraag enige boek, geskrif of ding in sy besit of bewaring of onder sy beheer voor te lê, is aan 'n misdryf skuldig: Met dien verstande dat die regsreëls betreffende privilegie, soos toepaslik op 'n getuie wat gedagvaar is om getuenis af te lê, of 'n boek, geskrif of ding voor te lê, in 'n geregshof van toepassing is in verband met die ondervraging van so 'n persoon deur, of die voorlegging van so 'n boek, geskrif of ding aan die kommissaris.

(5) 'n Getuie wat na beëdiging 'n valse antwoord gee op 'n vraag aan hom gestel, of 'n valse verklaring maak aangaande enige saak, wetende dat daardie antwoord of verklaring vals is, word geag skuldig te wees aan nieineed.

(6) Die ondervraging van 'n getuie moet in die openbaar plaasvind, tensy die kommissaris anders besluit.

(7) Aan 'n persoon wat gedagvaar is om voor die kommissaris te verskyn kan, as die kommissaris oortuig is dat hy as gevolg van bedoelde verskyning enige geldelike verlies gely het of enige onkoste moes aangaan, nit die ongevallefonds die voorgeskrewe toelaes uitbetaal word, of die bedrag van sodanige verlies en sodanige onkoste, na gelang die een of die ander die minste is.

(8) 'n Persoon wat die kommissaris by die uitoefening van 'n bevoegdheid aan hom deur hierdie artikel verleen opsetlik hinder is aan 'n misdryf skuldig.

(9) Die kommissaris kan ten opsigte van enige ondersoek wat volgens sy mening ingestel moet word, sy bevoegdhede ingevolge hierdie artikel aan enige assessor, lid van sy personeel, amptenaar van die staatsdiens of geneesheer oordra en in hierdie artikel beteken „kommissaris“ ook enige sodanige assessor, lid, amptenaar of geneesheer terwyl hy binne die bevoegdhede van sodanige oordrag optree.

17. (1) Die kommissaris kan enige assessor, lid van sy Reg van besigtiging personeel, amptenaar van die staatsdiens of geneesheer magtig om 'n bepaalde saak of alle sake binne die kommissaris se bevoegdheid te ondersoek en daaroor verslag te doen en alle persone aldus gemagtig het die mag om beëdigde verklarings of verklarings te vorder en af te neem betreffende enige saak waarop die ondersoek betrekking het of om enige ander verklarings ingevolge hierdie Wet benodig, af te neem.

(2) 'n Persoon wat ingevolge sub-artikel (1) gemagtig is (hierna genoem 'n gemagtigde persoon) moet voorsien word van 'n sertifikaat te dien effekte, wat deur die kommissaris onderteken is.

(3) Om sy pligte ingevolge hierdie Wet uit te voer kan 'n gemagtigde persoon—

(a) te eniger tyd sonder voorafgaande kennisgewing enige perseel betree, en op die perseel 'n tolk of ander assistent of 'n lid van die polisiemag met hom saamneem;

- (b) while he is on the premises, or at any other time, question any person who is or has been on the premises either alone or in the presence of any other person as he thinks fit; and require from any such person the production then and there, or at a time and place fixed by the authorized person, of any book, document or thing which is or has been on the premises or in the possession or custody or under the control of any employer by whom the premises are occupied or used, or of his employee;
- (c) at any time and at any place require from any person who has the possession or custody or control of any book, document or thing relating to the business of any person who is or was an employer, the production then and there, or at a time and place fixed by the authorized person, of that book, document or thing;
- (d) examine and make extracts from and copies of any such book or document, require an explanation of any entry therein, and seize any such book, document or thing as in his opinion may afford evidence relating to any matter under this Act;
- (e) require any workman to appear before him at a specified time and place and then and there question that workman.
- (4) Any authorized person exercising any power or performing any duty conferred or imposed upon him by this Act, shall on demand, produce the certificate furnished to him in terms of sub-section (2).
- (5) Any person who—
- (a) falsely holds himself out to be an authorized person; or
 - (b) refuses or fails to answer to the best of his power any questions which an authorized person has put to him in the exercise of his functions; or
 - (c) refuses or fails to comply to the best of his power with any lawful requirement made by an authorized person; or
 - (d) delays or hinders an authorized person in the exercise of his functions,
- shall be guilty of an offence.

(6) The commissioner may himself exercise any powers which under this section are conferred on an authorized person: Provided that neither the commissioner nor any such person shall, without the previous permission of the President or the Speaker, exercise any of such powers within the precincts of Parliament.

Observance of secrecy.

18. Any person employed in connection with any enquiry under this Act who discloses, except for official purposes, or when required to do so as a witness in a court of law, any information in relation to any person, firm or business, acquired in the exercise of his powers under this Act, shall be guilty of an offence.

Advances to the accident fund from public funds.

19. (1) The Minister may, out of moneys appropriated by Parliament for the purpose, advance to the accident fund moneys sufficient to meet preliminary expenses incurred in connection with the administration of this Act, and such further expenditure as may be required pending payment of assessments by employers.

(2) The moneys so advanced and the interest thereon shall be a charge upon the accident fund.

Method of accounting and investment.

20. (1) All moneys received by the commissioner on behalf of the accident fund shall be paid into a banking account and no moneys shall be withdrawn therefrom except by means of cheques signed by the commissioner and one member of his staff, specifically authorized thereto by him, or by two such members so authorized.

(2) The commissioner may from time to time transfer to the Public Debt Commissioners for investment any portion of the moneys of the accident and reserve funds.

Expenses of the commissioner.

21. The remuneration of all officers appointed under section twelve shall be paid out of the Consolidated Revenue Fund, which shall be re-imbursed from the accident fund. All other expenditure necessary and incidental to the performance of the commissioner's functions shall be paid out of the accident fund.

Accounts and audit.

22. (1) The commissioner shall keep books of accounts and other books in relation thereto for the accident fund and the reserve fund and shall prepare yearly balance sheets made up to the thirty-first day of December showing in all necessary detail the assets and liabilities and the revenue and expenditure of the funds.

- (b) terwyl hy op die perseel is of te enige ander tyd enige persoon wat op die perseel is of was ondervra, of alleen of in die teenwoordigheid van 'n ander persoon soos hy wenslik ag; en eis dat sodanige persoon daar en dan of op 'n deur die gemagtigde persoon bepaalde tyd en plek enige boek, geskrif of ding oorlê wat op die perseel of in besit of bewaring of onder beheer van enige werkewer deur wie die perseel geokkupeer of gebruik word of van sy werksman is of was;
- (c) te eniger tyd en te eniger plek van iemand wat die besit of bewaring het van of beheer het oor 'n boek, geskrif of ding betreffende die besigheid van 'n werkewer of gewese werkewer, daar en dan of op 'n deur die gemagtigde persoon bepaalde tyd en plek, oorlegging van bedoelde boek, geskrif of ding eis;
- (d) enige sodanige boek of geskrif ondersoek en uittreksels daaruit of afskrifte daarvan maak, van enige persoon 'n uitleg vorder van enige inskrywing daarin; en beslag lê op enige sodanige boek, geskrif of ding wat volgens sy oordeel bewys mag oplewer in verband met enige saak betreffende hierdie Wet;
- (e) enige werksman gelas om op 'n bepaalde tyd en plek voor hom te verskyn en daardie werksman daar en dan ondervra.

(4) 'n Gemagtigde persoon wat 'n bevoegdheid uitoefen of plig vervul wat ingevolge hierdie Wet aan hom verleen of opgedra word, moet op aanvraag die sertifikaat wat ingevolge sub-artikel (2) aan hom verstrek is, toon.

(5) 'n Persoon wat—

- (a) valslik voorgee dat hy 'n gemagtigde persoon is; of
- (b) weier of in gebreke bly om enige vraag wat 'n gemagtigde persoon by die uitoefening van sy werkzaamhede aan hom gestel het, na sy beste vermoë te beantwoord; of
- (c) weier of in gebreke bly om na sy beste vermoë aan enige wetlike vereiste te voldoen wat 'n gemagtigde persoon gestel het; of
- (d) 'n gemagtigde persoon by die uitoefening van sy werkzaamhede ophou of hinder,
is aan 'n misdryf skuldig.

(6) Die kommissaris kan self enige bevoegdhede uitoefen wat ingevolge hierdie artikel aan 'n gemagtigde persoon verleen word: Met dien verstande dat nóg die kommissaris nóg so 'n persoon enige sodanige bevoegdheid sonder voorafgaande verlof van die President of die Speaker binne die omtrek van die Parlement uitoefen.

18. 'n Persoon in diens in verband met 'n ondersoek ingevolge **Geheimhouding**.
hierdie Wet wat, behalwe vir offisiële doeleindes, of wanneer hy dit moet doen as getuie in 'n gereghof, enige inligting onthul wat hy met die uitoefening van sy bevoegdhede kragtens hierdie Wet ingewin het in verband met enige persoon, firma of besigheid, is aan 'n misdryf skuldig.

19. (1) Die Minister kan uit geldde deur die Parlement vir **Voorskot aan** daardie doel toegestaan, aan die ongevallefonds voldoende geld **ongevallefonds uit** voorskiet om die voorlopige onkoste wat gemaak word in **publieke fondse**. verband met die uitvoering van hierdie Wet, en sodanige verdere uitgawes as wat nodig mag wees totdat aanslae deur werkewers betaal word, te dek.

(2) Die geld aldus voorgeskiet en die rente daarop is 'n las teen die ongevallefonds.

20. (1) Alle geldde wat deur die kommissaris namens die **Wyse van** ongevallefonds ontvang word moet in 'n bankrekening gestort **rekeninghou en** word en geen bedrag mag daaraan onttrek word nie behalwe **belegging**. deur middel van tjeks onderteken deur die kommissaris en een lid van sy personeel uitdruklik deur hom daartoe gemagtig, of deur twee aldus gemagtigde lede.

(2) Die kommissaris kan van tyd tot tyd enige gedeelte van die geldde van die ongevalle- en reserwefondse, aan die Publieke Skuldkommissarisse ter belegging oordra.

21. Die besoldiging van alle kragtens artikel **twaalf aange-** **Uitgawes van die** stelde amptenare word betaal uit die Gekonsolideerde **In-** kommissaris. komstefonds wat vergoed word uit die ongevallefonds. Alle ander nodige en bykomende uitgawes in verband met die verrigting van die werkzaamhede van die kommissaris, word uit die ongevallefonds betaal.

22. (1) Die kommissaris moet rekeningboeke en ander **Rekenings en** aanverwante boeke vir die ongevallefonds en die reserwefonds **audit**. hou, en moet jaarlikse balansstate tot aan die een-en-dertigste dag van Desember opmaak, wat alle nodige besonderhede van bate en laste, en inkomste en uitgawes van die fondse **aantoon**.

(2) The accounts of the said funds shall be audited by the Controller and Auditor-General, and the expense of such audit shall be paid out of the accident fund.

(3) The commissioner shall, as soon as practicable after the completion of the balance sheets referred to in sub-section (1), submit a copy thereof and a copy of the report referred to in paragraph (n) of section *fourteen* to the Minister who shall lay such copies upon the Tables of both Houses of Parliament within thirty days after receipt thereof by him if Parliament is then in session, or if Parliament is not then in session, within thirty days after the commencement of its next ensuing session.

Income of funds
exempt from tax.

23. The income of the accident and reserve funds, including income from any investments, shall be exempt from income tax.

Revision of com-
pensation by com-
missioner.

24. (1) The commissioner may, after notice to the party concerned and giving him an opportunity to be heard, at any time review the compensation granted, on any of the following grounds—

- (a) that the workman has not submitted himself for examination when required to do so in terms of section *sixty*;
- (b) that the disablement which gave rise to the award is continued or aggravated by the unreasonable refusal or wilful neglect of the workman to submit himself to medical or surgical treatment;
- (c) that the workman has absented himself in such manner that no notice can be served on him, or has absented himself from the Union without the consent of the commissioner in terms of section *forty-five*;
- (d) that the workman has recovered damages in respect of the injury for which the compensation was awarded;
- (e) that any such compensation awarded in the form of a periodical payment or pension, is or has become either excessive or insufficient to meet the circumstances of the case;
- (f) that the award was based on a mistake or misrepresentation of fact, or that a different award might have been made if evidence presently available but which was not available when the commissioner made the award had been produced.

(2) The commissioner, after making such enquiry or receiving such evidence as he deems necessary, may confirm the award or order the discontinuance, suspension, reduction or increase of any such compensation, and in a case referred to in paragraph (d) of sub-section (1), the commissioner may deal with the award in accordance with the provisions of section *eight*.

(3) For the purposes of this section "compensation" shall include medical aid.

Objections and
appeals against
decisions of the
commissioner.

25. (1) Any decision of the commissioner on any matter referred to in paragraphs (c), (e), (f), (g), (h), (i), (j) or (k) of section *fourteen*, or on any other matter that may be prescribed shall, subject to the provisions of this section, and of section *twenty-six*, be final.

(2) (a) Any person affected by a decision of the commissioner may, within twenty-one days of such decision, lodge with the commissioner in the manner prescribed an objection against such decision.

(b) An objection may similarly be lodged by any trade union or employers' organization of which the person in respect of whom such decision was given was at the relevant times a member.

(c) The commissioner, on the recommendation of the assessors referred to in sub-section (3), or of a majority of them, may consider an objection similarly lodged by a trade union or employers' organization not falling within the scope of paragraph (b), if, in the opinion of the commissioner, an important principle is involved.

(3) (a) An objection lodged in terms of sub-section (1) or (2) shall be considered and determined by the commissioner assisted by the assessors appointed in respect of the industry, undertaking or occupation, or group of industries, undertakings or occupations, which in the opinion of the commissioner is most closely concerned in the matter at issue : Provided that the commissioner

(2) Die rekenings van bedoelde fondse word deur die Kontroleur- en Ouditeur-generaal geouditeer, en die koste van sodanige outhui moet uit die ongevallefonds betaal word.

(3) Die kommissaris moet, so gou doenlik na die voltooiing van die in sub-artikel (1) vermelde balansstate 'n afskrif daarvan en 'n afskrif van die in paragraaf (n) van artikel veertien bedoelde verslag by die Minister indien, wat hierdie afskrifte op die Tafels van beide Huise van die Parlement moet lê, binne dertig dae na ontvangst deur hom daarvan, indien die Parlement dan sit, en, indien die Parlement dan nie sit nie, binne dertig dae na die begin van die eersvolgende sessie.

23. Die inkomste van die ongevalle- en reserwefondse, met Raad se inkomste inbegrip van inkomste uit enige beleggings is vry van inkomste- is belastingvry. belasting.

24. (1) Die kommissaris kan, nadat hy aan die betrokke party kennis daarvan gegee het en hom 'n geleentheid gegee het om verhoor te word, te eniger tyd die skadeloosstelling wat toegestaan is, weens enige van die volgende redes hersien— Hersiening van skadeloosstelling deur die kommissaris.

- (a) dat die werksman hom nie aan 'n ondersoek onderwerp het nie, wanneer dit ingevolge artikel *sestig* van hom vereis word ;
- (b) dat die arbeidsongesiktheid waarop die toekenning berus verleng of vergroot word deur die onredelike weiering of opsetlike versuim van die werksman om hom aan genees- of heelkundige behandeling te onderwerp ;
- (c) dat die werksman op so 'n wyse afwesig is, dat geen kennisgewing op hom gedien kan word nie of dat hy sonder die verlof van die kommissaris kragtens artikel *vyf-en-veertig* uit die Unie vertrek het ;
- (d) dat die werksman skadevergoeding ontvang het ten opsigte van die besering waarvoor skadeloosstelling toegewys was ;
- (e) dat enige sodanige skadeloosstelling toegewys in die vorm van 'n periodieke uitkering of pensioen, met die oog op die vereistes van die geval, of buitensporig of onvoldoende is ;
- (f) dat die toekenning op 'n onjuiste opvatting of wanvoorstelling van die feite berus, of dat die toekenning miskien anders sou gewees het indien getuenis aangevoer was wat tans beskikbaar is maar wat nie beskikbaar was toe die kommissaris die toekenning gemaak het nie.

(2) Nadat die kommissaris sodanige navraag gedoen het of getuenis ontvang het as wat hy nodig ag, kan hy die toekenning bevestig of die staking, opskorting, vermindering of vermeerdering van bedoelde skadeloosstelling beveel en in 'n geval waarna in paragraaf (d) van sub-artikel (1) verwys word, kan die kommissaris met die toekenning handel ooreenkomsdig die bepalings van artikel *agt*.

(3) Vir die doeleindes van hierdie artikel sluit „skadeloosstelling“ geneeskundige behandeling in.

25. (1) Behoudens die bepalings van hierdie artikel en van artikel *ses-en-twintig* is 'n beslissing van die kommissaris oor enige saak geroem in paragrawe (c), (e), (f), (g), (h), (i), (j) of (k) van artikel *veertien* of oor enige ander voorgeskrewe saak finaal.

Besware en appèl teen die kommissaris se beslissings.

- (2) (a) Enige persoon, wat deur 'n beslissing van die kommissaris geraak word, kan binne een-en-twintig dae vanaf so 'n beslissing, by die kommissaris, op die voorgeskrewe wyse 'n beswaar indien teen bedoelde beslissing.
- (b) 'n Beswaar kan op soortgelyke wyse ingedien word deur 'n vakvereniging of werknehmersorganisasie waarvan die persoon met betrekking tot wie sodanige beslissing gegee is 'n lid was ten betrekke tye.
- (c) Die kommissaris kan op aanbeveling van die in sub-artikel (3) bedoelde assessor, of 'n meerderheid van hulle, 'n beswaar oorweeg wat op soortgelyke wyse ingedien is deur 'n vakvereniging of werkgewersorganisasie wat nie binne die bestek van paragraaf (b) val nie indien na oordeel van die kommissaris daar 'n belangrike beginsel by betrokke is.
- (3) (a) 'n Beswaar ingedien ingevolge sub-artikel (1) of (2) moet oorweeg en beslis word deur die kommissaris, bygestaan deur die assessor aangestel ten opsigte van die nywerheid, onderneming of werksaamheid, of groep nywerhede, ondernemings of werksaamhede, wat na die oordeel van die kommissaris die nouste verbonde is aan die betrokke saak : Met dien

may, if he deems it expedient, invite the assistance of additional assessors maintaining equal representation of workmen and employers.

(b) The provisions of part (C) of Chapter VI shall *mutatis mutandis* apply to the consideration of any such objection.

(4) After consideration of an objection, the commissioner shall, subject to the approval of not less than one half of the assessors referred to in sub-section (3), confirm any decision in respect of which the objection was lodged or give such other decision as in his opinion is equitable: Provided that if the commissioner and not less than one half of the assessors are unable to reach agreement, the commissioner shall submit the matter in dispute to the Minister.

(5) If in the opinion of the commissioner and not less than one half of the said assessors an objection is frivolous the commissioner may make such order as to the costs of the hearing as he deems just against the person lodging such objection.

(6) The Minister may—

(a) refer any matter submitted to him under sub-section (4) back for further consideration by the commissioner, assisted by the assessors referred to in sub-section (3) with or without additional assessors specified by the Minister, and the provisions of this section shall *mutatis mutandis* apply to any such reconsideration; or

(b) after such enquiry as he deems necessary, determine such matter.

(7) (a) Any decision given by the commissioner in accordance with the provisions of sub-section (4), or by the Minister under sub-section (6) shall be final and not subject to review or appeal in any court of law on any grounds whatsoever, save review or appeal as provided in this sub-section.

(b) Any person affected by a decision referred to in paragraph (a) may appeal to the provincial or local division of the Supreme Court having jurisdiction on any question as to—

- (i) the interpretation of this Act or any other law;
- (ii) whether an accident causing the disablement or death of a workman was attributable to his own serious and wilful misconduct;
- (iii) whether the amount of any compensation awarded is so excessive or so inadequate that the award could not reasonably be made; or
- (iv) the right to additional compensation in terms of section forty-three.

(c) Subject to the provisions of this sub-section, such appeal shall be noted and prosecuted as if it were an appeal from a judgment of a magistrate's court in a civil matter and all rules applicable to such last-mentioned appeal shall *mutatis mutandis* apply to an appeal under this sub-section.

(d) Any decision referred to in paragraph (a) may be reviewed by any provincial or local division of the Supreme Court having jurisdiction, on the petition of any person affected by such decision, if it appears to the court that the commissioner and assessors in giving their decision exceeded their powers, or refused to exercise powers which they were bound to exercise, or exercised their powers in an arbitrary or *mala fide* or grossly unreasonable manner. Such petition for review shall be lodged within twenty-one days of such decision.

(8) Except where the commissioner otherwise orders, no obligation to pay any assessment, compensation or other amount to the commissioner or the accident fund, or any periodical payments to or in respect of a workman in terms of a decision of the commissioner shall be suspended or deferred by reason of the fact that an objection has been lodged against such decision under sub-section (2), or that application has been made for review under sub-section (7). But if as a result of any such objection or review, the amount payable in terms

verstande dat indien die kommissaris dit wenslik ag hy die hulp van addisionele assessoré kan inroep, met handhawing van gelyke verteenwoordiging van werksmense en werkgewers.

- (b) Die bepalings in deel (C) van Hoofstuk VI is *mutatis mutandis* van toepassing op die oorweging van enige sodanige beswaar.

(4) Na oorweging van 'n beswaar moet die kommissaris, behoudens die goedkeuring van minstens die helfte van die in sub-artikel (3) bedoelde assessoré, enige besluit in verband waarmee die beswaar ingedien was, bekragtig, of so 'n ander beslissing gee as wat hy billik ag : Met dien verstande dat indien die kommissaris en minstens die helfte van die assessoré nie ooreen kan stem nie die kommissaris die geskilpunt aan die Minister moet voorlê.

(5) Indien na die oordeel van die kommissaris en minstens die helfte van bedoelde assessoré 'n beswaar beuselagtig is kan die kommissaris teen die persoon wat die beswaar ingedien het sodanige bevel aangaande die koste van verhoor uitvaardig as wat hy regverdig ag.

(6) Die Minister kan—

- (a) 'n saak wat aan hom voorgelê is ingevolge sub-artikel (4) vir verdere oorweging terugverwys na die kommissaris, bygestaan deur die in sub-artikel (3) bedoelde assessoré met of sonder addisionele assessoré soos deur die Minister vasgestel, en die bepalings van hierdie artikel is *mutatis mutandis* van toepassing op so 'n heroorweging ; of

- (b) na sodanige navraag as wat hy nodig ag, die saak besleg.

(7) (a) Enige beslissing gegee deur die kommissaris ooreenkomsdig die bepalings van sub-artikel (4) of deur die Minister ingevolge sub-artikel (6) is finaal en nie aan hersiening of appèl in 'n gereghof op enige gronde hoegenaamd onderhewig nie, behalwe hersiening of appèl soos in hierdie sub-artikel bepaal.

(b) Enige persoon wat deur 'n in paragraaf (a) bedoelde beslissing geraak word kan by 'n bevoegde provinsiale of plaaslike afdeling van die Hooggereghof appèl aan teken, oor enige vraag aangaande—

(i) die vertolking van hierdie Wet of enige ander wet ;

(ii) of 'n ongeval wat die arbeidsongeskiktheid of dood van 'n werksman veroorsaak het aan sy eie ernstige en opsetlike wangedrag toe te skryf is ;

(iii) of die bedrag van enige skadeloosstelling wat toegeken is so buitensporig of onvoldoende is dat die toekenning nie redelikerwys gemaak kon word nie ; of

(iv) die reg op addisionele skadeloosstelling ingevolge artikel *drie-en-veertig*.

(c) Behoudens die bepalings van hierdie sub-artikel, moet so 'n appèl aangegetekend en voortgeset word asof dit 'n appèl was teen 'n vonnis van 'n magistraatshof in 'n siviele saak, en alle reëls op laasgenoemde appèl van toepassing is *mutatis mutandis* van toepassing op 'n appèl ingevolge hierdie artikel.

(d) Enige beslissing bedoel in paragraaf (a) kan deur enige provinsiale of plaaslike afdeling van die Hooggereghof wat regsmag besit hersien word op versoekskrif van enige persoon wat deur sodanige beslissing geraak word indien dit aan die hof blyk dat die kommissaris en assessoré by hulle beslissing hulle bevoegdhede te buite gegaan het of geweier het om bevoegdhede uit te oefen wat hulle verplig was om uit te oefen of hulle bevoegdhede op 'n willekeurige of *mala fide* of verreggaande onredelike wyse uitgeoefen het. Sodanige versoekskrif om hersiening moet binne een-en-twintig dae vanaf sodanige beslissing ingedien word.

(8) Tensy die kommissaris anders beveel, word geen verpligting om 'n aanslag, skadeloosstelling of enige ander bedrag aan die kommissaris of die ongevallefonds te betaal, of om periodieke uitkerings aan of ten behoeve van 'n werksman kragtens 'n beslissing van die kommissaris te betaal opgeskort of vertraag op grond van die feit dat 'n beswaar ingedien is teen so 'n beslissing ingevolge sub-artikel (2), of dat aansoek ingevolge sub-artikel (7) gedoen is vir hersiening. Maar indien as gevolg van bedoelde beswaar of hersiening, die bedrag kragtens die oorspronklike beslissing betaalbaar, verander word,

of the original decision is varied, the person who made the payment shall be entitled to a refund or liable to pay the additional amount, as the case may be.

Commissioner may state a case for Supreme Court.

26. (1) The commissioner may of his own motion or at the request of an interested party to any proceedings under this Act, state a special case on any question of law in connection with any matter arising in such proceedings, for the decision of the provincial or local division of the Supreme Court having jurisdiction in the area in which the proceedings are held. Every interested party shall have the right to appear in person or by counsel at the hearing of such special case.

(2) In any case so stated the commissioner shall set forth—

- (a) the facts which were established ; and
- (b) the view of the law which he has adopted in relation to those facts.

(3) Whenever the commissioner has any doubt as to the correctness of any decision given by any provincial or local division of the Supreme Court on any question of law in connection with this Act, he may submit that decision to the Appellate Division of the Supreme Court and cause the matter to be argued before it, in order that it may determine the said question for the future guidance of all courts.

CHAPTER III.

RIGHT TO COMPENSATION.

Right of workman to compensation.

27. (1) If after the fixed date an accident happens to a workman resulting in his disablement or death, such workman shall be entitled to compensation in accordance with the provisions of this Act : Provided that no compensation shall be paid—

- (a) in respect of any accident resulting in disablement—
 - (i) for the first three days of disablement which lasts for less than two weeks ;
 - (ii) for the first two days of disablement which lasts for two weeks or more, but for less than three weeks ;
 - (iii) for the first day of disablement which lasts for three weeks or more, but for less than four weeks ;
- (b) if the accident is attributable to the serious and wilful misconduct of the workman, unless such accident results in serious disablement, or the workman has died in consequence thereof leaving any dependant wholly dependent upon him ;
- (c) in respect of disablement or death if the accident would not have occurred, or if the disablement or death would not have resulted, but for a pre-existing diseased condition of the workman known to the workman but unknown to the employer : Provided that the commissioner may in his discretion award such compensation as he deems equitable if in his opinion the accident materially increased the extent of the disablement or materially accelerated the death ;
- (d) in respect of his death, if the workman dies more than twelve months after the accident, unless it is proved that the accident directly caused the death, or was the principal contributory cause of death.

(2) For the purposes of this Act, an accident resulting in the serious disablement or death of a workman shall be deemed to arise out of and in the course of his employment notwithstanding that the workman at the time when the accident happened was acting in contravention of any law applicable to his employment, or of any instructions issued by or on behalf of his employer, or that he was acting without instructions from his employer, if such act was done by the workman for the purposes of, and in connection with, his employer's business.

Accidents during first aid.

28. When a workman meets with an accident—

- (a) while with the consent of his employer being trained in first aid, ambulance or rescue work, or engaged in any competition in connection therewith ; or

is die persoon wat die betaling gemaak het geregtig op terugbetaling of aanspreeklik vir die addisionele bedrag, na gelang van die geval.

26. (1) Die kommissaris kan uit eie beweging of op versoek van 'n betrokke party by verrigtings voor hom ingeval hierdie Wet, 'n *casus-positie* van 'n regsvraag in verband met enige aangeleentheid, wat ontstaan uit sodanige verrigtings, opstel ter beslissing deur die provinsiale of plaaslike afdeling van die Hooggeregshof wat jurisdiksie het in die gebied waar die verrigtings plaasvind. Elke betrokke party is geregtig om by die verhoor van sodanige regsvraag persoonlik of deur 'n advokaat te verskyn.—

(2) Die kommissaris moet in so 'n *casus-positie* uiteensit—

- (a) die feite wat vasgestel is; en
- (b) die regsoopvatting wat hy met betrekking tot daardie feite toegedaan is.

(3) Wanneer die kommissaris enige twyfel het omtrent die juistheid van 'n uitspraak deur 'n provinsiale of plaaslike afdeling van die Hooggeregshof aangaande enige regsvraag in verband met hierdie Wet gedoen, kan hy bedoelde uitspraak aan die Afdeling van Appel van die Hooggeregshof voorlê en die saak daarvoor laat bepleit, sodat genoemde Afdeling die betrokke vraag kan beslis om in die toekoms as leidraad vir alle geregshowe te dien.

HOOFSTUK III.

REG OP SKADELOOSSTELLING.

27. (1) Indien na die vasgestelde datum 'n werksman 'n ongeval oorkom wat arbeidsongesiktheid of die dood van so 'n werksman tot gevolg het, is die werksman op skadeloosstelling ooreenkomsdig die bepalings van hierdie Wet geregtig: Met dien verstande dat geen skadeloosstelling betaal word nie—

- (a) weens 'n ongeval wat arbeidsongesiktheid tot gevolg het—
 - (i) vir die eerste drie dae van arbeidsongesiktheid wat minder as twee weke duur;
 - (ii) vir die eerste twee dae van arbeidsongesiktheid wat twee weke of langer maar minder as drie weke duur;
 - (iii) vir die eerste dag van arbeidsongesiktheid wat drie weke of langer maar minder as vier weke duur;
- (b) as die ongeval aan ernstige en opsetlike wangedrag van die werksman toe te skryf is, tensy bedoelde ongeval ernstige arbeidsongesiktheid tot gevolg het of die werksman as gevolg daarvan oorlede is en 'n bestaande nalaat wat van hom geheel afhanglik was;
- (c) weens arbeidsongesiktheid of dood as die ongeval nie sou plaasgevind het nie of as dit nie die arbeidsongesiktheid of die dood tot gevolg sou gehad het nie, was dit nie dat die werksman al voorheen in 'n sieklike toestand waarvan hyself bewus was maar waarvan die werkewer onbewus was, verkeer het nie: Met dien verstande dat die kommissaris na goeddunke sodanige skadeloosstelling kan toewys as wat hy billik ag wanneer die ongeval na sy mening die arbeidsongesiktheid wesenlik vererger of die dood wesenlik verhaas het;
- (d) weens die werksman se dood, as hy meer as twaalf maande na die ongeval sterf, tensy bewys word dat die ongeval die regstreekse of die vernaamste bydraende oorsaak van die dood was.

(2) Vir die doeleindes van hierdie Wet word 'n ongeval, wat die ernstige arbeidsongesiktheid of die dood van 'n werksman tot gevolg het, geag uit en in die loop van sy diens te ontstaan het, ofskoon die werksman op die tydstip toe die ongeval plaasgevind het, instryd met 'n op sy diens toepaslike regsbepaling of met 'n deur of namens sy werkewer uitgevaardigde bevel, of sonder bevel van sy werkewer gehandel het, mits die werksman vir die doeleindes van en in verband met sy werkewer se besigheid aldus gehandel het.

28. Wanneer 'n werksman 'n ongeval oorkom—

- (a) terwyl hy met die toestemming van sy werkewer in eerste hulp, ambulans- of reddingswerk opgelei word of aan 'n daarmee in verband staande wedstryd deelneem; of

Ongevalle tydens eerste hulp.

(b) in, or about his employer's mine, works or premises, while engaged in any first aid, ambulance or rescue work ;

resulting in his disablement or death such accident shall, for the purposes of this Act, be deemed to arise out of and in the course of his employment.

Compensation of
workman for whom
special provisions
exist.

29. (1) When a workman is compelled to retire or dies in circumstances entitling him to compensation under this Act, and he is also entitled to receive from the revenues of the Union (other than the South African Railways and Harbours Administration) or of a provincial administration, or from a pension or provident fund administered by any Department of State of the Union (other than the South African Railways and Harbours Administration) or by any provincial administration, benefits under the law governing his rights on retirement, or death, then notwithstanding the provisions of such law, the workman shall, within one month after the date of his retirement or death elect to receive either—

- (a) the benefits payable under such law, or
- (b) the benefits which would have been payable under such law had the injury or ill-health causing the retirement or death not arisen out of and in the course of the discharge of his official duties, together with the compensation under this Act.

(2) If the workman fails to make such election within the said period of one month, then the Treasury shall make such election as it considers to be the more favourable to the workman, and the decision of the Treasury shall be final.

(3) When the workman or the Treasury has elected or determined that the benefits under paragraph (a) of sub-section (1) shall be paid, no compensation shall be awarded under this Act.

(4) When the benefits and compensation referred to in paragraph (b) of sub-section (1) have been paid, no further claim shall lie against such revenues or the relative fund referred to in that sub-section, or the commissioner or any employer : Provided that this sub-section shall not deprive the workman of any right to which he is entitled under any other provision of this Act.

Compensation of
workman entitled
to pension to which
employer
contributes.

30. If a workman (other than a workman referred to in section *twenty-nine*) who is entitled to compensation under this Act in respect of an accident has received or will receive as compensation in respect of the same accident any pension or gratuity payable by the employer, or from a pension, superannuation or provident fund to which the employer has contributed, the commissioner may in his discretion, in determining the amount of compensation to be awarded, have regard to any amount paid by the employer by way of such pension or gratuity or towards such fund in respect of such workman, and where the compensation is payable out of the accident fund the commissioner may reduce the assessment payable by the employer.

Compensation of
workman who has
previously
received
compensation or
other benefits.

31. (1) Save as is provided in sections *twenty-nine* and *thirty* the commissioner may in his discretion, in awarding or revising the award of compensation in respect of permanent disablement or death—

- (a) make allowance for—
 - (i) in the case of a workman himself, any compensation and any benefit granted to him under any other law on account of permanent disablement ;
 - (ii) in the case of dependants any benefits granted to them under any law on account of the injury, death or ill-health or any physical disablement of the workman ;
 - (iii) in case of both a workman and his dependants any benefits which the workman or his dependants may have received from the employer in respect of the accident ; and
- (b) where compensation is payable out of the accident fund order that the whole or any portion of the value of any such benefit as is referred to in sub-paragraph (iii) of paragraph (a) of sub-section (1) be refunded to the employer.

(b) terwyl hy in of by die werkgewer se myn, werke of perseel met eerste hulp, ambulans- of reddingswerk besig is ; wat arbeidsongesiktheid of dood tot gevolg het, dan word die ongeval vir die doeleindes van hierdie Wet geag uit sy diens te ontstaan en in die loop daarvan plaas te vind.

29. (1) Wanneer 'n werksman verplig word om af te tree of afsterf onder omstandighede wat hom die reg gee op skadeloosstelling ingevolge hierdie Wet, en ook geregtig is om uit die inkomste van die Unie (behalwe die Spoerwegadministrasie) of van 'n provinsiale administrasie, of uit 'n pensioen- of ondersteuningsfonds beheer deur 'n Staatsdepartement van die Unie (behalwe die Spoerwegadministrasie) of deur 'n provinsiale administrasie, voordeel te ontvang ingevolge dieregsbepalings aangaande sy regte by aftreding of sterwe dan moet die werksman binne een maand na datum van aftreding of afsterwe ondanks daardieregsbepalings kies of hy wil ontvang—

Skadeloosstelling aan werksmense ten aansien van wie besondere bepalings bestaan

- (a) of die voordele wat ingevolge daardieregsbepalings betaalbaar is ;
- (b) of die voordele wat ingevolge daardieregsbepalings betaalbaar sou gewees het as die besering of slechte gesondheidstoestand wat aftreding of die dood veroorsaak het nie aan die verrigting van sy pligte in verband met sy diens toe te skryf was nie, benewens skadeloosstelling ingevolge hierdie Wet.

(2) As die werksman in gebreke bly om binne bedoelde tydperk van een maand te kies, dan moet die Tesourie sodanige keuse maak as wat hy vir die werksman die voordeligste ag, en die beslissing van die Tesourie is final.

(3) Wanneer die werksman of die Tesourie verkies of vastgestel het dat 'n voordeel ingevolge paragraaf (a) van sub-artikel (1) betaal moet word, word geen skadeloosstelling ingevolge hierdie Wet toegewys nie.

(4) Wanneer die voordele en skadeloosstelling vermeld in paragraaf (b) van sub-artikel (1) betaal is, kan geen verdere aanspraak gemaak word nie teen staatsinkomste of teen die betrokke fonds, in daardie sub-artikel bedoel, of teen die kommissaris of 'n werkgewer nie : Met dien verstande dat hierdie sub-artikel aan die werksman geen reg ontneem waarop hy kragtens enige ander bepaling van hierdie Wet aanspraak het.

30. Indien 'n werksman, behalwe 'n in artikel *negen-en-twintig* bedoelde werksman, wat ten opsigte van 'n ongeval op skadeloosstelling ingevolge hierdie Wet geregtig is, 'n pensioen of gratifikasie as skadeloosstelling ten opsigte van dieselfde ongeval ontvang het of sal ontvang wat deur die werkgewer of uit 'n pensioen-, superannuasie- of ondersteuningsfonds, waartoe die werkgewer bygedra het, betaalbaar is, dan kan die kommissaris by die vasselling van die toe te wyse bedrag van skadeloosstelling na goeddunke die waarde in ag neem van die werkgewer se bydrae tot daardie pensioen of gratifikasie of tot bedoelde fonds, ten opsigte van daardie werksman, en wanneer die skadeloosstelling uit die ongevallefonds betaalbaar is, kan die kommissaris die deur die werkgewer betaalbare aanslag, verminder.

Skadeloosstelling van werksman geregtig op pensioen waartoe werkgewer bydra.

31. (1) Behoudens die bepalings van artikels *nege-en-twintig* en *dertig*, kan die kommissaris na goeddunke by die toewysing van skadeloosstelling aan 'n werksman ten opsigte van blywende arbeidsongesiktheid of dood, of by die hersiening van so 'n toewysing—

Skadeloosstelling aan werksman wat vantevore skadeloosstelling of ander voordele ontvang het.

- (a) in aanmerking neem—
 - (i) in die geval van 'n werksman self, skadeloosstelling en enige voordeel wat ingevolge enige ander wet aan die werksman weens blywende arbeidsongesiktheid toegewys is ;
 - (ii) in die geval van nabestaandes, voordele wat ingevolge enige wet aan hulle verleen is weens die besering, dood of slechte gesondheidstoestand of ander liggaaamlike ongesiktheid van die werksman ;
 - (iii) in die geval van 'n werksman en sy nabestaandes voordele wat die werksman of sy nabestaandes van die werkgewer ontvang het, ten opsigte van die ongeval ; en,
- (b) as die skadeloosstelling uit die ongevallefonds betaalbaar is, gelas dat die geheel of enige gedeelte van die waarde van so 'n voordeel, soos in sub-paragraaf (iii) van paragraaf (a) van sub-artikel (1) bedoel word aan die werkgewer terugbetaal word.

(2) Save as is provided in section *forty-three* a workman shall not receive compensation in the form of a pension or pensions, in respect of one or more accidents, exceeding in the aggregate the pension payable in respect of one hundred per cent. permanent disablement: Provided that, in determining such compensation, the calculation shall be based upon the earnings most favourable to the workman at the time of any such accident.

Contracting out prohibited.

32. (1) Save as is otherwise provided in sub-section (2) any provision in a contract existing at the commencement of this Act or thereafter entered into, whereby a workman relinquishes any right to compensation under this Act, shall be null and void.

(2) Notwithstanding anything to the contrary in this Act contained, where the commissioner is satisfied that by reason of old age or serious physical infirmity or any previous injury, a person, if employed as a workman, is specially liable to meet with an accident or, if he meets with an accident is specially liable to sustain serious injury he may, in connection with any contract for such employment authorize the workman and the employer to agree that compensation less than that prescribed, to such extent and in such circumstances as he may authorize, shall be payable in respect of an accident to the workman: Provided that in no circumstances shall the compensation payable be less than one half of the amount which but for such agreement would have been payable: Provided further that such agreement shall be of force only when the old age or serious physical infirmity or previous injury has caused or contributed to the accident, seriousness of the injury or the death of the workman in respect of which the reduced compensation is payable.

Deduction from earnings prohibited.

33. (1) Any employer who deducts from the earnings of any of his workmen any part of any sum which the employer is or may become liable to pay as compensation under this Act, or who requires or permits any of his workmen to contribute towards the cost of any liability which he has incurred or may incur under this Act, shall be guilty of an offence.

(2) Any court convicting an employer under sub-section (1) shall in addition to imposing any lawful criminal penalty upon him, order that, within a fixed period and in instalments or otherwise, as determined by the court, he pay to an officer of the public service specified by the court any amount in respect of which he has been convicted.

(3) Such officer shall pay any amount received by him in pursuance of any such order to the workman in respect of whom the offence occurred.

(4) Upon the application of the person convicted, the court may at any time, for good cause shown, extend the period within which any such amount must be paid or vary the amounts of the instalments.

(5) An order made under this section shall have the legal effect of, and may be executed as if it were a civil judgment in favour of the Government of the Union.

Rights of members of employer's family employed as workmen.

34. (1) A workman who is a member of the family of his employer shall not be entitled to compensation unless he was in receipt of wages at the time of the accident and the name and the amount of the wages of such workman were included in the last statement of annual wages rendered in terms of section *sixty-eight*, or were otherwise notified to the commissioner in writing prior to the date on which the accident giving rise to the claim for compensation occurred.

(2) For the purpose of determining the compensation the earnings of such member shall not be taken to exceed his wages as shown in such statement or notification.

Special circumstances in which commissioner may refuse award.

35. Where under this Act there exists any right to compensation in respect of the death or disablement of any workman as a result of an accident the commissioner may in his discretion refuse to award the whole or a portion of such compensation—

(a) if such workman has at any time represented to the employer or the commissioner that he was not suffering or had not previously suffered from a serious injury or a scheduled disease or a serious illness knowing that the representation was false; or

(b) if, in the opinion of the commissioner, the death was caused or the disablement was caused, continued or aggravated by an unreasonable refusal or wilful neglect of the workman to submit to medical or surgical treatment.

(2) Behoudens die bepalings van artikel *drie-en-veertig* is 'n werksman nie geregtig om skadeloosstelling by wyse van 'n pensioen of pensioene ten opsigte van een of meer ongevalle te ontvang wat meer bedra as die pensioen wat ten opsigte van honderd persent arbeidsongeskiktheid betaalbaar is nie: Met dien verstande dat wanneer sodanige skadeloosstelling vasgestel word die berekening gebaseer word op die verdienste wat ten tyde van enige sodanige ongeval vir die werksman die gunstigste was.

32. (1) Behalwe vir sover sub-artikel (2) anders bepaal, is Verbod van uit-enige bepaling van 'n kontrak, wat by die inwerkingtreding sluiting van van hierdie Wet bestaan het of daarna aangegaan is, waardeur 'n werksman afstand doen van enige reg op skadeloosstelling aanspreeklikheid van nul en gener waarde.

(2) Wanneer die kommissaris oortuig is dat 'n persoon indien hy as werksman in diens geneem is, weens hoë ouderdom of ernstige liggaamsgebrek of vorige besering besonder blootstaan aan 'n ongeval, of, as hy 'n ongeval oorkom, besonder blootstaan aan ernstige besering, kan hy, ondanks enige strydige bepaling van hierdie Wet, in verband met 'n kontrak vir sodanige indiensneming, die werksman en die werkewer magtig om ooreen te kom dat ten opsigte van 'n ongeval aan die werksman skadeloosstelling, wat soveel en onder sodanige omstandighede as hy mag goedkeur minder is as wat voorgeskryf is, betaal moet word: Met dien verstande dat die skadeloosstelling betaalbaar, in geen geval minder mag wees as die helfte van die bedrag wat, as dit nie vir sodanige ooreenkoms was nie, betaalbaar sou gewees het: Met dien verstande verder dat sodanige ooreenkoms slegs dan van krag is, wanneer die hoë ouderdom of ernstige liggaamsgebrek of vorige besering die ongeval, ernstigheid van die besering of dood van die werksman, ten opsigte waarvan die verminderde skadeloosstelling betaalbaar is, veroorsaak het of daartoe bygedra het.

33. (1) 'n Werkewer wat van die verdienste van enigeen Verbod op korting van sy werksmense 'n deel van enige bedrag aftrek wat die werkewer van verdienste. verplig is of mag word om as skadeloosstelling ingevolge hierdie Wet te betaal, of wat enigeen van sy werksmense gelas of toelaat om by te dra tot die koste van aanspreeklikheid waaraan hy ingevolge hierdie Wet onderhewig is of kan word, is aan 'n misdryf skuldig.

(2) 'n Hof wat 'n werkewer kragtens sub-artikel (1) veroordeel, moet buiten 'n wettige kriminele straf wat hy aan hom mag ople, hom beveel om binne 'n vasgestelde tydperk en in paaiemente of andersins soos deur die hof voorgeskryf aan 'n deur die hof bepaalde amptenaar van die staatsdiens die som te betaal ten opsigte waarvan hy skuldig bevind is.

(3) Bedoelde amptenaar moet enige bedrag deur hom ingevolge so 'n bevel ontvang, aan die werksman betaal ten opsigte van wie die misdryf begaan is.

(4) Op aansoek van die veroordeelde persoon kan die hof te eniger tyd, na aanvoering van voldoende gronde, die tydperk waarin bedoelde bedrag betaalbaar is, verleng of die bedrae van die paaiemente wysig.

(5) 'n Bevel kragtens hierdie artikel uitgevaardig het die regskrag van, en kan ten uitvoer gelê word asof dit 'n siviele vonnis ten gunste van die Regering van die Unie was.

34. (1) 'n Werksman wat 'n lid is van die gesin van sy werkewer is nie op skadeloosstelling geregtig nie, tensy hy ten tyde van die ongeval lone ontvang het en tensy die naam en loonbedrag van daardie werksman voorkom in die jongste jaarlike loonstaat, wat ingevolge artikel *agt-en-sestig* ingelewer is, of voor die ongeval plaasgevind het wat aanleiding tot die eis om skadeloosstelling gegee het, skriftelik aan die kommissaris meegegee was.

Regte van lede van werkewer se gesin wat as werksmense dien.

(2) Vir die bepaling van die skadeloosstelling word die verdienste van daardie lid nie hoër bereken nie as sy loon, soos in daardie staat of mededeling aangegee.

35. Wanneer ingevolge hierdie Wet 'n reg op skadeloosstelling bestaan weens die dood of arbeidsongeskiktheid van 'n werksman as gevolg van 'n ongeval kan die kommissaris na goedgunke weier om die geheel of 'n gedeelte van daardie skadeloosstelling toe te wys—

Besondere om-standighede waar-onder kommissaris toewysing kan weier.

- (a) as die werksman te eniger tyd aan die werkewer of die kommissaris voorgegee het met wete dat die inligting vals was, dat hy toe of voorheen nie aan 'n ernstige besering of 'n vergoedingspligtige siekte of 'n ander ernstige siekte gely het nie; of
- (b) as die kommissaris van oordeel is dat die dood veroorsaak is, of die arbeidsongeskiktheid veroorsaak, verleng of vergroot is, deur die onredelike weiering of opsetlike versuim van die werksman om hom aan genes- of heelkundige behandeling te onderwerp.

When right to periodical payments ceases.

36. The right to periodical payments shall *ipso facto* cease—
(a) upon termination of temporary disablement, or when the workman resumes the work upon which he was employed at the time of the accident, or resumes any work at the same or greater earnings: Provided that the commissioner may revive the right to periodical payments if the workman suffers further disablement as a result of the same accident; or
(b) when the workman is awarded compensation for permanent disablement, or dies.

CHAPTER IV.

LIABILITY FOR COMPENSATION.

Liability for compensation.

37. (1) Subject to the provisions of sub-section (2) compensation shall be paid to any workman entitled thereto either—
(a) by the employer individually liable; or
(b) by the commissioner from the accident fund.
(2) Notwithstanding the provisions of sub-section (1), an employer who ordinarily has in his employment not more than the prescribed number (which shall not exceed five) of workmen and who has not paid his assessment shall be individually liable to pay compensation in respect of an accident to any workman in his employment: Provided that if any such workman, or any person acting on his behalf, has notified the commissioner, prior to the happening of an accident, that he is a workman employed by such employer, and has received from the commissioner a written acknowledgment of such notification, compensation shall be paid out of the accident fund if the workman is still employed by such employer at the time of the accident, and the commissioner shall have the right to recover from such employer any compensation so paid.
(3) (a) Whenever an employer liable to pay assessments has paid all assessments (including interest, if any) due to the commissioner, the commissioner shall issue to such an employer a certificate of compliance in the prescribed form.
(b) Every employer to whom such certificate has been issued shall exhibit it in the prescribed manner in a position readily accessible to his workmen on the premises where he carries on business.
(c) Any employer who fails to comply with the provisions of paragraph (b) shall be guilty of an offence.

CHAPTER V.

AMOUNT AND METHOD OF COMPENSATION.

Amount of compensation for temporary partial or total disablement.

38. (1) (a) Compensation for temporary total disablement shall be periodical payments during such temporary disablement at a rate of sixty-six and two-thirds per cent. of the monthly earnings of the workman up to twenty pounds of such earnings together with thirty-seven and one-half per cent. of his monthly earnings in excess of twenty pounds up to thirty-three pounds six shillings and eightpence: Provided that such compensation may be increased to an amount to be determined by the commissioner, not exceeding the rate of the workman's earnings, or six pounds and ten shillings per month, whichever may be the less, when in the opinion of the commissioner, the workman would be unable to maintain himself and those dependent upon him on the periodical payment.
(b) Such periodical payments shall be made during the period of temporary total disablement, but not exceeding a period of six months: Provided that, if such disablement continues after the expiration of the said period of six months, the commissioner may, in his discretion, direct the continuation of such payments for a further period not exceeding six months.
(c) At the expiration of the period for which compensation is payable under paragraph (b), the compensation

36. Die reg op periodieke uitkerings hou *ipso facto* op— Wanneer reg op
(a) by beëindiging van tydelike arbeidsongesiktheid of periodieke uit-
kerings verval.
as die werksman die werk waaraan hy ten tyde van die ongeval werksaam was, hervat of enige diens teen dieselfde of groter verdienste hervat: Met dien verstande dat die kommissaris die reg op 'n periodieke uitkering kan laat herleef as die werksman as gevolg van dieselfde ongeval weer arbeidsongesiktheid ly; of
(b) wanneer aan die werksman skadeloosstelling vir blywende arbeidsongesiktheid toegewys word, of wanneer hy sterf.

HOOFSTUK IV.

AANSPREEKLIKHEID VIR SKADELOOSSTELLING.

37. (1) Behoudens die bepalings van sub-artikel (2) moet Aanspreeklikheid skadeloosstelling aan 'n daartoe geregtigde werksman betaal vir skadeloosstelling word of—

- (a) deur die werkgewer individueel aanspreeklik; of
(b) deur die kommissaris uit die ongevallefonds.
(2) Neteenstaande die bepalings van sub-artikel (1) is 'n werkgewer, wat gewoonlik nie meer as die voorgeskrewe aantal (wat hoogstens vyf mag wees) werksmense in sy diens het en nie sy aanslag betaal het nie, individueel aanspreeklik vir die betaling van skadeloosstelling ten opsigte van 'n ongeval wat 'n werksman in sy diens oorkom: Met dien verstande dat indien so 'n werksman of iemand wat ten behoeve van hom optree, voordat 'n ongeval plaasvind, die kommissaris in kennis gestel het dat hy 'n werksman in diens van daardie werkgewer is en van die kommissaris 'n skriftelike erkenning van daardie kennisgiving ontvang het, skadeloosstelling uit die ongevallefonds betaalbaar is as die werksman ten tyde van die ongeval nog in diens van daardie werkgewer is, en die kommissaris het die reg om van so 'n werkgewer enige aldus betaalde skadeloosstelling in te vorder.
(3) (a) As 'n werkgewer wat vir die betaling van aanslag aanspreeklik is alle aanslae betaal het (insluitende rente, indien enige) wat aan die kommissaris verskuldig is, moet die kommissaris aan sodanige werkgewer 'n voldoeningsertifikaat in die voorgeskrewe vorm uitreik.
(b) 'n Werkgewer aan wie so 'n certifikaat uitgereik is moet dit op 'n plek wat maklik toeganklik is vir sy werksmense op die perseel waar hy sy besigheid dryf, op die voorgeskrewe wyse vertoon.
(c) 'n Werkgewer wat versuim om aan die bepalings van paragraaf (b) te voldoen is aan 'n misdryf skuldig.

HOOFSTUK V.

BEDRAG EN WYSE VAN SKADELOOSSTELLING.

38. (1) (a) Skadeloosstelling weens tydelike algehele arbeidsongesiktheid, is periodieke uitkerings gedurende sodanige tydelike arbeidsongesiktheid teen ses-en-sestig en twee-derde persent van die maandelike verdienste van die werksman tot twintig pond van daardie verdienste benewens sewe-en-dertig en 'n half persent van sy maandelikse verdienste bo twintig pond tot drie-en-dertig pond ses sjielings en agt pennies: Met dien verstande dat bedoelde skadeloosstelling verhoog kan word soos die kommissaris mag bepaal tot 'n bedrag van hoogstens die skaal van die werksman se verdienste of ses pond tien sjielings per maand, na gelang die een of die ander minder bedra, wanneer na oordeel van die kommissaris die werksman nie in staat sou wees om uit die periodieke uitkerings homself en diegene wat van hom afhanklik is te onderhou nie.
(b) Sodanige periodieke uitkerings word vir die duur van die tydelike algehele arbeidsongesiktheid gedoen vir 'n tydperk van hoogstens ses maande: Met dien verstande dat as daardie arbeidsongesiktheid na afloop van die vermelde tydperk van ses maande voortduur, die kommissaris na goeddunke die voortdwing van daardie uitkerings vir die duur van daardie arbeidsongesiktheid of vir 'n bepaalde tydperk kan gelas, dog in geen geval vir 'n verdere tydperk van meer as ses maande nie.
(c) By verloop van die tydperk ten opsigte waarvan skadeloosstelling kragtens paragraaf (b) betaalbaar is,

payable during temporary total disablement shall be effected by periodical payments equal to fifty-five per cent. of the monthly earnings of the workman up to twenty pounds of such earnings, together with twenty-seven and one-half per cent. of his monthly earnings in excess of twenty pounds up to thirty-three pounds six shillings and eightpence.

(2) In determining the amount of any periodical payment due to a workman who prior to the accident was supplied by his employer with food and quarters and who, during temporary disablement, continues to receive food and quarters to the satisfaction of the commissioner at the expense of his employer or as part of the medical aid to which he is entitled, the commissioner may deduct from the amount which would otherwise have been payable the value as determined by him of the food and quarters so received.

(3) Periodical payments shall be made at such times and at such intervals (but not at intervals of longer than one month) as the commissioner may determine.

(4) In determining the amount of any periodical payments, any excess of any monthly earnings of a workman above thirty three pounds six shillings and eightpence shall not be taken into consideration.

(5) The compensation in case of temporary partial disablement shall be such portion of the periodical payments referred to in sub-section (1) or in section *eighty-four*, as the commissioner may deem equitable.

(6) Periodical payments shall not be payable in respect of any period during which the employer, in terms of any law relating to merchant shipping, pays the expenses of maintaining an injured seaman : Provided that notwithstanding such payment, the commissioner may, in his discretion, direct that such periodical payments, not exceeding those referred to in sub-section (1), as he may deem equitable be paid.

(7) Temporary total disablement lasting for more than eighteen months may, in the discretion of the commissioner, be presumed to be permanent.

Amount of
compensation
for permanent
disablement.

39. (1) Compensation for permanent disablement shall be fixed according to the degree of disablement and in accordance with the following rules—

(a) Where the degree of disablement is twenty-five per cent., a lump sum equal to ten times the monthly earnings of the workman up to twenty pounds of such earnings, together with six times his monthly earnings in excess of twenty pounds up to thirty-three pounds six shillings and eightpence.

(b) Where the degree of disablement is under twenty-five per cent., a lump sum bearing the same proportion to a lump sum calculated in accordance with paragraph (a) as the degree of disablement bears to twenty-five per cent.

(c) Where the degree of disablement is one hundred per cent., a monthly pension equal to fifty-five per cent. of the monthly earnings of the workman up to twenty pounds of such earnings together with twenty-seven and one-half per cent. of his monthly earnings in excess of twenty pounds up to thirty-three pounds six shillings and eightpence.

(d) Where the degree of disablement is under one hundred per cent. but more than twenty-five per cent., a monthly pension bearing the same proportion to a pension calculated in accordance with paragraph (c) as the degree of disablement bears to one hundred per cent. : Provided that in the case of any injury marked with an asterisk in the First Schedule, compensation shall be a lump sum bearing the same proportion to a lump sum calculated in accordance with paragraph (a) as the degree of disablement bears to twenty-five per cent., unless the commissioner, in terms of sub-section (3), adopts a higher percentage of disablement than that specified in the said Schedule.

(2) In determining the compensation under sub-section (1) any excess of the monthly earnings of a workman above thirty-three pounds six shillings and eightpence shall not be taken into consideration.

(3) Where a workman has sustained an injury specified in the First Schedule to the Act, he shall be regarded, for the purposes of this Act, as being permanently disabled to the

geskied die skadeloosstelling, wat gedurende tydelike algehele arbeidsongeskiktheid betaal moet word, by wyse van periodieke uitkerings gelyk aan vyf-en vyftig persent van die maandelikse verdienste van die werksman tot twintig pond van daardie verdienste, benewens sewe-en-twintig en 'n half persent van sy maandelikse verdienste bo twintig pond tot drie-en-dertig pond ses sjielings en agt pennies.

(2) By die bepaling van die bedrag van enige periodieke uitkering verskuldig aan 'n werksman wat voor die ongeval deur sy werkgewer van kos en huisvesting voorsien is, en wat gedurende tydelike arbeidsongeskiktheid, aanhou om kos en huisvesting tot bevrediging van die kommissaris te ontvang op koste van sy werkgewer, of as deel van die geneeskundige behandeling waarop hy geregtig is, kan die kommissaris die waarde van die kos en huisvesting aldus ontvang, soos deur hom vasgestel, aftrek van die bedrag wat andersins betaalbaar sou wees.

(3) Periodieke uitkerings geskied op sodanige tye en met sodanige tussenpose (maar nie met langer tussenpose as een maand nie), as wat die kommissaris mag vasstel.

(4) By die bepaling van die bedrag van periodieke uitkerings word die bedrag van maandelikse verdienste van 'n werksman bo drie-en-dertig pond ses sjielings en agt pennies buiten rekening gelaat.

(5) Skadeloosstelling weens tydelike gedeeltelike arbeidsongeskiktheid, bestaan uit sodanige gedeelte van die in sub-artikel (1) of in artikel vier-en-tigtyg genoemde periodieke uitkerings as wat die kommissaris billik ag.

(6) Geen periodieke uitkerings is betaalbaar ten opsigte van 'n tydperk gedurende welke die werkgewer ingevolge die koopvaardyreg die onderhoudskoste van 'n beseerde seeman betaal : Met dien verstande dat nieteenstaande daardie betaling die kommissaris, na goeddunke, kan gelas dat sodanige periodieke uitkerings betaal word tot hoogstens die bedrag van die in sub-artikel (1) bedoelde uitkerings, as wat hy billik ag.

(7) Tydelike algehele arbeidsongeskiktheid wat vir meer as agtien maande duur kan na goeddunke van die kommissaris as blywend beskou word.

39. (1) Skadeloosstelling weens blywende arbeidsongeskiktheid word ooreenkomsdig die graad van arbeidsongeskiktheid en die volgende reëls vasgestel—

Bedrag van skadeloosstelling vir blywende arbeidsongeskiktheid.

- (a) Wanneer die graad van arbeidsongeskiktheid vyf-en-twintig persent is, 'n enkele geldsom gelyk aan tienmaal die maandelikse verdienste van die werksman tot twintig pond van daardie verdienste, benewens sesmaal sy maandelikse verdienste bo twintig pond tot drie-en-dertig pond ses sjielings en agt pennies.
 - (b) Wanneer die graad van arbeidsongeskiktheid onder vyf-en-twintig persent is 'n enkele geldsom wat tot 'n enkele geldsom volgens paragraaf (a) bereken in dieselfde verhouding staan as die graad van die arbeidsongeskiktheid tot vyf-en-twintig persent.
 - (c) Wanneer die graad van arbeidsongeskiktheid honderd persent is, 'n maandelikse pensioen gelyk aan vyf-en-vyftig persent van die maandelikse verdienste van die werksman tot twintig pond van daardie verdienste benewens sewe-en-twintig en 'n half persent van sy maandelikse verdienste bo twintig pond tot drie-en-dertig pond ses sjielings en agt pennies.
 - (d) Wanneer die graad van arbeidsongeskiktheid onder honderd persent maar meer as vyf-en-twintig persent is, 'n maandelikse pensioen wat tot 'n pensioen volgens paragraaf (c) bereken, in dieselfde verhouding staan as die graad van die arbeidsongeskiktheid tot honderd persent : Met dien verstande dat in die geval van 'n besering wat in die Eerste Bylae met 'n asterisk gemerk is, skadeloosstelling 'n enkele geldsom moet wees wat in dieselfde verhouding staan tot 'n enkele geldsom ooreenkomsdig paragraaf (a) bereken, as die graad van arbeidsongeskiktheid tot vyf-en-twintig persent, tensy die kommissaris ingevolge sub-artikel (3) 'n hoër persentasie arbeidsongeskiktheid aanneem as wat in bedoelde Bylae bepaal is.
- (2) By die vasstelling van die skadeloosstelling ingevolge sub-artikel (1) word enige bedrag van die maandelikse verdienste van 'n werksman bo drie-en-dertig pond ses sjielings en agt pennies buiten rekening gelaat.
- (3) Wanneer 'n werksman 'n in die Eerste Bylae bepaalde besering opgedoen het, word hy vir die doeleindes van hierdie Wet geag blywend arbeidsongeskik te wees tot die graad in

extent set out in the second column of the said Schedule : Provided that where the injury is not specified in such Schedule, the commissioner shall adopt a percentage of disablement which, in his opinion, is not inconsistent with the provisions of the Schedule : Provided further, that where the injury has unusually serious consequences, having regard to the special nature of the workman's occupation, and the commissioner considers that the percentage of disablement which he would otherwise have adopted is clearly inadequate, he may adopt such higher percentage as he deems equitable.

(4) From any compensation awarded under this section, no deduction shall be made on account of any periodical payments in respect of temporary disablement under section *thirty-eight*.

(5) In this section " monthly pension " means a pension payable monthly during the lifetime of the workman.

Amount of compensation where workman dies.

40. (1) Where the workman dies from an injury caused by accident, compensation shall be as follows :—

(a) If the workman leaves as a dependant, a widow or invalid widower and no children, a monthly pension equal to thirty-five per cent. of the pension which would have been granted to the workman if totally and permanently disabled, under paragraph (c) of sub-section (1) of section *thirty-nine*.

(b) If the workman leaves as dependants, a widow or invalid widower and one or more children, compensation to the widow or invalid widower calculated in terms of paragraph (a) and in respect of the children compensation calculated in terms of paragraph (c) : Provided that the total compensation shall not exceed the compensation which would have been granted to the workman, if totally and permanently disabled, under paragraph (c) of sub-section (1) of section *thirty nine*.

(c) If the workman leaves as dependants, one or more children, a monthly pension in respect of the children amounting to the undermentioned percentage of the pension which would have been granted to the workman if totally and permanently disabled as provided in paragraph (c) of sub-section (1) of section *thirty-nine*, according to the number from time to time of such children who are entitled to receive a pension, that is to say—

1 child	20 per cent.
2 children	35 per cent.
3 children	50 per cent.
4 children	60 per cent.
5 children	65 per cent.
6 or more children	70 per cent.:

Provided that the pension payable in respect of a child—

- (i) shall cease when the child attains the age of sixteen years, or dies, or marries before reaching that age, and the pension in respect of the remaining children shall be diminished accordingly ;
- (ii) shall subject to the provisions of section *forty-six*, ordinarily be paid to the parent, step-parent or adoptive parent, but the commissioner may, in his discretion, pay, or direct payment of such pension to the child or to such other person on behalf of the child as he may determine :

Provided further that the commissioner may, in his discretion, direct that the pension awarded in respect of a child shall continue after he attains the age of sixteen years, or that a similar pension be awarded in respect of any son or daughter not being a child as in this Act defined, if he or she is, in the opinion of the commissioner, unable by reason of mental or physical disability to earn an income, for so long as it might reasonably have been expected that the deceased workman would have continued to contribute towards his or her support : Provided further that if in a case where the workman leaves as depen-

die tweede kolom van bedoelde Bylae uiteengesit: Met dien verstande dat wanneer die besering nie in daardie Bylae genoem word nie die kommissaris 'n persentasie arbeidsongeskiktheid moet aanneem wat volgens sy mening nie teenstrydig met die bepalings van die Bylae is nie: Met dien verstande verder dat wanneer die besering buitegewoon ernstige gevolge het met die oog op die besondere aard van die werksman se werk en die kommissaris van mening is dat die persentasie arbeidsongeskiktheid wat hy anders sou aangeneem het klaarblyklik onvoldoende is, hy so 'n hoër persentasie kan aanneem as wat hy billik ag.

(4) Van 'n ingevolge hierdie artikel betaalbare skadeloosstelling word geen bedrae weens periodieke uitkerings vir tydelike arbeidsongeskiktheid ingevolge artikel *agt-en-dertig* afgetrek nie.

(5) In hierdie artikel beteken „maandelikse pensioen” 'n pensioen wat maandeliks betaalbaar is gedurende die leeftyd van die werksman.

40. (1) Wanneer die werksman as gevolg van 'n deur 'n ongeval veroorsaakte besering sterf, is skadeloosstelling as volg:

- (a) As die werksman 'n weduwee of sieklike wewenaar as nabestaande nalaat, en daar geen kinders is, 'n maandelikse pensioen gelyk aan vyf-en-dertig persent van die pensioen wat aan die werksman toegestaan sou gewees het ingevolge paragraaf (c) van sub-artikel (1) van artikel *nege-en-dertig* as hy algeheel en blywend arbeidsongeskik was.
- (b) As die werksman 'n weduwee of sieklike wewenaar en een of meer kinders as nabestaandes nalaat, skadeloosstelling aan die weduwee of sieklike wewenaar, volgens paragraaf (a) bereken, en ten opsigte van die kinders, skadeloosstelling ingevolge paragraaf (c) bereken: Met dien verstande dat die totale skadeloosstelling nie die skadeloosstelling oorskry nie wat aan die werksman toegestaan sou gewees het ingevolge paragraaf (c) van sub-artikel (1) van artikel *nege-en-dertig* as hy algeheel en blywend arbeidsongeskik was.
- (c) As die werksman een of meer kinders as nabestaandes nalaat, 'n maandelikse pensioen ten opsigte van die kinders, wat die hiernagoenome persentasie uitmaak van die pensioen wat ooreenkomsdig die bepalings van paragraaf (c) van sub-artikel (1) van artikel *nege-en-dertig* aan die werksman toegewys sou geword het as hy algeheel en blywend arbeidsongeskik gemaak was, na gelang van die aantal kinders wat van tyd tot tyd pensioengeregtig is, naamlik:

1 kind	20 persent.
2 kinders	35 persent.
3 kinders	50 persent.
4 kinders	60 persent.
5 kinders	65 persent.
6 of meer kinders	70 persent:

Met dien verstande dat die pensioen, wat ten opsigte van 'n kind betaalbaar is—

- (i) verval wanneer die kind die ouerdom van sestien jaar bereik of voor daardie ouerdom sterf of trou en die pensioen ten opsigte van die originele kinders word dienooreenkomsdig verminder;
- (ii) behoudens die bepalings van artikel *ses-en-veertig*, in die gewone loop van sake aan die ouer, stiefouer of aangenome ouer betaal moet word, maar die kommissaris kan na goeddunke beoelde pensioen betaal of laat betaal aan die kind of aan 'n ander deur hom bepaalde persoon ten behoeve van die kind:

Met dien verstande verder dat die kommissaris na goeddunke kan gelas dat die pensioen aan 'n kind toegeken, kan voortduur nadat hy die ouerdom van sestien jaar bereik het, of dat 'n dergelike pensioen toegewys word ten opsigte van enige seun of dogter wat nie 'n kind is nie soos in hierdie Wet omskryf, indien hy of sy volgens mening van die kommissaris weens geestelike of liggaaamlike ongesteldheid onbekwaam is om 'n inkomste te verdien vir solank as redelik kon verwag word dat die bydrae van die gestorwe werksman tot sy of haar onderhoud sou voortgeduur het: Met dien verstande verder dat, indien, in 'n geval waar die werksman slegs een of meer

dants only one or more children the pension payable in terms of this paragraph does not total an amount equal to at least two years' earnings or five hundred pounds, whichever is the less, the commissioner shall increase the compensation so that the total equals the said amount.

- (d) If the workman leaves no dependants of any class referred to in paragraph (a), (b), or (c), such monthly pension to any dependants wholly dependent upon the workman as the commissioner may, in his discretion, award, and for so long as it might reasonably have been expected that the deceased workman would have continued to contribute towards their support, but not exceeding in the aggregate thirty-five per cent. of the pension which would have been awarded to the workman under paragraph (c) of sub-section (1) of section *thirty-nine*, if totally and permanently disabled.
- (e) If the workman leaves no dependant of any class referred to in paragraph (a), (b), (c), or (d), to the dependants partly dependent upon the workman, at the discretion of the commissioner, a lump sum not exceeding a sum which bears the same proportion to two years' earnings or five hundred pounds, whichever is the less, as the degree of dependency bears to total dependency.

(2) The commissioner may, in his discretion pay out of the accident fund or direct the employer individually liable as the case may be to pay an allowance not exceeding fifteen pounds towards the necessary burial expenses of the workman.

(3) Save as provided in section *thirty-one*, no deduction shall be made from the compensation awarded under this section to a dependant, in respect of any compensation awarded to the workman himself for the same accident.

(4) The pension payable to a widow or invalid widower under the provisions of this section shall cease if she or he—

- (a) dies, or
(b) re-marries, in which case, the commissioner may, in his discretion, award the widow or invalid widower, a lump sum not exceeding twenty-four times the monthly pension.

(5) In this section "widow" includes a woman referred to in paragraph (b) of sub-section (1) of section *four*.

Method of calculating earnings.

41. (1) For the purpose of determining the compensation payable, the commissioner shall compute the earnings of the workman in such manner as, in his opinion, is best calculated to give the monthly rate at which the workman was being remunerated by his employer at the time of the accident including—

- (a) the value of any food or quarters supplied by the employer;
(b) any overtime payments or other special remuneration of a constant character or for work habitually performed,

but excluding remuneration for intermittent overtime and casual payments of a non-recurrent nature, sums paid by an employer to a workman to cover any special expense entailed on the workman by the nature of the work, or any *ex gratia* payment to the workman, whether given by the employer or any other person.

(2) Where the workman's remuneration is fixed at a rate calculated upon work performed, his earnings shall be taken to be his remuneration for similar work upon the same terms of remuneration for as long a period as possible prior to the accident but not exceeding twelve months. Where by reason of the shortness of time during which the workman has been in the employment of the employer it is impracticable to compute his earnings in such employment, the earnings shall be computed if possible upon the basis of the amount which the workman earned at similar work at the same terms of remuneration with another employer during the twelve months immediately preceding the accident, or upon the basis of the amount which during the twelve months immediately preceding the accident has been earned by other workmen with the first-mentioned employer at similar employment on the same terms of remuneration, or would have been earned by the workman during such preceding twelve months had he been so employed.

kinders as nabestaandes nalaat die pensioen ingevolge hierdie paragraaf, nie minstens 'n bedrag gelyk aan twee jaar se verdienstes of vyfhonderd pond (watter ook die minste is) beloop nie, die kommissaris bedoelde pensioen moet vermeerder sodat die totale skadeloosstelling aan bedoelde bedrag gelyk staan.

(d) As die werksman geen nabestaandes van een van die in paragraaf (a), (b) of (c) bedoelde klasse nalaat nie, sodanige maandelikse pensioen aan enige nabestaandes wat heeltemal van die werksman afhanklik was as wat die kommissaris na goeddunke mag toeken en vir solank as redelik verwag kon word dat die bydrae van die gestorwe werksman tot hulle onderhoud sou voortgeduur het, watter pensioen as geheel nie meer as vyf-en-dertig persent van die pensioen kan wees nie, wat aan die werksman ingevolge paragraaf (c) van sub-artikel (1) van artikel *nege-en-dertig* toegestaan sou word as hy algeheel en blywend arbeidsongeskik was.

(e) As die werksman geen nabestaandes van een van die in paragraaf (a), (b), (c) of (d) bedoelde klasse nalaat nie na goeddunke van die kommissaris aan die nabestaandes wat gedeeltelik van die werksman afhanklik is 'n enkele geldsom wat nie groter is nie as 'n som wat in dieselfde verhouding staan tot twee jaar se verdienste of vyfhonderd pond, watter ook die minste is, as die graad van afhanklikheid tot algehele afhanklikheid.

(2) Die kommissaris kan na goeddunke uit die ongevallefonds 'n toelae van hoogstens vyftien pond vir die nodige begrafnisonkoste van die werksman betaal of die werkewer individueel aanspreeklik gelas om dit te betaal, na gelang van die geval.

(3) Behalwe soos in artikel *een-en-dertig* bepaal mag van die skadeloosstelling ingevolge hierdie artikel aan 'n nabestaande toegeken, geen bedrag afgetrek word nie ten opsigte van enige skadeloosstelling wat aan die werksman self vir dieselfde ongeval toegeken is.

(4) Die pensioen betaalbaar aan 'n weduwee of sieklike wewenaar ingevolge die bepalings van hierdie artikel staak as sy of hy—

- (a) sterf ; of
- (b) weer trou, in welke geval die kommissaris na goeddunke aan die weduwee of sieklike wewenaar 'n enkele geldsom kan toeken van hoogstens vier-en-twintig maal die maandelikse pensioen.

(5) In hierdie artikel beteken „weduwee“ ook 'n in paragraaf (b) van sub-artikel (1) van artikel *vier* bedoelde vrou.

41. (1) Ter bepaling van die betaalbare skadeloosstelling, Wyse van berekening van verdienste moet die kommissaris na sy oordeel die verdienste van die werksman op die beste wyse bereken om die maandelikse skaal waarop sy werkewer hom ten tyde van die ongeval besoldig het, vas te stel en dit moet insluit—

- (a) die waarde van kos of huisvesting wat deur die werkewer voorsien word ;
- (b) alle oortydbetaling of ander besoldiging van 'n gereelde aard of vir gewoonlik verrigte werk ; maar dit sluit nie besoldiging in nie vir af en toe gewerkte oortyd, nie-wederkerende geleentheidsverdienste, bedrae wat 'n werkewer aan 'n werksman betaal het tot dekking van besondere onkoste, wat uit die aard van die werk op die werksman geval het, of 'n betaling *ex gratia* hetsy deur die werkewer of 'n ander persoon.

(2) Wanneer die werksman se besoldiging vasgestel is volgens 'n skaal wat volgens die verrigte werk bereken word, dan word as sy verdienste beskou sy besoldiging vir soortgelyke werk onder dieselfde besoldigingsvoorraades oor die langste tydperk moontlik voor die ongeval tot hoogstens twaalf maande. Wanneer dit weens die korte duur van die werksman se diens by die werkewer ondoenlik is om sy verdienste in daardie diens te bereken, word die verdienste, indien moontlik, bereken op die grondslag van die bedrag wat die werksman met soortgelyke werk onder dieselfde besoldigingsvoorraades by 'n ander werkewer gedurende die twaalf maande onmiddellik voor die ongeval verdien het, of op die grondslag van die bedrag wat ander werksmense van die eersgenoemde werkewer gedurende die twaalf maande onmiddellik voor die ongeval met soortgelyke werk onder dieselfde besoldigingsvoorraades verdien het of wat die werksman gedurende daardie voorafgaande twaalf maande sou verdien het as hy aldus werksaam gewees het.

(3) Where the workman has entered into concurrent contracts of service with two or more employers, and has worked under those contracts at one time for one employer and at another time for another employer, his earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident.

(4) Nothing in this section shall prevent the computation of earnings on a weekly basis. Where the earnings are so computed the monthly earnings shall be calculated as equal to four and one-third times the amount of such weekly earnings.

Compensation for permanent disablement where workman is under twenty-one.

42. Where a workman who has suffered permanent disablement was at the date of the accident under twenty-one years of age, or was employed under a contract of apprenticeship, improvership, or learnership, the amount of his compensation shall be based on the earnings which had he not met with the accident he would in the opinion of the commissioner, probably have been receiving at the end of five years after the accident, or upon completion of his apprenticeship, improvership, or learnership, whichever calculation is more favourable to the workman.

Compensation may be increased when accident due to employer's negligence.

43. (1) Notwithstanding anything to the contrary in this Act contained, if a workman meets with an accident which is due :

(a) to the negligence—

- (i) of his employer ; or
- (ii) of a person entrusted by such employer with the management, or in charge of the business or any branch or department thereof ; or
- (iii) of a person having the right to engage or discharge workmen on behalf of the employer ; or

(b) to a patent defect in the condition of the premises, works, plant or machinery used in such business, which defect the employer or any such person has knowingly or negligently caused or failed to remedy,

the workman may apply to the commissioner for increased compensation in addition to the compensation ordinarily payable under this Act. The commissioner shall not entertain any such application which is not made within six months of the accident.

(2) If such application is, in the opinion of the commissioner, supported by *prima facie* proof that the applicant is entitled to additional compensation in terms of this section, the provisions of Part (C) of Chapter VI. shall, *mutatis mutandis*, apply in respect of such application.

(3) If after hearing any such application the commissioner is satisfied that the accident was due to any such negligence or defect as is referred to in sub-section (1), he shall award the applicant such additional compensation as he deems equitable : Provided that the amount of such additional compensation, together with any other compensation awarded under this Act, shall not exceed the amount of the pecuniary loss which, in the opinion of the commissioner, the applicant has suffered or may reasonably be expected to suffer as a direct result of the said accident.

(4) In any proceedings under this section, the commissioner may make such order as to costs and the payment thereof as he deems fit.

(5) If increased compensation has been awarded under the preceding provisions of this section, the commissioner may, in his discretion during such period as he thinks fit, apply the provisions of sub-section (4) of section *seventy-one* against the employer of the workman in question.

Where workman requires constant attendance.

44. Where the injury in respect of which compensation is payable causes disablement of such a nature that the workman is unable to perform the essential actions of life, without the constant help of another person, the commissioner may in his discretion in addition to any other benefits under this Act grant an allowance towards the cost of such help as may be required from time to time.

Pensioned workman resident outside the Union.

45. (1) If the workman himself who is in receipt of a pension under this Act is absent from the Union without the written permission of the commissioner, or outstays the period laid down in such permission, the workman shall at his own expense furnish such proof of the continuance of the degree of disablement in respect of which compensation was awarded and such

(3) Wanneer die werksman gelyktydige dienskontrakte met twee of meer werkgewers aangegaan het en onder daardie kontrakte op een geleentheid vir die een werkewer en op 'n ander geleentheid vir 'n ander werkewer gewerk het, word sy verdienste bereken asof sy verdienste onder al daardie kontrakte sy verdienste in die diens van die werkewer was vir wie hy ten tyde van die ongeval gewerk het.

(4) Hierdie artikel belet nie die berekening van verdienste op 'n weeklikse grondslag nie. Word verdienste aldus bereken, dan word die maandelikse verdienste as gelyk aan vier-en-eenderde maal die bedrag van daardie weeklikse verdienste bereken.

42. Wanneer 'n werksman wat blywende arbeidsongeskiktheid opgedoen het, op die datum van die ongeval onder een-en-twintigjarige leeftyd was, of ingevolge 'n skriftelike vakleerlingskap, verbeteraarskap of leerlingskapkontrak in diens was, word die bedrag van sy skadeloosstelling gebaseer op die verdienste wat hy as hy die ongeval nie oorgekom het nie, na oordeel van die kommissaris, waarskynlik sou ontvang het aan die end van vyf jaar na die ongeval, of by voltooiing van sy vakleerlingskap, verbeteraarskap of leerlingskap, watter berekening ook vir die werksman die gunstigste is.

43. (1) Indien 'n werksman 'n ongeval oorkom wat te wyte is—

(a) aan die nalatigheid—

- (i) van sy werkewer; of
- (ii) van 'n persoon aan wie die bestuur of beheer van die besigheid of enige tak of afdeling daarvan deur daardie werkewer opgedra is; of
- (iii) van 'n persoon wat die reg het om werksmense namens die werkewer in diens te neem of te ontslaan; of

(b) aan 'n waarneembare gebrek in die toestand van die perseel, werkplek, uitrusting of masjinerie in sodanige besigheid gebruik, watter gebrek die werkewer of enige sodanige persoon met wete of deur nalatigheid veroorsaak het of versuum het om te herstel, kan die werksman ondanks enige teenstrydige bepaling in hierdie Wet, by die kommissaris aansoek doen om vermeerderde skadeloosstelling benewens die skadeloosstelling wat in die gewone loop van sake ingevolge hierdie Wet betaalbaar is. Die kommissaris neem geen sodanige aansoek in oorweging wat nie binne ses maande na die ongeval gedoen is nie.

(2) Indien die kommissaris van mening is dat die aansoek gesteun word deur *prima facie* bewys dat die applikant op vermeerderde skadeloosstelling ooreenkomsdig hierdie artikel geregtig is, is die bepaling van deel (C) van Hoofstuk VI *mutatis mutandis* van toepassing ten opsigte van sodanige aansoek.

(3) Indien die kommissaris na verhoor van so 'n aansoek oortuig is dat die ongeval te wyte is aan enige sodanige nalatigheid of gebrek soos in sub-artikel (1) vermeld word, moet hy aan die applikant sodanige addisionele skadeloosstelling toeken as wat hy billik ag: Met dien verstande dat die bedrag van sodanige addisionele skadeloosstelling tesame met enige ander skadeloosstelling ingevolge hierdie Wet toegeken, nie die bedrag van die geldelike verlies oortref nie, wat die applikant na oordeel van die kommissaris gely het of redelik verwag kan word om te ly as 'n regstreekse gevolg van bedoelde ongeval.

(4) Die kommissaris kan in enige verrigtings ingevolge hierdie artikel sodanige bevel uitvaardig aangaande koste en die betaling daarvan as wat hy wenslik ag.

(5) Indien ingevolge die voorgaande bepaling van hierdie artikel vermeerderde skadeloosstelling toegelewys is, kan die kommissaris na goeddunke gedurende sodanige tydperk as wat hy wenslik ag die bepaling van sub-artikel (4) van artikel *een-en-seewentig* teen die werkewer van die bedoelde werksman toepas.

44. Wanneer die besering ten opsigte waarvan skadeloosstelling betaalbaar is, arbeidsongeskiktheid van so 'n aard veroorsaak dat die werksman onbekwaam word om die nodigste lewenshandelings te verrig sonder die gedurige hulp van 'n ander persoon, kan die kommissaris, benewens enige ander voordele ingevolge hierdie Wet, na goeddunke, 'n toelae vir die koste van sodanige hulp toestaan, soos van tyd tot tyd nodig mag wees.

45. (1) As die werksman self wat ingevolge hierdie Wet 'n Gepensioeneerde werksman wat buite die Unie woon. pensioen ontvang, sonder die skriftelike verlof van die kommissaris uit die Unie afwesig is of langer wegby as die tydperk in daardie verlof bepaal moet die werksman op eie onkoste sodanige bewys lewer van die voortdurende van die graad van arbeidsongeskiktheid, ten opsigte waarvan skadeloosstelling toegelewys is, asook sodanige ander besonderhede verstrek as

other particulars as the commissioner may require, and if he fails to do so, the commissioner may discontinue, suspend, or reduce the pension: Provided that such pension shall cease when a total amount of seven hundred and fifty pounds has been paid to the workman, unless circumstances exist which, in the opinion of the commissioner, justify the continuance of the whole or a portion of such pension.

(2) If a dependant of a workman resides outside the Union at the time of death of such workman, or if any such dependant is absent from the Union without the written permission of the commissioner, or outstays the period laid down in such permission, the commissioner may, in his discretion, in lieu of any pension payable to such dependant under this Act, award a lump sum of such amount as he may deem equitable in the circumstances: Provided that the total sum payable in respect of the death of the workman shall not exceed the sum of five hundred pounds or two years earnings whichever is the less.

Control of payment of compensation.

46. (1) Any compensation payable to or in respect of any person under this Act may, in the discretion of the commissioner and for reasons deemed by him to be sufficient, be—

- (a) paid to the workman or to or on behalf of persons dependent for maintenance on such workman or in instalments or in such other manner as the commissioner may direct;
- (b) invested or applied from time to time as the commissioner may deem to the advantage of the workman, or those dependent on him for maintenance;
- (c) paid to a Master of the Supreme Court, a trustee, or other person to be used subject to such conditions as may be imposed by the commissioner;
- (d) applied partly in one and partly in another of the methods mentioned in paragraphs (a), (b) and (c), as the commissioner may determine.

(2) Notwithstanding any other provision of this Act, where compensation is payable by an employer individually liable, the commissioner may direct the said employer to pay the whole or any portion of the compensation on or as from a specified date to the commissioner to be dealt with as in sub-section (1) provided.

(3) On the death of a workman the unpaid balance of any accrued compensation shall be paid to such dependants as the commissioner may determine, and shall not form part of the estate of the deceased workman: Provided that where no dependants exist the commissioner may, in his discretion, pay such balance or part thereof to any creditor of the estate of the deceased workman.

Advances against compensation.

47. In anticipation of the award of compensation, the commissioner may, where in his opinion the interest or pressing need of the workman warrants it, make or order an advance not exceeding fifty pounds in all to be made to or on behalf of the workman on such conditions as the commissioner may think fit.

Payment of compensation by employers individually liable.

48. (1) Where a pension is payable by an employer individually liable, referred to in section *seventy*, the payments referred to in section *thirty-nine* or *forty* shall be made—

- (a) by such employer, or
- (b) on agreement with the commissioner, by the commissioner from funds furnished by the employer for this purpose:

Provided that, in either event, the employer shall, if the commissioner so directs, deposit with the commissioner such funds or furnish to the commissioner such security as the commissioner may consider sufficient to ensure payment of the pension.

(2) Where compensation is payable by an employer individually liable referred to in sub-section (2) of section *thirty-seven*, such employer shall—

- (a) in the case of a pension
 - (i) purchase for the benefit of the workman, an inalienable annuity for the amount of the pension from a life assurance company approved by the commissioner, or
 - (ii) make the pension payments himself, or
 - (iii) if the commissioner so agrees, furnish funds for the payment of the pension by the commissioner:

wat die kommissaris mag verlang, en as hy dit nie doen nie kan die kommissaris die pensioen staak, opskort of verminder : Met dien verstande dat daardie pensioen ophou wanneer alles tesame 'n bedrag van sewehonderd-en-vyftig pond aan die werksman uitbetaal is, tensy omstandighede bestaan wat na oordeel van die kommissaris die voortdureng van die geheel of 'n gedeelte van sodanige pensioen regverdig.

(2) As 'n nabestaande van 'n werksman ten tyde van die dood van die werksman buite die Unie woon, of as so 'n nabestaande sonder die skriftelike verlof van die kommissaris, uit die Unie afwesig is of langer wegby as die tydperk in daardie verlof bepaal, dan kan die kommissaris na goeddunke die pensioen wat aan daardie nabestaande ingevolge hierdie Wet betaalbaar is, vervang deur 'n enkele geldsom van 'n bedrag wat hy onder die omstandighede billik ag : Met dien verstande dat die totale bedrag wat weens die dood van die werksman betaalbaar is, nie meer as vyfhonderd pond of twee jaar se verdienstes (watter ook die minste is), mag beloop nie.

46. (1) Skadeloosstelling betaalbaar aan of ten opsigte van enige persoon ingevolge hierdie Wet kan na goeddunke van die kommissaris en om redes wat hy voldoende ag— Beheer oor betaling van skadeloosstelling.

- (a) aan die werksman betaal word in paaiemente of op sodanige ander wyse as wat die kommissaris mag gelas of aan of ten behoeve van persone wat vir hulle onderhou van bedoelde werksman afhanklik is ;
- (b) belê word of van tyd tot tyd bestee word soos na oordeel van die kommissaris tot voordeel is van die werksman of diegenes wat vir hulle onderhou van die werksman afhanklik is ;
- (c) aan 'n Meester van die Hooggereghof, 'n trustee of ander persoon betaal word om bestee te word volgens sulke voorskrifte as wat die kommissaris ople ;
- (d) bestee word deels op een en deels op 'n ander van die wyses wat in paragrawe (a), (b) en (c) bepaal word soos die kommissaris mag vasstel.

(2) Ondanks enige ander bepaling van hierdie Wet, wanneer skadeloosstelling deur 'n werkgewer indiwidueel aanspreeklik betaalbaar is, kan die kommissaris bedoelde werkgewer gelas om die geheel of enige gedeelte van die skadeloosstelling op of vanaf 'n bepaalde datum aan die kommissaris te betaal, om ingevolge sub-artikel (1) oor beskik te word.

(3) Die onbetaalde balans van enige toegevalle skadeloosstelling moet by die afsterwe van 'n werksman aan sodanige nabestaandes betaal word as wat die kommissaris mag vasstel en maak nie deel uit van die boedel van die oorlede werksman nie : Met dien verstande dat, waar daar geen nabestaandes is nie, die kommissaris sodanige balans of 'n gedeelte daarvan na goeddunke, aan enige skuldeiser in die boedel van die oorlede werksman kan betaal.

47. In afwagting van die toekenning van skadeloosstelling kan die kommissaris, wanneer hy van oordeel is dat die belang of dringende nood van die werksman dit regverdig, aan of ten behoeve van die werksman 'n voorskot van 'n totale bedrag van nie meer as vyftig pond nie, toestaan of gelas dat dit toegestaan word, onderhewig aan sodanige voorskrifte as wat die kommissaris wenslik ag. Voorskotte op skadeloosstelling.

48. (1) Wanneer 'n pensioen betaalbaar is deur 'n in artikel *sewentig* vermelde werkgewer indiwidueel aanspreeklik, moet die in artikel *nege-en-dertig* of *veertig* bedoelde uitkerings betaal word— Betaling van skadeloosstelling deur werkgewers indiwidueel aanspreeklik.

- (a) deur die werkgewer ; of
- (b) by ooreenkoms met die kommissaris, deur die kommissaris uit fondse wat vir hierdie doel deur die werkgewer verstrek word :

Met dien verstande dat in enige geval, as die kommissaris aldus gelas, die werkgewer sodanige fondse by die kommissaris moet deponeer of aan die kommissaris sodanige sekuriteit moet verstrek as wat die kommissaris voldoende ag om betaling van die pensioen te verseker.

(2) Wanneer skadeloosstelling betaalbaar is deur 'n in sub-artikel (2) van artikel *sewe-en-dertig* vermelde werkgewer indiwidueel aanspreeklik moet die werkgewer—

- (a) in die geval van 'n pensioen—
 - (i) 'n onvervreembare annuïteit van die bedrag van die pensioen ten behoeve van die werksman van 'n deur die kommissaris goedgekeurde versekeringsmaatskappy koop ; of
 - (ii) self die pensioenuitkerings betaal ; of
 - (iii) indien die kommissaris daarmee instem, fondse verstrek vir die betaling van die pensioen deur die kommissaris :

Provided that, in the event of payment being made in terms of sub-paragraph (ii) or (iii), the employer shall, if the commissioner so directs, deposit with the commissioner such funds or furnish to the commissioner such security as the commissioner may consider sufficient to ensure payment of the pension;

(b) in the case of compensation (other than a pension), medical aid or other benefits payable to or in respect of a workman under this Act, the employer shall, if the commissioner so directs, deposit with the commissioner such funds, or furnish to the commissioner such security as the commissioner may consider necessary to ensure the payment of such compensation, medical aid or other benefits.

(3) When an employer has deposited with the commissioner funds or securities in terms of this section, and thereafter—

- (a) his estate is sequestrated or assigned under the law relating to insolvency, or
- (b) if such employer is a company, it is wound up under the law relating to companies, or
- (c) such employer enters into any compromise with his creditors, whereunder he is released from any part of his liabilities, otherwise than by payment in full,

then, notwithstanding anything to the contrary in any other law, any unused part of the funds or securities so deposited shall vest in the accident fund, which shall thereupon become liable for the payment of the compensation, medical aid or other benefit in respect of which such funds or securities were deposited.

Payment of lump sum in lieu of pension.

49. (1) When a pension under section *thirty-nine* does not exceed a prescribed amount, the commissioner may, in his discretion, upon the application of the workman, pay or order the payment of a lump sum in lieu of a portion or the whole of such pension.

(2) When such pension exceeds the prescribed amount, the commissioner may, in his discretion, on the application of the workman, pay or order the payment of a lump sum, in lieu of a part of such pension not exceeding a prescribed percentage.

(3) Any lump sum under this section shall be calculated on a basis determined by the commissioner and payment thereof shall be subject to the control of the commissioner as provided in section *forty-six*.

CHAPTER VI.

RECOVERY OF COMPENSATION.

(A) *Notice of Accidents.*

Notice of accident by the workman.

50. (1) In order that compensation may be obtained under this Act, written notice of the accident, in the prescribed manner, shall be given by or on behalf of the workman to the employer as soon as is reasonably possible after the accident: Provided that—

(a) failure to give such notice shall not bar the right to compensation if it be proved that the employer had knowledge of the accident from any other source at or about the time of the accident; and

(b) failure to give such notice or any defect or inaccuracy therein shall not bar the right to compensation if in the opinion of the commissioner—

(i) the accident fund or the employer is not, or would not, if notice or an amended notice were then given and the hearing postponed, be seriously prejudiced by such failure, defect or inaccuracy; or

(ii) such failure, defect or inaccuracy was occasioned by mistake, absence from the Union, or other reasonable cause.

(2) Notwithstanding the provisions of sub-section (1)—

(a) in the case of an accident to a seaman the master or other person in command of the ship shall be deemed to have received notice of the accident although no notice in terms of sub-section (1) has actually been

Met dien verstande dat, ingeval betaling ooreenkomsdig sub-paragraaf (ii) of (iii) geskied en as die kommissaris aldus gelas, die werkewer sodanige fondse by die kommissaris moet deponeer of aan die kommissaris sodanige sekuriteit moet verstrek as wat die kommissaris voldoende ag om betaling van die pensioen te verseker ;

- (b) in die geval van skadeloosstelling (behalwe 'n pensioen) geneeskundige behandeling of ander voordele kragtens hierdie Wet betaalbaar aan of ten opsigte van 'n werksman, moet die werkewer, as die kommissaris aldus gelas, sodanige fondse by die kommissaris deponeer, of aan die kommissaris sodanige sekuriteit verstrek as wat die kommissaris voldoende ag om die betaling van sodanige skadeloosstelling, geneeskundige behandeling of ander voordele te verseker.

(3) Wanneer 'n werkewer fondse of sekuriteite ooreenkomsdig hierdie artikel by die kommissaris gedeponeer het en daarna—

- (a) sy boedel ingevolge die wet op insolvensie geskeertreer of afgestaan word ; of
(b) ingeval sodanige werkewer 'n maatskappy is, dit ingevolge die wet op maatskappye gelikwider word ; of
(c) sodanige werkewer met sy skuldeisers 'n kompromis aangaan, waardeur hy van enige gedeelte van sy verpligtings onthef word, behalwe deur betaling ten volle,

dan word enige ongebruikte gedeelte van sodanige fondse of sekuriteite aldus gedeponeer, ondanks teenstrydige bepalings in enige ander wet vervat, die eiendom van die ongevallefonds, wat dan aanspreeklik word vir die betaling van die skadeloosstelling, geneeskundige behandeling of ander voordele ten opsigte waarvan sodanige fondse of sekuriteite gedeponeer was.

49. (1) Wanneer 'n pensioen ingevolge artikel *nege-en-dertig* 'n voorgeskrewe bedrag nie te bowe gaan nie, kan die kommissaris na goeddunke op aansoek van die werksman in plaas van daardie pensioen of 'n gedeelte daarvan 'n enkele geldsom betaal, of gelas dat dit betaal word. Betaling van enkele geldsom in plaas van pensioen.

(2) Wanneer sodanige pensioen die voorgeskrewe bedrag te bowe gaan, kan die kommissaris na goeddunke op aansoek van die werksman in plaas van 'n gedeelte van daardie pensioen, maar nie meer as 'n voorgeskrewe persentasie nie, 'n enkele geldsom betaal of gelas dat dit betaal word.

(3) 'n Enkele geldsom ingevolge hierdie artikel word bereken op 'n deur die kommissaris bepaalde grondslag, en uitkering daarvan is soos by artikel *ses-en-veertig* bepaal aan die beheer van die kommissaris onderhewig.

HOOFTUK VI.

INVORDERING VAN SKADELOOSSTELLING.

(A) Kennisgewing van Ongevalle.

50. (1) Ten einde skadeloosstelling kragtens hierdie Wet te verkry, moet, so spoedig as redelik moontlik is na die ongeval, skriftelike kennis daarvan op die voorgeskrewe wyse, deur of ten behoeve van die werksman, aan die werkewer gegee word : Met dien verstande dat—

- (a) versuim om sodanige kennis te gee nie die reg op skadeloosstelling vernietig nie as bewys word dat die werkewer ten tyde of omstreeks die tyd van die ongeval uit 'n ander bron kennis van die ongeval gehad het ; en
(b) versuim om sodanige kennis te gee of enige fout of onnoukeurigheid daarin, nie die reg op skadeloosstelling vernietig nie, indien na oordeel van die kommissaris—
(i) die ongevallefonds of die werkewer nie deur bedoelde versuim, fout of onnoukeurigheid ernstig benadeel is of sou wees nie, as kennis of 'n gewysigde kennisgewing dan gegee en die verhoor uitgestel word ; of
(ii) sodanige versuim, fout of onnoukeurigheid veroorsaak is deur 'n vergissing, afwesigheid uit die Unie of ander redelike oorsaak.

(2) Ondanks die bepalings van sub-artikel (1)—

- (a) wanneer 'n ongeval 'n seeman oorkom, word die skipper of ander bevelvoerder van die skip geag van die ongeval kennis te ontvang het, hoewel die in sub-artikel (1) bedoelde kennis in werklikheid aan

given to him and for the purposes of this section the master or such other person shall be deemed to be the employer ; and

- (b) in the case of an accident happening outside the Union to a workman employed on any aircraft the owner or person in command of the aircraft shall be deemed to have received notice of the accident although no notice in terms of sub-section (1) has actually been given to him, and for the purposes of this section such employer or person in command shall be deemed to be the employer.

Employer to give notice of accident to commissioner.

51. (1) Every employer shall forthwith, after having been notified or having gained knowledge of the happening of an accident to a workman, report the accident to the commissioner in the manner prescribed. Any employer who fails to comply with the provisions of this sub-section shall be guilty of an offence.

(2) Notwithstanding the provisions of sub-section (1) an employer individually liable may, if specially authorized by the commissioner, report such accidents at such intervals and in such manner as may be approved by the commissioner.

Additional information by workman and employer.

52. (1) The workman shall supply such further particulars of the accident and the injury as his employer or the commissioner may require.

(2) The employer shall supply such further particulars as the commissioner may require of the accident to the workman, his injuries, his earnings, and such other matters as are within his knowledge.

(3) A workman or employer who fails to comply with the provisions of this section shall be guilty of an offence.

Procedure upon information of accident.

53. Whenever an accident is reported to the commissioner, or whenever it shall come to the notice of the commissioner by other means that an accident has happened which might result in a claim under this Act, the commissioner shall—

- (a) make or cause to be made such inquiry and take such other steps as he may deem necessary to enable him to decide upon any claim or question of liability under this Act ;
(b) at the request of an injured workman or of his employer, furnish such information as the commissioner deems necessary to enable such workman or employer to comply with any requirements of this Act.

(B) Lodging of Claims.

Claim for compensation.

54. (1) Save as provided in sub-section (2) of this section no claim for compensation under this Act shall be entertained unless it is lodged by or on behalf of the claimant in the prescribed manner with the commissioner or the employer concerned within six months after the date of the accident, or in the case of death, within six months after the death.

(2) If an accident happens to a seaman or airman then a claim for compensation may, except when the seaman or airman is the person in command of the ship or aircraft, be presented to the person in command of the ship or aircraft as if he were the employer, or to the employer himself, and for the purpose of any claim for compensation the person in command or the employer shall, at the option of the claimant, be deemed to be the employer and shall carry out the obligations of an employer under this Act. If the accident happened to any such seaman or airman outside the Union resulting in death a claim for compensation shall be made within six months after news of the death has been received by any defendant claiming compensation.

(3) The provisions of section *fifty* shall *mutatis mutandis* apply in respect of any failure to make a claim or in respect of any defect or, inaccuracy in any claim made under sub-section (1) or (2) of this section.

Particulars in support of claim.

55. (1) A workman claiming compensation shall, with his claim, or thereafter at the request of the commissioner, submit such information and documents as may be prescribed or as the commissioner may direct.

(2) An employer, unless specially authorized in terms of section *sixty-three*, shall forthwith upon receipt of a claim submitted to him under section *fifty-four* transmit the claim and any information or document furnished under sub-section (1) of this section to the commissioner.

hom nie gegee is nie, en vir die doeleindest van hierdie artikel word die skipper of sodanige ander persoon as die werkewer beskou; en

- (b) wanneer buite die Unie 'n ongeval 'n werksman wat op 'n lugvaartuig werksaam is oorkom, word die eienaar of bevelvoerder van die lugvaartuig geag van die ongeval kennis te ontvang het, hoewel die in sub-artikel (1) bedoelde kennis in werklikheid nie aan hom gegee is nie, en vir die doeleindest van hierdie artikel word die eienaar of bevelvoerder as die werkewer beskou.

51. (1) Elke werkewer moet dadelik nadat hy kennis ontvang of te wete gekom het dat 'n werksman 'n ongeval oor gekom het, op die voorgeskrewe wyse die ongeval by die kommissaris aangee. 'n Werkewer wat versuim om aan die bepalings van hierdie sub-artikel te voldoen is aan 'n misdryf skuldig.

(2) Ondanks die bepalings van sub-artikel (1) kan 'n werkewer indiwidueel aanspreeklik, met spesiale vergunning van die kommissaris, sodanige ongevalle aangee met sodanige tussenpose en op so 'n wyse as wat die kommissaris mag goedkeur.

52. (1) Die werksman moet sodanige verdere besonderhede omtrent die ongeval en die besering, medeeel as wat die werkewer of die kommissaris mag vorder.

(2) Die werkewer moet sodanige verdere besonderhede omtrent die ongeval aan die werksman, sy beserings, sy verdienste en sodanige ander feite waarvan hy kennis het, medeeel, as wat die kommissaris mag vorder.

(3) 'n Werksman of 'n werkewer wat versuim om aan die bepalings van hierdie artikel te voldoen is aan 'n misdryf skuldig.

53. Wanneer 'n ongeval by die kommissaris aangegee word of wanneer dit op andere wyse tot kennis van die kommissaris kom dat 'n ongeval plaasgevind het, wat 'n eis ingevolge hierdie Wet ten gevolge sou kan hê, moet die kommissaris—

- (a) so 'n ondersoek instel of laat instel en sodanige ander stappe doen as wat hy nodig ag om hom in staat te stel om oor 'n eis of die vraag van aanspreeklikheid ingevolge hierdie Wet te beslis;
- (b) op versoek van die beseerde werksman of van sy werkewer sodanige gevlewens verstrek as wat die kommissaris nodig ag om bedoelde werksman of werkewer in staat te stel om aan die vereistes van hierdie Wet te voldoen.

(B) *Indiening van Eise.*

54. (1) Behoudens die bepalings van sub-artikel (2) van hierdie artikel word geen eis vir skadeloosstelling ingevolge hierdie Wet oorweeg nie tensy dit deur of ten behoeve van die eiser op die voorgeskrewe wyse by die kommissaris of die betrokke werkewer ingedien word binne ses maande na die datum van die ongeval of, ingeval van dood, binne ses maande na die datum van die dood.

(2) As 'n seeman of vliegenier 'n ongeval oorkom dan kan, behalwe wanneer die seeman of vliegenier die bevelvoerder van die skip of lugvaartuig is, 'n eis om skadeloosstelling aan die bevelvoerder van die skip of lugvaartuig gerig word asof hy die werkewer was, of aan die werkewer self, en vir die doeleindest van 'n eis om skadeloosstelling word die bevelvoerder of werkewer, na keuse van die eiser, as die werkewer beskou en moet hy die verpligtings nakom wat ingevolge hierdie Wet aan werkewers opgelê word. As sodanige seeman of vliegenier buite die Unie 'n ongeval oorkom wat die dood tot gevolg het, moet die eis om skadeloosstelling gestel word binne ses maande nadat tyding van die dood ontvang is deur 'n nabestaande wat skadeloosstelling eis.

(3) Die bepalings van artikel *vyftig* is *mutatis mutandis* van toepassing ten opsigte van versuim om 'n eis in te stel of ten opsigte van enige fout of onnoukeurigheid in 'n ingevolge sub-artikel (1) of (2) van hierdie artikel gestelde eis.

55. (1) 'n Werksman wat skadeloosstelling eis moet tesame met sy eis of daarna op versoek van die kommissaris, sodanige inligting en geskrifte verstrek as wat voorgeskryf word of as wat die kommissaris mag gelas.

(2) Tensy ingevolge artikel *drie-en-sestig* spesiaal gemagtig, moet 'n werkewer onmiddellik na ontvangs van 'n eis ingevolge artikel *vier-en-vyftig* by hom ingedien, die eis en enige ingevolge sub-artikel (1) verstrekte inligting of geskrifte aan die kommissaris versend.

(C) *Procedure for Determination of Claims.*

Procedure on presentation of claim.

56. (1) Upon receipt of any claim under section fifty-four the commissioner, after making or causing to be made any enquiry which he may deem necessary, shall consider and determine such claim in the prescribed manner: Provided that, if the commissioner considers that a formal hearing is necessary, he shall fix a time and place therefor.

(2) The commissioner shall forthwith give notice in the prescribed manner to the claimant and to the employer of the time and place of such formal hearing.

(3) If the commissioner considers that the attendance of any witness, including the claimant and the employer, is necessary in order to enable him to decide any question arising out of the claim, he may issue a subpoena for the attendance of such person.

(4) Upon receiving a request from any person for the subpoenaing of a witness the commissioner shall, if he considers that the presence of such witness is desirable, issue such a subpoena, but if he does not consider such presence desirable he shall issue a subpoena only if the party making the request deposits with the commissioner a sum sufficient to cover the necessary expenses to be incurred by the witness, together with the costs of service of such subpoena.

Commissioner's powers at hearing of claim.

57. (1) Upon the hearing of any claim the commissioner shall receive any evidence presented by the parties which he deems relevant to any question for his decision and may call for and receive any evidence which he deems necessary.

(2) The commissioner may from time to time adjourn or postpone any hearing for the purpose of continuing it at some time or place deemed by him to be more proper or convenient.

Keeping of records.

58. The Commissioner shall keep or cause to be kept a true record of any proceedings before him upon the hearing of any claim, and upon payment of the prescribed fee any person may at any time obtain copies of the record or of any part thereof.

Appearance of parties.

59. (1) Every party to a claim for compensation may appear before the commissioner—

- (a) in person; or
- (b) by a member of his family; or
- (c) by a person in the regular employment of such party; or
- (d) by an advocate or an attorney; or
- (e) in the case of a workman, by an officer of a trade union, or in the case of an employer by an officer of an employers' organization; or
- (f) in the case of a native by an officer of the Native Affairs Department; or
- (g) with the leave of the commissioner by any other person.

(2) No person other than an advocate or attorney shall be entitled to recover any fee or costs or reward except such necessary expenses as may be allowed by the commissioner. No fee or costs whatsoever shall be recoverable from a workman or an employer, in connection with any compensation proceedings, save with the approval of the commissioner.

(3) The commissioner on his own motion or on an *ex parte* application by a party to any compensation proceedings may order an attorney employed by such party in connection with such proceedings to hand in a statement showing what he has received or contracted to obtain from his client and also to submit to taxation his bill of costs against such party including attorney and client costs. Upon such taxation the commissioner may allow such fees, costs and expenses as in the circumstances he considers reasonable. Any payment made or reward given in excess of the amount so allowed shall be refunded, and any contract to make any payment or give any reward in excess of the amount so allowed shall be void as to that excess.

Workman to submit to medical examination.

60. A workman who claims compensation or to whom compensation has been paid or is payable shall when so required by his employer or the commissioner, and after reasonable notice, submit himself for examination by a medical practitioner nominated by the employer or the commissioner as the case may be, at the time and place notified, provided such time and place are reasonable. Any necessary expenses incurred by the workman in complying with the provisions of this section as

(C) Prosedure by Beslissing oor Eise.

56. (1) Die kommissaris moet, by ontvangs van 'n eis Prosedure by ooreenkomsig artikel vier-en-vyftig, nadat hy enige ondersoek instelling van eis. wat hy nodig mag ag, ingestel of laat instel het, op die voor- geskrewe wyse bedoelde eis oorweeg en besleg: Met dien verstande dat die kommissaris indien hy 'n formele verhoor nodig ag, 'n tyd en plek daarvoor moet vasstel.

(2) Die kommissaris moet van die tyd en plek van bedoelde formele verhoor, op die voorgeskrewe wyse onverwyld aan die eiser en aan die werkewer kennis gee.

(3) Indien die kommissaris dit nodig ag dat enige getuie, met inbegrip van die eiser en die werkewer, moet verskyn ten einde hom in staat te stel om oor 'n vraag, wat uit die eis ontstaan te beslis, dan kan hy 'n dagvaarding vir die verskyning van sodanige persoon uitvaardig.

(4) Op ontvangs van 'n aansoek deur enige persoon vir die dagvaarding van 'n getuie moet die kommissaris, indien hy van mening is dat die teenwoordigheid van daardie getuie wenslik is 'n dagvaarding uitvaardig, maar indien hy nie die teenwoordigheid van die getuie wenslik ag nie, dan moet hy 'n dagvaarding uitvaardig alleen indien die party wat aansoek doen by die kommissaris 'n voldoende bedrag stort om die nodige uitgawe te dek wat die gedagvaarde persoon sal beloop, tesame met die koste van diening van die dagvaarding.

57. (1) By die verhoor van 'n eis neem die kommissaris alle deur die partye aangebode getuenis aan wat hy toepaslik ag met betrekking tot 'n vraag wat aan hom ter beslissing voorgelê word en hy kan getuenis wat hy nodig ag verg en ontvang.

(2) Die kommissaris kan van tyd tot tyd 'n verhoor uitstel of verdaag met die doel om daarmee voort te gaan op 'n tyd of plek wat na sy mening meer gepas of gerieflik is.

58. Die kommissaris moet 'n juiste aantekening hou of laat Hou van hou van alle verrigtings voor hom by die verhoor van 'n eis, en aantekenings. enige persoon kan, teen betaling van die voorgeskrewe geld, te eniger tyd afskrifte van die aantekenings of 'n deel daarvan kry.

59. (1) Elke party by 'n eis om skadeloosstelling kan voor Verskyning van die kommissaris verskyn— party.

- (a) of persoonlik ; of
- (b) deur 'n lid van sy gesin ; of
- (c) deur 'n persoon in die gereelde diens van daardie party ; of
- (d) deur 'n advokaat of 'n prokureur ; of
- (e) in die geval van 'n werksman, verteenwoordig deur 'n beampete van 'n vakvereniging of in die geval van 'n werkewer, verteenwoordig deur 'n beampete van 'n werkewersorganisasie ; of
- (f) in die geval van 'n naturel verteenwoordig deur 'n beampete van die Departement van Naturellesake ; of
- (g) met verlof van die kommissaris, verteenwoordig deur enige ander persoon.

(2) Niemand anders as 'n advokaat of prokureur is geregtig om 'n honorarium of koste of beloning in te vorder nie behalwe sodanige noodsaklike uitgawes as wat die kommissaris mag toelaat. Geen honorarium of koste hoogenaamd in verband met skadeloosstellingsverrigtings kan van 'n werksman of 'n werkewer ingevorder word nie, behalwe met die goedkeuring van die kommissaris.

(3) Die kommissaris kan uit eie beweging of op aansoek *ex parte* deur 'n party by skadeloosstellingsverrigtings 'n prokureur in diens van sodanige party in verband met bedoelde verrigtings gelas om 'n staat in te handig wat aantoon wat hy van sy kliënt ontvang het of ooreengekom het om van hom te ontvang, en ook om sy kosterekening teen sodanige party vir taksasie voor te lê met inbegrip van koste tussen prokureur en kliënt. By sodanige taksasie kan die kommissaris sodanige honoraria, koste en uitgawes goedkeur as wat hy onder die omstandighede billik ag. Alle betalings wat gedoen is of beloning wat gegee is bo die goedgekeurde bedrag moet terugbetaal word, en alle kontrakte om enige betaling te doen of enige beloning te gee bo die goedgekeurde bedrag is, wat daardie surplus betref, nietig.

60. 'n Werksman wat skadeloosstelling eis of aan wie skadeloosstelling betaal of betaalbaar is moetwanneer die werkewer of die kommissaris dit eis, na redelike kennisgewing, hom onderwerp aan 'n ondersoek deur 'n geneesheer wat al na die geval deur die werkewer of die kommissaris benoem is, op die mee- gedeelde tyd en plek, mits die tyd en plek redelik is. Alle nodige onkoste deur die werksman aangegaan, om aan die bepalings

Werksman moet hom aan genees- kundige ondersoek onderwerp.

determined by the commissioner, shall be paid by the employer or by the commissioner, as the case may be. In the event of the workman being, in the opinion of any medical practitioner not in a fit state to attend on the medical practitioner named in the notice, the workman or some person on his behalf shall notify the employer or the commissioner as the case may be of that fact, and may require the medical practitioner so named to attend on the workman at a reasonable time and place to be agreed upon. The workman shall be entitled at his own expense to have a medical practitioner nominated by himself present at such examination.

When a ship may be detained.

61. If it is alleged that the owner or master of a ship who is not domiciled in the Union is an employer individually liable to pay compensation in respect of an accident which happened on a ship, and if at any time that ship is in any port or harbour of the Union or within the territorial waters thereof, a judge of the provincial or local division of the Supreme Court having jurisdiction may on the application of the commissioner and upon it being shown to him that the employer is probably liable to pay compensation, issue an order directed to any officer of customs or other person named by the judge, requiring him to detain the ship until the compensation has been paid, or until the commissioner has certified in writing that security to his satisfaction has been given to abide the result of any proceedings which may be instituted to recover the compensation and to pay the same together with such costs as may be awarded ; and any officer or person to whom the order is directed shall detain the ship accordingly.

Recovery of compensation or other benefit.

62. Whenever any compensation or other pecuniary benefit must, in terms of any provision of this Act, be paid to a workman by some person other than the commissioner, the commissioner may make an order in the prescribed form, and such order shall upon being filed with the clerk of the magistrate's court of the area in which the person liable to pay such compensation or benefit resides or has his place of business, have all the effects of, and may be executed as if it were, a civil judgment lawfully given in that court in favour of the commissioner. Any amount recovered by the commissioner in terms of any order so executed shall be paid into the accident fund, and the provisions of section *forty-six* shall, *mutatis mutandis*, apply in respect of such amount.

Agreements as to compensation.

63. (1) Notwithstanding anything to the contrary in this Act, the commissioner may authorize an employer individually liable, or a mutual association with which such employer is insured, subject to such conditions as he may determine, to make provisional settlements of claims for compensation with his workmen : Provided that such employer or association shall report such provisional settlements to the commissioner with such particulars and at such intervals as the commissioner may determine, and the commissioner shall either make an award confirming any such provisional settlement or shall deal with any such claim in the manner provided in section *fifty-six* as if such provisional settlement had not been made.

(2) Notwithstanding anything to the contrary in this Act, the commissioner may, subject to such conditions as he may determine, approve of any scheme for the settlement of claims for compensation in respect of accidents to workmen or any specified group of workmen in the employment of any employer referred to in sub-paragraph (i) of paragraph (a) of sub-section (1) of section *seventy* : Provided that the commissioner is satisfied, after consultation with the assessors concerned (if any), that the benefits under such scheme are more favourable to the workmen concerned than the benefits under this Act.

CHAPTER VII.

THE ACCIDENT AND RESERVE FUNDS.

(A) *Establishment of Funds.*

Establishment of accident fund.

64. There shall be established on a date fixed by the Minister a fund to be known as the accident fund, which shall consist of—

- (a) the assessments paid by employers under this Act ;
- (b) any moneys paid by employers to the commissioner under this Act ;

van hierdie artikel te voldoen soos deur die kommissaris vasgestel, word deur die werkewer of die kommissaris na gelang van die geval betaal. Indien die werksman na die mening van een of ander geneesheer, nie in staat is om sy opwagting te maak by die in die kennisgewing aangewese geneesheer nie, moet die werksman of iemand namens hom die werkewer of die kommissaris na gelang van die geval, hiervan verwittig, en kan van die aangewese geneesheer verlang om die werksman te besoek op 'n redelike tyd en plek waaroer ooreengekom word. Die werksman het die reg om op eie koste 'n deur hom aangewese geneesheer by daardie ondersoek teenwoordig te hê.

61. Indien beweer word dat die eienaar of skipper van 'n skip, Wanneer 'n skip wat nie in die Unie gedomisilieer is nie, 'n werkewer individueel aanspreeklik is vir die betaling van skadeloosstelling ten opsigte van 'n ongeval op 'n skip, en indien daardie skip te eniger tyd in 'n hawe van die Unie is of in die territoriale waters daarvan, dan kan 'n regter van 'n bevoegde provinsiale of plaaslike afdeling van die Hooggereghof, nadat bewys is dat die werkewer waarskynlik vir die betaling van skadeloosstelling verantwoordelik is, op aansoek van die kommissaris 'n bevel uitvaardig wat 'n doeaneamptenaar of 'n ander deur die regter aangewese persoon gelas om die skip aan te hou totdat die skadeloosstelling betaal is of totdat die kommissaris skriftelik gesertifiseer het dat deur hom goedgekeurde borgtog gelewer is om die uitslag af te wag van enige verrigtings wat tot verhaal van die skadeloosstelling ingestel mag word en om dit te betaal tesame met sodanige koste as wat toegeken mag word; en 'n sodanige amptenaar of ander persoon aan wie die bevelskrif gerig is moet die skip dienooreenkoms aanhou.

62. Wanneer enige skadeloosstelling of ander geldelike voordeel ingevolge 'n bepaling van hierdie Wet, aan 'n werksman skadeloosstelling of deur iemand anders as die kommissaris betaalbaar is, kan die kommissaris 'n bevel, in die voorgeskrewe vorm, uitvaardig, en sodanige bevel het, sodra dit ingedien is by die klerk van die magistraatshof van die gebied waarin die persoon wat verplig is om sodanige skadeloosstelling of voordeel te betaal woonagtig is of sy besigheidsplek het, al die gevolge van, en kan uitgevoer word asof dit 'n siviele uitspraak was, wat regtens gevolg is in daardie hof ten gunste van die kommissaris. Enige bedrag wat deur die kommissaris verhaal word ingevolge 'n bevel wat so uitgevoer is, moet in die ongevallefonds gestort word, en die bepalings van artikel *ses-en-veertig* is ten opsigte van sodanige bedrag, *mutatis mutandis* van krag.

63. (1) Ondanks enige teenstrydige bepaling in hierdie Wet, kan die kommissaris, onderworpe aan sodanige voorskrifte as wat hy mag bepaal, 'n werkewer individueel aanspreeklik of 'n onderlinge vereniging waarby die werkewer verassureer is, magtig om eise om skadeloosstelling deur werksmense voorlopig te skik: Met dien verstande dat so 'n werkewer of vereniging van sodanige voorlopige skikkings aan die kommissaris verslag moet doen, met vermelding van sodanige besonderhede en by sodanige tussenpose as wat die kommissaris mag bepaal, en die kommissaris moet of 'n toekenning maak wat so 'n voorlopige skikking bekratig of met die eis op die in artikel *ses-en-vyftig* bepaalde wyse handel asof bedoelde voorlopige skikking nie getref was nie.

(2) Ondanks teenstrydige bepalings in hierdie Wet, kan die kommissaris, onderworpe aan sodanige voorskrifte as wat hy mag bepaal, enige skema goedkeur vir die beslegting van eise om skadeloosstelling ten opsigte van ongevalle aan werksmense of 'n bepaalde groep werksmense in diens van 'n in sub-paragraaf (i) van paragraaf (a) van sub-artikel (1) van artikel *sewenig* bedoelde werkewer: Met dien verstande dat die kommissaris, na beraadslaging met die betrokke assessore (indien enige), daarvan oortuig is dat die voordele ingevolge bedoelde skema gunstiger vir die betrokke werksmense is as die voordele ingevolge hierdie Wet.

HOOFSTUK VII.

DIE ONGEVALLE- EN RESERWEFONDSE.

(A) *Instelling van Fondse.*

64. Op 'n deur die Minister vasgestelde datum word daar 'n Instelling van fonds, met die naam van die ongevallefonds, ingestel wat ongevallefonds bestaan uit—

- (a) die aanslae deur werkewers ingevolge hierdie Wet betaal;
- (b) alle gelde wat werkewers ingevolge hierdie Wet aan die kommissaris betaal het;

- (c) any moneys paid as penalties imposed under this Act other than by a court of law;
- (d) any interest from investments of the accident fund and the reserve fund;
- (e) any sums transferred from the reserve fund in terms of section *sixty-six*;
- (f) any advances made in terms of section *nineteen*;
- (g) any payments made to the commissioner in terms of section *seventy-four*; and
- (h) any other sums to which the fund may become entitled.

Application of
accident fund.

65. (1) The accident fund shall, subject to the provisions of this Act, be under the control of the commissioner and its funds shall be applied by the commissioner to—

- (a) the payment of compensation, medical aid or other pecuniary benefit to or on behalf of or in respect of workmen under this Act wherever no other person is made liable for such payment;
- (b) the creation and maintenance of a reserve fund in cash or investments, or both;
- (c) any expenses in connection with a scheme referred to in paragraph (m) of section *fourteen*;
- (d) the repayment of advances made to the accident fund in terms of section *nineteen*;
- (e) the reimbursement of the Consolidated Revenue Fund in respect of remuneration paid to officers in terms of section *twenty-one*;
- (f) the payment of the prescribed remuneration and travelling and subsistence allowances to assessors;
- (g) any charges necessary for or in connection with the medical examination of workmen;
- (h) the payment of witness fees as provided in sub-section (7) of section *sixteen*; and
- (i) the payment of any other expenditure incurred by the commissioner in carrying out his functions under this Act.

(2) At the discretion of the commissioner any surplus in the accident fund may be applied to the reduction of future annual assessments made under section *sixty-nine* or may be transferred to the reserve fund, or may be allowed to remain in the accident fund, and any deficiency in the accident fund may be made good by an increase in the amount of any future assessment on employers in terms of section *sixty-nine* or by a transfer from the reserve fund.

Establishment of
reserve fund.

66. (1) There shall be established a fund to be known as the reserve fund, the amount of which shall be in the discretion of the commissioner, as a provision against unforeseen demands upon the accident fund and for the purpose of stabilizing from year to year as far as practicable the rates of assessments fixed under section *sixty-nine*, and for such other purposes as the commissioner considers advisable.

(2) The reserve fund shall consist of appropriations from the accident fund made from time to time at the discretion of the commissioner, and shall be applied by transferring to the accident fund such moneys as may from time to time be deemed necessary by the commissioner to fulfil the purposes set forth in sub-section (1).

Valuation of
accident fund.

67. The assets and liabilities of the accident fund shall, from time to time as considered necessary by the commissioner, and in any case at intervals of not more than three years, be valued by an actuary appointed by the Minister, in order to determine the sufficiency of the fund, and the result of such valuation shall be included in the annual report of the commissioner next succeeding the completion of the valuation.

(B) Rendering of Wage Returns by Employers.

Wage-statements
to be furnished by
employers.

68. (1) Every employer liable to assessment shall between the first and thirty-first day of January in each year, or if he becomes liable to be assessed after the last-mentioned date, within one month after having become so liable, transmit to the commissioner a statement in the prescribed form, certified by him as true, showing—

- (a) the amount of wages paid to his workmen during the past financial year;
- (b) an estimate of the wages which he expects to pay during the current financial year; and
- (c) such other information as may be prescribed or as the commissioner may require from him.

(2) Where an employer carries on business in more than one place or carries on more than one class of business the com-

- (c) alle peenbetalings ingevalgelyke hierdie Wet wat nie deur 'n gereghof opgelê is nie;
- (d) alle rente uit beleggings van die ongevallefonds en die reserwefonds;
- (e) alle bedrae wat ingevalgelyke artikel *ses-en-sestig* van die reserwefonds oorgedra word;
- (f) alle voorskotte ooreenkomsdig artikel *negentien*;
- (g) alle betalings ingevalgelyke artikel *vier-en-sewentig* aan die kommissaris gedoen; en
- (h) alle ander bedrae waarop die fonds geregtig mag word.

65. (1) Behoudens die bepalings van hierdie Wet staan die **Aanwending van ongevallefonds** onder beheer van die kommissaris en sy gelde word deur die kommissaris aangewend vir—

- (a) die betaling van skadeloosstelling, geneeskundige behandeling of ander geldelike voordeel aan of ten behoeve van of ten opsigte van werksmense ingevalgelyke hierdie Wet wanneer niemand anders vir daardie betaling aanspreeklik gemaak is nie;
- (b) die instelling en instandhouding van 'n reserwefonds van kontant of beleggings of albei;
- (c) die onkoste in verband met 'n in paragraaf (m) van artikel *veertien* bedoelde skema;
- (d) die terugbetaling van voorskotte wat ingevalgelyke artikel *negentien* aan die ongevallefonds gemaak is;
- (e) die vergoeding van die Gekonsolideerde Inkomstefonds ten opsigte van besoldiging wat ingevalgelyke artikel *een-en-twintig* aan amptenare betaal is;
- (f) die betaling van die voorgeskrewe beloning en reis- en onderhoudstoelaes aan assessor;
- (g) alle nodige koste vir of in verband met die geneeskundige ondersoek van werksmense;
- (h) die betaling van getuigelde kragtens sub-artikel (7) van artikel *sestien*; en
- (i) die betaling van alle ander uitgawes van die kommissaris by die verrigting van sy werkzaamhede ingevalgelyke hierdie Wet.

(2) Na goedunke van die kommissaris kan 'n oorskot in die ongevallefonds aangewend word tot vermindering van 'n toekomstige jaarlikse aanslag, ingevalgelyke artikel *nege-en-sestig* of dit kan in die reserwefonds gestort word of kan in die ongevallefonds gelaat word en 'n tekort in die ongevallefonds kan deur 'n vermeerdering in die bedrag van 'n toekomstige aanslag van werkgewers ingevalgelyke artikel *nege-en-sestig* of deur 'n oordrag vanuit die reserwefonds gedeck word.

66. (1) 'n Fonds, met die naam van die reserwefonds, moet **Instelling van reserwefonds** ingestel word, van 'n bedrag wat die kommissaris na goedunke vasstel, as 'n voorsorg teen onvoorsiene aansprake teen die ongevallefonds en om van jaar tot jaar die ingevalgelyke artikel *negen-en-sestig* vasgestelde aanslagskale sover doenlik te bestendig en vir sodanige ander doeleindes as wat die kommissaris raadsaam ag.

(2) Die reserwefonds bestaan uit toeëienings uit die ongevallefonds wat van tyd tot tyd na goedunke van die kommissaris gemaak word en word aangewend deur daaruit die geldsomme na die ongevallefonds oor te dra wat die kommissaris van tyd tot tyd nodig ag om die in sub-artikel (1) vermelde doeleindes te verwesenlik.

67. Die bates en laste van die ongevallefonds word van tyd tot tyd, soos deur die kommissaris nodig geag, en in elk geval met tussenpose van nie meer as drie jaar nie, deur 'n aktuaris wat deur die Minister aangestel is, gewaardeer om vas te stel of die fonds voldoende is en die uitslag van daardie waardering moet opgeneem word in die eersvolgende jaarverslag van die kommissaris na voltooiing van die waardering.

(B) *Verstrekking van Loonstate deur Werkgewers.*

68. (1) Elke vir aanslag aanspreeklike werkgewer moet tussen **Werkgewers moet loonstate verstrek.** die eerste en die een-en-dertigste dag van Januarie in elke jaar, of, indien hy na die laasgenoemde datum vir aanslag aanspreeklik word, binne een maand nadat hy aanspreeklik word, aan die kommissaris 'n staat in die voorgeskrewe vorm instuur wat hy as huis gesertifiseer het en wat aantoon—

- (a) die bedrag van die lone, wat hy gedurende die afgelope boekjaar aan sy werksmense betaal het;
- (b) 'n beraming van die lone wat hy gedurende die lopende boekjaar verwag om te betaal;
- (c) sodanige verdere informasie as wat voorgeskryf mag word of as wat die kommissaris van hom mag verg.

(2) Wanneer 'n werkgewer op meer as een plek besigheid dryf of as hy meer as een soort besigheid dryf kan die kom-

missioner may require from him a separate statement in respect of each place or class.

(3) If in any statement transmitted to the commissioner in terms of sub-section (1) the amount of the wages alleged to have been paid during any period is less than the amount actually paid, the employer who transmitted such statement may be required to pay to the commissioner as a penalty such proportion of the difference between the amount stated and the correct amount, not exceeding ten per cent., as the commissioner may determine.

(4) If in any such statement the estimate of the wages which the employer expects to pay during any period is, in the opinion of the commissioner, too low or if the employer has failed to transmit such statement the commissioner may himself estimate the wages which the employer will probably pay during that period.

(5) An employer who fails to comply with the provisions of sub-section (1), or with any requirement of the commissioner under sub-section (2) or (3) shall be guilty of an offence.

(C) *Levying and Recovery of Assessments and other Charges.*

Assessments on employers.

69. (1) The commissioner shall as soon as practicable after the thirty-first day of January in every year or in the case of an employer becoming liable to be assessed after that date, as soon as practicable after receipt of the statement referred to in section *sixty-eight*, assess every employer other than an employer exempted from the payment of assessments in terms of section *seventy* on the basis of such percentage of the annual wages of his workmen as the commissioner deems necessary for the requirements of the accident fund for the year of assessment: Provided that the commissioner may on the application of the employer levy an additional assessment based on a revised estimate of wages submitted by the employer in respect of the unexpired portion of the year.

(2) Save as otherwise provided in this Act, the rates of assessment of any employer shall be fixed by the commissioner from time to time in his discretion according to the estimated risk and cost of accidents.

(3) In estimating the rates of assessments deemed to be necessary for the requirements of the accident fund, the commissioner shall make provision for the capitalized value of pensions, and any other liabilities due or likely to become due in respect of accidents during the year of assessment.

(4) For the purposes of assessment, wages shall be determined in such manner as may from time to time be prescribed.

(5) When the wages actually paid by an employer during any period have been ascertained, his assessment in respect of that period shall be adjusted accordingly.

(6) If the annual assessment is less than the adjusted assessment, the employer shall pay the difference and if the annual assessment is more than the adjusted assessment, the commissioner shall refund the difference to the employer or credit him therewith in respect of his following annual assessment.

(7) If an employer has failed to transmit to the commissioner a statement in terms of section *sixty-eight* in respect of any period, the commissioner may assess him and he shall pay to the commissioner in addition to the sum for which he has been assessed, a penalty to be determined by the commissioner not exceeding ten per cent. of the amount so assessed.

(8) Every assessment of an employer shall be paid at such times and places and in such manner as the commissioner may determine, with interest on any amounts overdue at such rate not exceeding ten per cent. per annum as the commissioner may fix.

(9) If an employer liable to assessment who in respect of any period, has transmitted to the commissioner the statement referred to in sub-section (1) of section *sixty-eight*, has not been assessed in respect of that period, he shall nevertheless be liable at any time thereafter to be assessed.

Certain employers exempt from assessments.

70. (1) Assessments for the benefit of the accident fund shall not be payable in respect of workmen—

(a) in the employment of

- (i) the State including Parliament and the United Transkeian Territories General Council; or
- (ii) a local authority employing five hundred or more European workmen, if such local authority has obtained from the commissioner a certificate of exemption, the issue and renewal of which shall be subject to such conditions as the commissioner may determine; or

missaris 'n afsonderlike staat vir elke plek of soort van hom verg.

(3) Wanneer in 'n aan die kommissaris ingevolge sub-artikel (1) ingestuurde staat, die bedrag van die lone, wat beweer word gedurende 'n tydperk betaal te wees, minder is as die werklik betaalde bedrag, kan van die werkewer wat daardie staat ingestuur het vereis word dat hy by wyse van boete aan die kommissaris so 'n deel van die verskil tussen die aangegewe bedrag en die juiste bedrag betaal, tot hoogstens tien persent, as wat die kommissaris mag bepaal.

(4) As in so 'n staat die beraming van die lone, wat die werkewer verwag om gedurende enige tydperk te betaal, na die mening van die kommissaris te laag is, of as die werkewer versuim het om so 'n staat in te stuur, kan die kommissaris self die lone beraam wat die werkewer gedurende daardie tydperk waarskynlik sal betaal.

(5) 'n Werkewer wat versuim om aan die bepalings van sub-artikel (1) te voldoen of aan enige vereiste van die kommissaris ingevolge sub-artikel (2) of (3) is aan 'n misdryf skuldig.

(C) *Heffing en Verhaal van Aanslag en Ander Vorderings**

69. (1) Die kommissaris moet so spoedig doenlik na die Aanslag op werk-een-en-dertigste dag van Januarie in elke jaar, of in die geval van 'n werkewer wat na daardie datum vir aanslag aanspreeklik word, so spoedig doenlik na ontvangs van die in artikel *agt-en-sestig* bedoelde staat, elke werkewer, behalwe 'n in artikel *sewentig* van aanslag vrygestelde werkewer, aanslaan op grondslag van so 'n persentasie van die jaarlikse lone van sy werkemense as wat die kommissaris vir die vereistes van die ongevallefonds vir die jaar van die aanslag nodig ag: Met dien verstande dat die kommissaris op aansoek van 'n werkewer 'n verdere aanslag kan hef, gegrond op 'n gewysigde beraming deur die werkewer voorgelê van die lone ten opsigte van die onverstreke deel van die jaar.

(2) Die skaal van aanslag van 'n werkewer moet, behalwe vir sover in hierdie Wet anders bepaal word, van tyd tot tyd deur die kommissaris na goeddunke volgens die geskatte risiko en koste van ongevalle bepaal word.

(3) By berekening van die aanslagskaal wat vir die vereistes van die ongevallefonds nodig geag word, moet die kommissaris voorsiening maak vir die gekapitaliseerde waarde van pensioene en vir ander verpligtings wat ten opsigte van ongevalle gedurende die jaar van die aanslag nagekom moet word of waarskynlik sal nagekom moet word.

(4) Vir die doeleindes van die aanslag word lone op die wyse bereken wat van tyd tot tyd voorgeskryf word.

(5) Wanneer die werklik deur 'n werkewer gedurende een of ander tydperk betaalde lone vasgestel is, moet sy aanslag oor daardie tydperk dienooreenkomsdig verreken word.

(6) As die jaarlikse aanslag minder as die verrekende aanslag is, moet die werkewer die verskil betaal en as die jaarlikse aanslag meer as die herrekende aanslag is moet die kommissaris die verskil aan die werkewer terugbetaal of hom daarmee krediteer ten opsigte van sy volgende jaarlike aanslag.

(7) As 'n werkewer versuim het om ingevolge artikel *agt-en-sestig* 'n staat ten opsigte van enige tydperk aan die kommissaris in te stuur, dan kan die kommissaris hom aanslaan en moet hy afgesien van die bedrag waarvoor hy aangeslaan is, 'n pene betaal, deur die kommissaris vasgestel te word, van hoogstens tien persent van die bedrag van die aanslag.

(8) Elke aanslag van 'n werkewer moet betaal word op die tye en wyse wat die kommissaris mag bepaal, met so 'n rente op agterstallige bedrae teen 'n koers van hoogstens tien persent per jaar as wat die kommissaris mag vasstel.

(9) Indien 'n aanslagpligtige werkewer wat, ten opsigte van enige tydperk, die in sub-artikel (1) van artikel *agt-en-sestig* bedoelde staat aan die kommissaris ingestuur het, nie ten opsigte van daardie tydperk aangeslaan is nie, kan hy nogtans te enigertyd daarna aangeslaan word.

70. (1) Geen aanslag ten gunste van die ongevallefonds is betaalbaar ten opsigte van werkemense—

Sekere werkewers van aanslag vry.
gestel.

(a) in diens van—

- (i) die Staat met inbegrip van die Parlement en die Verenigde Algemene Raad van die Transkeiese Gebied;
- (ii) 'n plaaslike bestuur wat vyfhonderd of meer blanke werkemense in diens het, as sodanige plaaslike bestuur van die kommissaris 'n vrystellingsertifikaat verkry het, waarvan die uitreiking en hernuwing aan sodanige voorskrifte onderhewig is as wat die kommissaris mag bepaal; of

(b) whose employer has, with the approval of the commissioner, obtained from a mutual association a policy of insurance for the full extent of his potential liability under this Act to all workmen employed by him, and for so long as he maintains such policy in force.

(2) The commissioner may, in his discretion, upon the application of any employer referred to in sub-section (1) of this section permit such employer to pay assessments to the accident fund in respect of his workmen and any such employer referred to in sub-section (1) of this section shall from a date to be fixed by the commissioner cease to be individually liable to pay compensation except in respect of accidents which occurred before such date.

Variation of rate of assessment.

71. (1) When in the opinion of the commissioner, the business of an employer is designed, equipped, organized or conducted in a manner which is specially calculated to prevent the occurrence of accidents to workmen and the number or cost of accidents in consequence thereof is or is likely to be considerably less than those usually obtaining in other businesses of that class, the commissioner may, in his discretion, use a lower percentage of annual wages in calculating the annual assessment of such employer than is used in the assessment of other employers in that business.

(2) Where the cost or number of accidents which have occurred or, in the opinion of the commissioner, are likely to occur, is greater than the commissioner considers would have occurred had the business of the employer been designed, equipped, organized or conducted in a manner which is specially calculated to prevent the occurrence of accidents, the commissioner may, in his discretion, assess such employer on the bases of a higher percentage of the annual wages of his workmen than other employers in a similar class of business.

(3) If, during any period, the accident experience of an employer is, in the opinion of the commissioner, more favourable than the average accident experience of employers in his class of business, the commissioner may, in his discretion, award such employer a special rebate to be set off against the assessments payable by such employer in respect of any subsequent period.

(4) If, during any period, the accident experience of an employer is, in the opinion of the commissioner, less favourable than the average accident experience for employers in his class of business, the commissioner may, in his discretion, assess such employer for a higher percentage of the annual wages of his workmen in respect of any subsequent period.

Assessments to be paid by employers to the commissioner.

72. (1) The amount of any assessment shall be paid by an employer to the commissioner within thirty days after the date specified in the notice of assessment, unless the commissioner has, on the application of the employer, agreed to accept payment by instalments on such conditions as he may specify, and where payment is made by instalments, the said instalments shall be paid at the times specified by the commissioner.

(2) The notice of assessment may be sent to the employer by post either in a registered or an unregistered letter.

Failure to pay assessment or other moneys.

73. (1) If an assessment or any instalment thereof is not paid by an employer at the time when it becomes payable, the defaulting employer shall be liable to pay as a penalty for his default such percentage (not exceeding ten per cent.) of the amount unpaid as the commissioner may determine.

(2) Any employer who fails to pay his assessment or to render within the prescribed period the returns referred to in section *sixty-eight* shall, in addition to any other penalty, pay to the commissioner a penalty as determined by the commissioner not exceeding the full amount of the compensation including the capitalized value of any pension payable in respect of any accident to a workman in his employment during the period of such default: Provided that the commissioner, if satisfied that the default was due to inadvertence or to some cause over which the employer had no control, or that the payment of the full amount of the capitalized value would be likely to result in the insolvency or assignment of the estate of

(b) wie se werkewer met goedkeuring van die kommissaris 'n versekeringspolis van 'n onderlinge vereniging verkry het vir die volle omvang van sy moontlike aanspreeklikheid ingevolge hierdie Wet aan alle werkmense by hom in diens, en vir solank as wat hy sodanige polis van krag hou.

(2) Op aansoek van 'n werkewer vermeld in sub-artikel (1) van hierdie artikel kan die kommissaris, na goeddunke, daardie werkewer toelaat om ten opsigte van sy werkmense 'n aanslag aan die ongevallefonds te betaal en enige sodanige werkewer genoem in sub-artikel (1) van hierdie artikel hou vanaf 'n datum deur die kommissaris bepaal te word, op om vir die betaling van skadeloosstelling aanspreeklik te wees, behalwe ten opsigte van ongevalle wat voor daardie datum plaasgevind het.

71. (1) Wanneer die besigheid van 'n werkewer na mening Verandering van van die kommissaris op 'n wyse ingerig, uitgerus, georganiseer aanslagskaal. of gedryf word wat besonders daartoe strek om te voorkom dat sy werkmense ongevalle oorkom en die aantal of koste van ongevalle gevvolglik aanmerklik minder is of waarskynlik sal wees as wat gewoonlik in ander besighede van daardie soort plaasvind, dan kan die kommissaris na goeddunke daardie werkewer op 'n laer persentasie van die jaarlikse lone van sy werkmense aanslaan dan ander werkewers in 'n dergelike soort besigheid.

(2) Wanneer die koste van of aantal ongevalle wat voorgeval het of wat na die mening van die kommissaris waarskynlik sal voorval, hoer is as wat na die mening van die kommissaris sou plaasgevind het as die besigheid van die werkewer op 'n wyse ingerig, uitgerus, georganiseer of gedryf was wat besonders daartoe strek om ongevalle te voorkom, dan kan die kommissaris na goeddunke bedoelde werkewer op 'n hoer persentasie van die jaarlikse lone van sy werkmense aanslaan dan ander werkewers in 'n dergelike soort besigheid.

(3) As die ongevallebevinding van 'n werkewer gedurende enige tydperk volgens mening van die kommissaris gunstiger is as die gemiddelde ongevallebevinding van werkewers van sy soort besigheid, kan die kommissaris na goeddunke aan sodanige werkewer 'n spesiale korting verleen wat teen die aanslag wat deur sodanige werkewer betaalbaar is, ten opsigte van enige latere tydperk, by wyse van skuldvergelyking in werking tree.

(4) As die ongevallebevinding van 'n werkewer gedurende enige tydperk volgens mening van die kommissaris minder gunstig is as die gemiddelde ongevallebevinding van werkewers van sy soort besigheid, kan die kommissaris na goeddunke bedoelde werkewer op 'n hoer persentasie van die jaarlikse lone van sy werkmense aanslaan ten opsigte van enige latere tydperk.

72. (1) Die bedrag van 'n aanslag moet binne dertig dae Aanslag moet deur na die in die kennisgewing van aanslag bepaalde datum, deur die werkewers aan die kommissaris betaal word. werkewer aan die kommissaris betaal word.

(2) Die kennisgewing van aanslag kan aan die werkewer deur die pos gestuur word, hetsy in 'n geregistreerde of in 'n ongeregistreerde brief.

73. (1) As 'n werkewer nie sy aanslag of enige paaiemant Versuim om daarvan op die tyd wanneer dit betaalbaar word betaal nie, aanslag of ander is die wanbetalter verplig om as pene vir sy versuim so 'n gelde te betaal. persentasie van hoogstens tien persent van die onbetaalde bedrag te betaal as wat die kommissaris mag bepaal.

(2) 'n Werkewer wat versuim om sy aanslag te betaal of die in artikel *agt-en-sestig* bedoelde state binne die voorgeskrewe tydperk in te stuur, moet benewens enige ander straf, aan die kommissaris 'n pene betaal soos deur die kommissaris bepaal, van hoogstens die volle bedrag van die skadeloosstelling, met inbegrip van die gekapitaliseerde waarde van enige pensioen, wat betaalbaar is ten opsigte van 'n ongeval wat 'n werksman in sy diens oorkom terwyl daardie versuim voortduur: Met dien verstande dat as die kommissaris oortuig is dat die versuim onopsetlik was of te wyte was aan 'n oorsaak waaroor die werkewer geen beheer gehad het nie, of dat betaling van die volle bedrag van die gekapitaliseerde waarde waarskynlik die insolvensie of die boedelafstand van sodanige

such employer or where the employer is a company, the winding up thereof, may waive the provisions of this sub-section in whole or in part or accept payment in instalments or otherwise as the commissioner may determine.

(3) Any employer who contravenes or fails to comply with any provision of this Act in regard to the payment of assessments or penalties, or any other moneys payable to the commissioner under this Act, shall be guilty of an offence.

(4) Whenever an employer fails to pay to the commissioner any money due the commissioner may make an order in the prescribed form, and such order shall, on being filed with the clerk of the magistrate's court of the area in which the employer concerned resides or has his place of business, have all the effects of, and may be executed as if it were a civil judgment lawfully given in that court in favour of the commissioner.

Contributions by employers individually liable.

74. (1) Notwithstanding anything to the contrary in this Act, the employers individually liable referred to in paragraph (a) of sub-section (1) of section *seventy* and every mutual association shall pay annually to the commissioner, in such manner and at such times as he may determine, such proportion of the expenses incurred by the commissioner in the administration of this Act as he may deem equitable.

(2) The commissioner shall, as soon as possible after the close of each financial year estimate the loss incurred during that year as a result of compensation becoming payable out of the accident fund in respect of workmen for whom their employers have failed to pay assessments. The loss shall consist of the difference between such compensation, as estimated by the commissioner, together with any expenses incurred or likely to be incurred in connection therewith and any amounts recovered or likely to be recovered from such employers, whether by way of compensation, penalty or otherwise. The loss for any financial year may be revised by the commissioner in subsequent years according to the amounts actually paid or recovered. Such loss shall be apportioned by the commissioner between the accident fund, the employers individually liable, referred to in paragraph (a) of sub-section (1) of section *seventy* and all mutual associations as nearly as possible in proportion to the respective amounts payable by the fund and by each such employer and mutual association in respect of compensation awarded during the financial year concerned, as estimated by the commissioner, and every such employer and mutual association shall pay the amount so determined to the commissioner in such manner and at such times as the commissioner may determine.

(3) Any amount payable by an employer or by a mutual association under this section may, subject to the provisions of section *four* of the Crown Liabilities Act, 1910 (Act No. 1 of 1910), be recovered by the commissioner in the same manner as assessments and the provisions of this Act relating to the assessments shall *mutatis mutandis* apply to every such amount.

(4) For the purposes of this section "compensation" shall include every pecuniary benefit payable in respect of an injured workman under this Act, and in the case of a continuing liability the capitalized value, as determined by the commissioner, of any pension or periodical or other payment under such liability.

CHAPTER VIII.

MEDICAL AID.

First Aid.

75. (1) An employer shall furnish and maintain such appliances and services for the rendering of first aid to his workmen in case of an accident to them as may be prescribed in respect of the class of business in which he is engaged: Provided that the provisions of this section shall not apply to an employer who in compliance with any requirement of the Mines Works Act, 1911 (Act No. 12 of 1911), the Factories Act, 1918 (Act No. 28 of 1918), the Shops and Offices Act, 1939 (Act No. 41 of 1939), or the Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941), maintains appliances and services for rendering first aid to his employees in case of an accident or has under any such Act been granted exemption from such requirements.

(2) Failure to comply with the provisions of this section shall be an offence.

Conveyance of injured workmen.

76. (1) In the event of an accident happening to a workman which necessitates his removal to a hospital or his residence the employer of such workman shall forthwith provide the necessary conveyance therefor.

werkgewer of, ingeval die werkgewer 'n maatskappy is, likwidasie tot gevolg sou hê, die kommissaris van die bepalings van hierdie sub-artikel geheel of gedeeltelik kan afsien of betaling in paalemeute of andersins soos hy mag bepaal, kan aanneem.

(3) 'n Werkgewer wat enige bepaling van hierdie Wet oortree nie daarvan voldoen nie wat betref die betaling van **aanslag** of penes of enige ander geldte betaalbaar aan die kommissaris ingevolge hierdie Wet, is aan 'n misdryf skuldig.

(4) Wanneer 'n werkgewer in gebreke bly om enige verskuldigde geld aan die kommissaris te betaal, kan die kommissaris 'n bevel in die voorgeskrewe vorm uitreik, en sodanige bevel het sodra dit ingedien is by die klerk van die magistraatshof van die gebied waarin die betrokke werkgewer woonagtig is, of sy besighedsplek het al die gevolge van, en kan uitgevoer word asof dit 'n siviele uitspraak was, wat regtens gevel is in daardie hof ten gunste van die kommissaris.

74. (1) Ondanks enige teenstrydige bepaling in hierdie Wet, moet die werkgewers indiwidueel aanspreeklik, waarna in paragraaf (a) van sub-artikel (1) van artikel *seventig* verwys word, en elke onderlinge vereniging, aan die kommissaris, op sodanige wyse en sodanige tye as wat hy mag bepaal, jaarliks betaal, sodanige deel van die onkoste deur die kommissaris by die uitvoering van hierdie Wet aangegaan as wat by billik ag.

(2) Die kommissaris moet so spoedig doenlik na die einde van elke boekjaar, die verlies beraam wat gedurende daardie jaar gely is, as gevolg van skadeloosstelling wat betaalbaar word uit die ongevallefonds ten opsigte van werksmense vir wie hulle werkgewers versuim het om aanslae te betaal. Die verlies bestaan uit die verskil tussen sodanige skadeloosstelling, soos deur die kommissaris beraam, tesame met enige onkoste wat gemaak is of waarskynlik gemaak sal word in verband daarmee, en enige bedrae wat teruggevorder is of waarskynlik teruggevorder sal word van sodanige werkgewer, hetsy by wyse van skadeloosstelling, pene of andersins. Die verlies in enige finansiële jaar kan deur die kommissaris hersien word, in daaropvolgende jare na gelang van die bedrae werklik betaal of verhaal. Sodanige verlies moet deur die kommissaris verdeel word tussen die ongevallefonds, die in paragraaf (a) van sub-artikel (1) van artikel *seventig* bedoelde werkgewers indiwidueel aanspreeklik, en alle onderlinge verenigings, so na moontlik in verhouding tot die onderskeie bedrae betaalbaar deur die fonds en deur elke sodanige werkgewer en onderlinge vereniging, ten opsigte van toege wysde skadeloosstelling gedurende bedoelde boekjaar, soos deur die kommissaris beraam, en elke sodanige werkgewer en onderlinge vereniging moet die aldus vasgestelde bedrag aan die kommissaris betaal op sodanige wyse en tyd as wat die kommissaris mag vasstel.

(3) Elke deur 'n werkgewer deur 'n onderlinge vereniging ingevolge hierdie artikel betaalbare bedrag kan, behoudens die bepalings van artikel *vier* van die „Kroon-Aansprakelikheid Wet, 1910” (Wet No. I van 1910) deur die kommissaris verhaal word op dieselfde wyse as aanslae en die bepalings van hierdie Wet met betrekking tot aanslae is *mutatis mutandis* van toepassing op elke sodanige bedrag.

(4) Vir die doeleindes van hierdie artikel beteken „skadeloosstelling” ook elke geldelike voordeel ten opsigte van 'n werksman ingevolge hierdie Wet betaalbaar, en in die geval van voortdurende aanspreeklikheid die gekapitaliseerde waarde soos deur die kommissaris vasgestel, van enige pensioen of periodieke of ander uitkering ingevolge sodanige aanspreeklikheid.

HOOFSTUK VIII.

GENEESKUNDIGE BEHANDELING.

75. (1) 'n Werkgewer moet sodanige toestelle en diens Eerste hulp. verskaf en in stand hou vir eerste hulp aan sy werksmense ingeval hulle 'n ongeval oorkom, as wat voorgeskryf mag word vir die soort besigheid wat hy dryf: Met dien verstande dat die bepalings van hierdie artikel nie van toepassing is nie op 'n werkgewer wat ooreenkomsdig 'n vereiste van die „Mijnen en Bedrijven Wet, 1911” (Wet No. 12 van 1911), die „Fabriekswet, 1918” (Wet No. 28 van 1918), die Wet op Winkels en Kantore, 1939 (Wet No. 41 van 1939), of die Wet op Fabrieke, Masjinerie en Bouwerk, 1941 (Wet No. 22 van 1941), toestelle en diens in stand hou vir eerste hulp aan sy werksmense ingeval van ongeval of wat ingevolge een van daardie Wette van bedoelde vereistes vrygestel is.

(2) Versuin om aan die bepalings van hierdie artikel te voldoen is 'n misdryf.

76. (1) Ingeval 'n werksman 'n ongeluk oorkom wat sy Vervoer van vervoer na 'n hospitaal of sy huis nodig maak, moet die werkbesoerde werksman. gewer van daardie werksman onverwyld die nodige vervoermiddel daarvoor beskikbaar stel.

(2) The commissioner or the employer individually liable, as the case may be, shall defray the reasonable expenses (as determined by the commissioner) incurred by the employer or any other person in respect of such removal.

(3) Any employer who fails to comply with the provisions of sub-section (1) shall be guilty of an offence.

Medical expenses.

77. (1) The commissioner or the employer individually liable, as the case may be, shall, for a period not exceeding one year from the date of the accident and up to an amount not exceeding one hundred pounds, defray the reasonable expenses incurred by or on behalf of a workman in respect of medical aid.

(2) Where, in the opinion of the commissioner, it is in the interest of the accident fund or of a workman to provide further or special medical aid to any workman, in addition to that referred to in sub-section (1), the expense of such medical aid shall be defrained by the commissioner or by the employer individually liable, as the case may be, to the extent to which the commissioner, in his discretion, may determine: Provided that the total amount to be paid under sub-section (1) and this sub-section shall not exceed two hundred pounds, and the total period in respect of which such expenses are to be defrained shall not exceed two years.

(3) If the total expenses incurred by a workman in respect of medical aid exceed the amount payable under this Act, the commissioner shall apportion the latter amount in such manner as he deems expedient.

(4) For the purpose of further or special medical aid under sub-section (2), the commissioner may place the workman under the treatment of a medical practitioner nominated by him and may give such other directions in regard to the treatment of the workman as he deems expedient.

(5) Any employer who fails to make any payment in respect of medical aid which under this section he is required to make shall be guilty of an offence.

Dispute as to treatment and medical report.

78. (1) All disputes as to the necessity for, or the character or sufficiency of, any medical aid provided or to be provided in terms of this chapter shall be determined by the commissioner.

(2) The commissioner may after consultation with the Medical Association of South Africa (British Medical Association) make regulations for the submission to the commissioner, without additional charge, of reports from time to time by medical practitioners who have attended or been consulted in respect of workmen injured by accident.

Fees for medical aid to be prescribed.

79. Payment for medical aid shall be in accordance with the scale prescribed from time to time by the commissioner after consultation with the Medical Association of South Africa (British Medical Association), and no claim in excess of the charges fixed by that scale shall lie against the commissioner, or any workman or his employer in respect of any such medical aid.

Contributions from workman towards cost of medical aid forbidden.

80. (1) No employer shall receive from a workman any contribution towards the expense of medical aid rendered or to be rendered to such workman in terms of this Act.

(2) Any employer acting in contravention of this section shall be guilty of an offence and shall, in addition, be ordered by the commissioner to refund any sum so received. Such order shall, on being filed in the manner prescribed in section *sixty-two* be enforceable as in that section prescribed. Any amount recovered by the commissioner under any such order shall be paid by him to the workman concerned.

When employer supplies medical aid.

81. If any employer makes an arrangement for furnishing medical aid to his workmen injured by accident which in the opinion of the commissioner is not less favourable to the workmen than that provided for in this chapter, the commissioner may approve such an arrangement, and unless and until such approval is withdrawn the medical aid under such arrangement may be substituted for the medical aid referred to in this chapter and—

(a) in the case of an employer individually liable he shall not be required to provide or pay for medical aid otherwise than in accordance with such arrangement; and

(b) in the case of an employer not individually liable, the commissioner shall re-imburse him out of the accident fund or reduce his assessment to such extent as he deems equitable.

(2) Die kommissaris of die werkewer indiwidueel aanspreeklik, na gelang van die geval, moet die redelike onkoste (soos deur die kommissaris vasgestel) deur die werkewer of enige ander persoon aangegaan ten opsigte van bedoelde vervoer betaal.

(3) 'n Werkewer wat versuim om aan die bepalings van sub-artikel (1) te voldoen is aan 'n misdryf skuldig.

77. (1) Die kommissaris of die werkewer indiwidueel aan-spreeklik, na gelang van die geval, moet, vir 'n tydperk van hoogstens een jaar vanaf die datum van die ongeval en tot 'n bedrag van hoogstens een honderd pond, die redelike onkoste deur of ten behoeve van die werksman aangegaan ten opsigte van geneeskundige behandeling betaal.

(2) Waar dit, na oordeel van die kommissaris in belang van die ongevallefonds of van die werksman is, om verdere of spesiale geneeskundige behandeling aan 'n werksman te verskaf, behalwe die waarna in sub-artikel (1) verwys word, moet die onkoste van sodanige geneeskundige behandeling betaal word deur die kommissaris of deur die werkewer indiwidueel aanspreeklik, na gelang van die geval, in die mate wat die kommissaris na goeddunke mag bepaal: Met dien verstande dat die totale bedrag ingevolge sub-artikel (1) en hierdie sub-artikel betaalbaar nie tweehonderd pond te boewe gaan nie, en die totale tydperk ten opsigte waarvan sodanige onkoste betaal moet word, nie twee jaar te boewe gaan nie.

(3) Indien die totale onkoste deur 'n werksman ten opsigte van geneeskundige behandeling aangegaan, die bedrag ingevolge hierdie Wet betaalbaar oorskry, moet die kommissaris daardie bedrag op sodanige wyse verdeel as wat hy gerade ag.

(4) Vir die doel van verdere of spesiale geneeskundige behandeling ingevolge sub-artikel (2) kan die kommissaris die werksman onder die behandeling van 'n deur hom benoemde geneesheer plaas en kan sodanige ander voorskrifte ten opsigte van die behandeling van die werksman gee as wat hy gerade ag.

(5) 'n Werkewer wat in gebreke bly om enige uitkerings te maak ten opsigte van geneeskundige behandeling wat hy ingevolge hierdie artikel moet maak is aan 'n misdryf skuldig.

78. (1) Alle geskille omtrent die noodsaaklikheid, die aard of die genoegsaamheid van geneeskundige behandeling wat ingevolge hierdie hoofstuk verleen is of moet word, word deur die kommissaris beslis.

(2) Na beraadslaging met die „Medical Association of South Africa (British Medical Association)" kan die kommissaris regulasies uitvaardig betreffende die kosteloze oorlegging aan die kommissaris, van tyd tot tyd, van rapporte deur geneeshere wat deur ongevalle beseerde werksmense behandel of omtrent hulle geraadpleeg is.

79. Vergoeding vir geneeskundige behandeling word bereken volgens die tarief wat die kommissaris van tyd tot tyd na beraadslaging met die „Medical Association of South Africa (British Medical Association)" voorskryf en geen groter bedrag dan die koste by daardie tarief vasgestel kan weens sodanige geneeskundige behandeling op die kommissaris, 'n werksman of sy werkewer verhaal word nie.

80. (1) Geen werkewer mag van 'n werksman 'n bydrae tot die koste van geneeskundige behandeling ingevolge hierdie Wet verleen of te verleen ontvang nie.

(2) 'n Werkewer wat in stryd met hierdie artikel handel is aan 'n misdryf skuldig en moet bowedien deur die kommissaris gelas word om die aldus ontvange bedrag terug te betaal. Sodanige bevel is, as dit op die in artikel *twoe-en-sestig* voorgeskrewe wyse ingedien is, uitvoerbaar soos in daardie artikel voorgeskryf. Enige bedrag wat deur die kommissaris teruggevorder is kragtens enige sodanige bevel moet deur hom aan die betrokke werksman betaal word.

81. Wanneer 'n werkewer 'n reëling tref om aan sy werksmense wat deur ongeval beseer is, geneeskundige behandeling te verleen, wat na mening van die kommissaris vir die werksmense nie minder voordeilig is nie dan die behandeling waarvoor in hierdie hoofstuk voorsiening gemaak word, kan die kommissaris daardie reëling goedkeur en tensy en totdat daar die goedkeuring ingetrek word, kan die in hierdie hoofstuk bedoelde geneeskundige behandeling deur die geneeskundige behandeling volgens daardie reëlings vervang word, en—

(a) in die geval van 'n werkewer indiwidueel aanspreeklik is hy nie verplig om geneeskundige behandeling te verleen en daarvoor te betaal nie behalwe ooreenkomsdig bedoelde reëling; en

(b) in die geval van 'n werkewer wat nie indiwidueel aanspreeklik is nie, moet die kommissaris hom soveel uit die ongevallefonds terugbetaal of sy aanslag sodanig verlaag as wat hy billik ag.

Geneeskundige onkoste.

Geskille omtrent behandeling en geneeskundige rapporte.

Geld vir geneeskundige behandeling word voorgeskryf.

Bydraes van werksmense tot koste van geneeskundige behandeling verbode.

Wanneer werkewer geneeskundige behandeling verstrek.

CHAPTER IX.

COMPENSATION FOR NATIVES.

Application of
Act to natives.

82. Except where inconsistent with this chapter all the provisions of this Act shall apply to native workmen.

Procedure where
workman is a
native.

83. (1) The Minister may, after consultation with the Minister of Native Affairs, in respect of any area or areas, by notice in the *Gazette*, appoint an officer of the Department of Native Affairs (in this chapter referred to as the officer) for the purpose of assisting in the administration of the Act in cases where the workman is a native.

(2) In any area in respect of which such officer has not been appointed, the Native Commissioner, Additional Native Commissioner or Assistant Native Commissioner, and in the absence of any such officer, the magistrate, shall perform the duties imposed upon the officer under this Act.

(3) Whenever an accident happens to a native workman involving, or likely to involve a claim to compensation or medical aid, his employer shall forthwith furnish to the officer, in writing, particulars of the accident in the manner prescribed, and it shall not be necessary for the workman to make any notification or lodge any claim for compensation in respect of such accident. Any employer who fails to comply with the requirements of this sub-section shall be guilty of an offence.

(4) The officer shall, upon receipt of the particulars of an accident to a native workman, or whenever it shall come to the notice of the officer by other means that an accident has happened to a native workman, involving, or likely to involve a claim to compensation or medical aid, make the necessary investigations and transmit all available particulars, together with the claim, if any, to the commissioner on behalf of the workman in the prescribed manner.

(5) The officer shall supply such further particulars of an accident and the injury to a native workman as the commissioner may require.

Compensation
in case of
temporary
disablement.

84. (1) The compensation payable for temporary total disablement shall, in the case of a native workman whose monthly earnings do not exceed thirteen pounds six shillings and eightpence, be periodical payments during such temporary disablement at the rate of sixty-six and two-thirds per cent. of his monthly earnings for a period not exceeding six months : Provided that—

(a) if such disablement continues after the expiration of the said period the commissioner may, in his discretion, direct the continuation of such payments during the continuance of such disablement, or during a specific period, but in either case for not more than six months ;

(b) if the disablement continues for longer than twelve months, the commissioner may, in his discretion, direct the continuation of periodical payments at the rate of fifty-five per cent. of the workman's monthly earnings during the continuance of such disablement, or during a specified period ;

(c) no compensation shall be payable—

(i) if the disablement lasts for less than seven days, or

(ii) if the disablement lasts for less than fourteen days in the case of a workman who prior to the accident was supplied by his employer with food and quarters, and who continues to receive food and quarters at the expense of his employer, to the satisfaction of the commissioner, or as part of the medical aid to which he is entitled.

(2) If in any period of two months a native workman suffers more than one accident causing disablement for a period in respect of which no compensation is payable in terms of paragraph (c) of the proviso to sub-section (1), the commissioner may, if in his opinion the dependants of the workman will otherwise suffer hardship, direct that compensation in respect of the second or subsequent accident be paid as from the date of disablement.

HOOFTUK IX.

SKADELOOSSTELLING AAN NATURELLE.

82. Tensy met hierdie hoofstuk onbestaanbaar is al die Toepassing van bepalings van hierdie Wet van toepassing op naturellewerks- Wet op naturelle. mense.

83. (1) Die Minister kan na beraadslaging met die Minister Prosedure wanneer van Naturellesake by kennisgewing in die *Staatskoerant* ten werksman 'n opsigte van enige gebied of gebiede, 'n beampete van die Department van Naturellesake (in hierdie hoofstuk die beampete genoem), aanstel teneinde behulpsaam te wees in verband met die uitvoering van hierdie Wet in gevalle waar die werksman 'n naturel is.

(2) In enige gebied ten opsigte waarvan sodanige beampete nie aangestel is nie, moet die pligte wat aan hom ingevolge hierdie Wet opgedra is uitgevoer word deur die Naturellekommissaris, Addisionele Naturellekommissaris, of Assistent-naturellekommissaris en in die afwesigheid van enige sodanige amptenaar deur die magistraat.

(3) Wanneer 'n ongeval 'n naturellewerksman oorkom, wat 'n eis om skadeloosstelling of geneeskundige behandeling meebring of waarskynlik sal meebring, moet sy werkewer onverwyld die beampete skriftelik voorsien van besonderhede van die ongeval op die voorgeskrewe wyse, en dit is nie vir die werksman nodig nie om enige kennisgewing te gee of enige eis om skadeloosstelling in te dien ten opsigte van sodanige ongeval. Enige werkewer wat in gebreke bly om aan die bepalings van hierdie sub-artikel te voldoen is aan 'n misdryf skuldig.

(4) By ontvangs van die besonderhede van 'n ongeval aan 'n naturellewerksman, of wanneer dit onder die aandag van die beampete op 'n ander wyse kom dat 'n ongeval 'n naturellewerksman oorgekom het, wat 'n eis om skadeloosstelling of geneeskundige behandeling meebring of waarskynlik sal meebring, moet die beampete die nodige ondersoek instel en alle beskikbare besonderhede tesame met die eis, indien enige, aan die kommissaris ten behoeve van die werksman op die voorgeskrewe wyse deurstuur.

(5) Die beampete moet sodanige verdere besonderhede van 'n ongeval en die besering aan 'n naturellewerksman verstrek as wat die kommissaris mag verlang.

84. (1) Die skadeloosstelling vir tydelike algehele arbeidsongeskiktheid betaalbaar in die geval van 'n naturellewerksman wie se maandelikse verdienste nie meer as dertien pond ses sjielings en agt pennies bedra nie is periodieke uitkerings gedurende sodanige tydelike arbeidsongeskiktheid teen die skaal van ses-en-sestig en twee-derde persent van sy maandelikse verdienste vir 'n tydperk nie ses maande te bove gaande nie : Met dien verstande dat—

(a) indien sodanige arbeidsongeskiktheid na afloop van die genoemde tydperk voortduur, die kommissaris na goedunke die voortsetting van sodanige uitkerings kan gelas vir die duur van sodanige arbeidsongeskiktheid, of gedurende 'n vasgestelde tydperk, maar in enige geval vir nie meer as ses maande nie ;

(b) indien die arbeidsongeskiktheid vir meer as twaalf maande voortduur, kan die kommissaris na goedunke die voortsetting van periodieke uitkerings gelas teen die skaal van vyf-en-vyftig persent van die werksman se maandelikse verdienste vir die duur van sodanige arbeidsongeskiktheid, of gedurende 'n vasgestelde tydperk ;

(c) geen skadeloosstelling betaalbaar is nie—

(i) indien die arbeidsongeskiktheid vir minder as sewe dae duur ; of

(ii) indien die arbeidsongeskiktheid vir minder as veertien dae duur in die geval van 'n werksman wat voor die ongeval deur sy werkewer van kos en huisvesting voorsien is, en wat tot bevrediging van die kommissaris op koste van sy werkewer aanhou om kos en huisvesting te ontvang, of as deel van die geneeskundige behandeling waarop hy geregtig is.

(2) Indien in enige tydperk van twee maande 'n naturellewerksman meer as een ongeval oorkom wat arbeidsongeskiktheid vir 'n tydperk ten opsigte waarvan geen skadeloosstelling betaalbaar is nie ingevolge paragraaf (c) van die voorbehoudsbepaling van sub-artikel (1) kan die kommissaris indien na sy mening die nabestaandes van die werksman andersins in nood sal verkeer, gelas dat skadeloosstelling ten opsigte van die tweede of daarop volgende ongeval vanaf die datum van die arbeidsongeskiktheid betaal word.

Compensation in respect of permanent disablement.

85. (1) The compensation payable for permanent disablement in the case of a native workman is as follows—

- (a) where the degree of disablement is one hundred per cent., a lump sum equal to thirty times the workman's monthly earnings up to twenty pounds of such earnings together with fifteen times his monthly earnings in excess of twenty pounds with a minimum compensation of one hundred and fifty pounds and a maximum of eight hundred pounds.
- (b) where the degree of disablement is under one hundred per cent. the lump sum referred to in paragraph (a) reduced proportionately to the decrease of the degree of disablement.

(2) From any compensation awarded under this section no deduction shall be made on account of any periodical payments in respect of temporary disablement made under section *thirty-eight* or *eighty-four*.

Compensation in case of death.

86. (1) Where a native workman dies as the result of an accident, and leaves dependants, such dependants shall be entitled as compensation to such lump sum as the commissioner deems equitable, according to the number of dependants and the degree of dependency, but not exceeding in the aggregate eighty per cent. of the lump sum that would have been payable to the workman for permanent total disablement.

(2) Where a native workman dies as the result of an accident, the commissioner may, in his discretion, pay out of the accident fund, or direct the employer individually liable to pay, as the case may be, the reasonable expenses of the burial of the workman, not exceeding an amount of five pounds.

(3) In this section "dependants" shall, where there are no dependants as defined in section *four*, include any person who, in the opinion of the commissioner, was totally or partially dependent upon the workman.

Medical aid.

87. (1) The commissioner or the employer individually liable, as the case may be, shall for a period not exceeding six months from the date of the accident and up to an amount not exceeding twenty-five pounds, defray the reasonable expenses in respect of medical aid necessitated by an accident to such workman.

(2) Where, in the opinion of the commissioner, it is in the interest of the accident fund or of the workman to provide further or special medical aid to such workman, in addition to or in the place of that referred to in sub-section (1), the expense of such medical aid shall be defrayed by the commissioner, or the employer individually liable, as the case may be, to an amount determined by the commissioner: Provided that, except in respect of the supply and repair of any artificial part of the body or any device necessitated by disablement, the total amount to be paid under sub-section (1) and this sub-section shall not exceed fifty pounds, and the total period in respect of which such expenses are to be defrayed shall not exceed two years.

Decision as to who is a native.

88. For the purposes of this Act the decision of the commissioner upon a question whether a workman is a native or not shall be final.

CHAPTER X.

INDUSTRIAL DISEASES.

Compensation in respect of Scheduled Industrial diseases.

89. Where it is proved to the satisfaction of the commissioner in such manner as he may determine—

- (a) that a workman is suffering from a scheduled disease and is thereby disabled for employment, or that the death of the workman was caused by such disease; and
- (b) (i) in the case of a scheduled disease other than silicosis, in respect of which an occupation is specified in the Second Schedule to this Act, that such disease was due to the nature of that occupation, at any time within twenty-four months previous to the date of such disablement or death; or
- (ii) in the case of a scheduled disease in respect of which no occupation is specified in the said Schedule, such disease was due to the nature of

85. (1) Die skadeloosstelling vir blywende arbeidsongeskiktheid betaalbaar in geval van 'n naturellewerksman is as volg—
Skadeloosstelling in geval van blywende arbeidsongeskiktheid.

- (a) wanneer die graad van arbeidsongeskiktheid honderd persent is, 'n enkele geldsom gelyk aan dertig maal die maandelikse verdienste van die werksman tot twintig pond van bedoelde verdienste, tesaam met vyftien maal sy maandelikse verdienste bo twintig pond met 'n minimum skadeloosstelling van honderd-en-vyftig pond en 'n maksimum van agt honderd pond ;
(b) wanneer die graad van arbeidsongeskiktheid minder as honderd persent is, die in paragraaf (a) bedoelde enkele geldsom in verhouding tot die mindere graad van arbeidsongeskiktheid verminder.

(2) Van enige skadeloosstelling toege wys ingevolge hierdie artikel, word geen bedrag afgerek nie weens periodieke uitkerings vir tydelike arbeidsongeskiktheid betaal ingevolge artikels *agt-en-dertig* en *vier-en-tagtig*.

86. (1) Wanneer 'n naturellewerksman as gevolg van 'n Skadeloosstelling ongeval sterf en nabestaandes nalaat, dan is daardie nabestaandes geregtig op sodanige enkele geldsom as skadeloosstelling as wat die kommissaris, met die oog op die aantal nabestaandes en die mate van afhanklikheid billik ag maar nie meer nie in die geheel as tagtig persent van die enkele geldsom, wat aan die werksman betaalbaar sou gewees het vir blywende algehele arbeidsongeskiktheid.

(2) Wanneer 'n naturellewerksman sterf as gevolg van 'n ongeval, kan die kommissaris na goedunke, uit die ongevallefonds betaal, of die werkewer indiwidueel aanspreeklik gelas om te betaal, na gelang van die geval, die redelike begrafniskoste van die werksman, tot 'n bedrag van hoogstens vyf pond.

(3) In hierdie artikel beteken „nabestaandes”, wanneer daar geen nabestaandes is soos in artikel *vier* omskryf, ook enige persoon wat, na die mening van die kommissaris, algeheel of gedeeltelik van die werksman afhanklik was.

87. (1) Die kommissaris of die werkewer indiwidueel aan-spreeklik, na gelang van die geval, moet vir 'n tydperk van behandeling. Geneeskundige hoogstens ses maande vanaf die datum van die ongeval en tot 'n bedrag van hoogstens vyf-en-twintig pond, die redelike uitgawes vergoed ten opsigte van geneeskundige behandeling genoodsaak deur 'n ongeval wat bedoelde werksman oorgekom het.

(2) Wanneer, na oordeel van die kommissaris, dit in die belang van die ongevallefonds of van die werksman is om verdere of spesiale geneeskundige behandeling te verskaf aan bedoelde werksman, behalwe of in die plek van die waarna in sub-artikel (1) verwys word, moet die onkoste van sodanige geneeskundige behandeling deur die kommissaris of die werkewer indiwidueel aanspreeklik vereffen word, na gelang van die geval, tot 'n deur die kommissaris vasgestelde bedrag : Met dien verstande dat behalwe ten opsigte van die verskaffing en herstelling van 'n kunsmatige liggaamsdeel of 'n toestel nodig gemaak deur arbeidsongeskiktheid, die totale bedrag ingevolge sub-artikel (1) en hierdie sub-artikel betaalbaar nie vyftig pond oorskry nie en die hele tydperk ten opsigte waarvan sodanige onkoste vereffen moet word nie twee jaar oorskry nie.

88. Vir die doeleindes van hierdie Wet is die beslissing van Beslissing oor wie die kommissaris oor die vraag of 'n werksman al dan nie 'n naturel is, afdoende.

HOOFTUK X.

BEDRYFSIEKTES.

89. Wanneer tot bevrediging van die kommissaris op 'n Skadeloosstelling ten opsigte van vergoedingspligtige bedryfsiektes deur hom bepaalde wyse bewys word dat—

- (a) 'n werksman aan 'n vergoedingspligtige siekte ly wat arbeidsongeskiktheid veroorsaak, of dat die dood van 'n werksman deur so 'n siekte veroorsaak is ; en
(b) (i) in die geval van 'n vergoedingspligtige siekte behalwe silikose, ten opsigte waarvan 'n werkzaamheid in die Tweede Bylae tot hierdie Wet bepaal is, dat bedoelde siekte toegeskryf moet word aan die aard van daardie werkzaamheid te eniger tyd binne die vier-en-twintig maande voor die datum van daardie arbeidsongeskiktheid of dood ; of
(ii) in die geval van 'n vergoedingspligtige siekte, ten opsigte waarvan geen werkzaamheid in bedoelde Bylae bepaal is nie, daardie siekte toegeskryf

any occupation in which the workman was employed at any time within twenty-four months previous to the date of disablement or death ; or

(iii) in the case of silicosis it was due to employment in connection with excavation work,

the workman shall be entitled to compensation as if such disablement or death had been caused by an accident, and the provisions of this Act shall, subject to the provisions of this Chapter, *mutatis mutandis* apply unless at the time of entering into the employment, the workman wilfully and falsely represented to the employer that he had not previously suffered from the disease : Provided that where the workman was not, at the date of the disablement or death, employed in the occupation to the nature of which the disease is due, the earnings of the workman shall be calculated on the basis of his earnings when he was last employed in such occupation.

Liability to pay compensation.

90. In the case of an employer individually liable compensation shall be paid by the employer who last employed the workman in the occupation to the nature of which the disease is due : Provided that if the commissioner is satisfied that the workman contracted the disease while in the employment of any previous employer or that the disease was partly attributable to such employment, he may, after due notice to that employer, direct that the compensation, or such part thereof as he deems equitable, shall be paid by such employer if he is individually liable, or out of the accident fund as the case may be.

Notice of disablement and claim for compensation.

91. (1) The commissioner may, in relation to any workman, fix a date which shall be regarded for the purposes of this chapter as the date of the commencement of the disablement of such workman, and for the purposes of this Act as the date of the accident.

(2) Notice that a workman has contracted or died of a scheduled disease, and any claim for compensation arising therefrom, shall be given or made by or on behalf of the workman to his employer and to the employer who last employed him in the occupation to which the disease is alleged to be due, and such notice or claim shall be deemed to be a notice under section *fifty* or a claim under section *fifty-four*, as the case may be.

In the case of a native workman, the particulars referred to in sub-section (3) of section *eighty-three* shall be furnished by any employer of such workman who knows or suspects that the workman is suffering from a scheduled disease, or by the employer by whom the workman was employed at the time of his death.

Presumption as to cause of disease.

92. If a workman who becomes disabled by, or dies of a scheduled disease, other than silicosis, was within twenty-four months immediately preceding the disablement or death employed in any occupation mentioned in the Schedule in respect of such disease, it shall be presumed, unless the contrary is proved, that the disease was due to such occupation.

Compensation for other than scheduled disease.

93. Nothing in this chapter shall affect the right of a workman to compensation in respect of a disease other than a scheduled disease if the contracting of that disease entitles him to compensation under any other provision of this Act.

Additions to scheduled diseases.

94. (1) After carrying out such investigation as he deems necessary the commissioner may recommend to the Minister the addition to or deletion from the second schedule of any disease or occupation.

(2) The Governor-General may, by proclamation in the *Gazette*, amend the said Schedule in accordance with any such recommendation : Provided that not less than three months before the publication of such proclamation there has been published in the *Gazette* a notice—

- (a) of the intention to publish such proclamation and of its proposed contents ; and
- (b) inviting any person who objects to the publication of such proclamation to lodge an objection thereto in writing with the commissioner.

- moet word aan die aard van enige werkzaamheid waarmee hy in diens was te eniger tyd binne vier-en-twintig maande voor die datum van die arbeidsongeskiktheid of dood ; of
(iii) in die geval van silikose dit toegeskryf moet word aan diens in verband met uitgrawingswerk,

dan is die werksman tot skadeloosstelling geregtig asof daardie arbeidsongeskiktheid of dood deur 'n ongeval veroorsaak was, en behoudens die bepalings van hierdie Hoofstuk, is die bepalings van hierdie Wet *mutatis mutandis* van toepassing, tensy die werksman by sy indienstreding opsetlik en valslik aan die werkgewer voorgegee het dat hy nooit vantevore aan die siekte gely het nie : Met dien verstande dat wanneer die werksman op die datum van die arbeidsongeskiktheid of dood nie in die werkzaamheid in diens was nie, aan die aard waarvan die siekte toegeskryf word, die verdienste van die werksman bereken moet word op grondslag van sy verdienste toe hy laas in daardie werkzaamheid in diens was.

90. In die geval van 'n werkgewer indiwidueel aanspreeklik Aanspreeklikheid moet skadeloosstelling betaal word deur die werkgewer wat vir betaling van die werksman laaste in sy diens gehad het in die werkzaamheid aan die aard waarvan die siekte toegeskryf moet word : Met dien verstande dat as die kommissaris oortuig is dat die werksman die siekte in die diens van 'n vorige werkgewer opgedoen het of dat die siekte gedeeltelik aan daardie diensverrigting toegeskryf moet word, hy, na behoorlike kennisgewing aan daardie werkgewer, kan gelas dat die skadeloosstelling of sodanige deel daarvan, as wat hy billik ag, deur bedoelde werkgewer betaal word as hy indiwidueel aanspreeklik is, of uit die ongevallefonds, na gelang van die geval.

91. (1) Die kommissaris kan met betrekking tot 'n werksman Kennisgewing van 'n datum vasstel wat vir die toepassing van hierdie Hoofstuk arbeidsongeskiktheid en eis om beskou word as die dag van aanvang van die arbeidsongeskiktheid van daardie werksman, en vir die doeleindest van hierdie Wet as die datum van die ongeval.

(2) Kennisgewing dat 'n werksman 'n vergoedingspligtige siekte opgedoen het of daaraan beswyk het, en enige eis om skadeloosstelling as gevolg daarvan, word gegee of ingestel deur of ten behoeve van die werksman aan of teen sy werkgewer of die werkgewer wat hom laaste in die werkzaamheid aan die aard waarvan die siekte toegeskryf word, in diens gehad het, en sodanige kennisgewing of eis word geag na gelang van die geval 'n kennisgewing ingevolge artikel *vyftig* of 'n eis ingevolge artikel *vier-en-vyftig* te wees.

In die geval van 'n naturellewerksman word die in sub-artikel (3) van artikel *drie-en-tagtig* bedoelde besonderhede verstrek deur enige werkgewer van bedoelde werksman wat bewus is of vermoed dat die werksman aan 'n vergoedingspligtige siekte ly, of deur die werkgewer wat die werksman ten tyde van sy afsterwe in diens gehad het.

92. Ingeval 'n werksman, wat deur 'n vergoedingspligtige siekte, behalwe silikose, arbeidsongeskik word of daaraan oorsaak van siekte beswyk, binne vier-en-twintig maande aan die arbeidsongeskiktheid of die dood onmiddellik voorafgaande in diens was in 'n werkzaamheid wat in die Bylae ten opsigte van daardie siekte genoem word, dan word vermoed tensy die teendeel bewys word, dat die siekte te wyte was aan bedoelde werkzaamheid.

93. Geen bepaling van hierdie Hoofstuk raak die reg van 'n Skadeloosstelling werksman op skadeloosstelling weens 'n anders as 'n vergoedingspligtige siekte, as die werksman deurdat hy daardie siekte opgedoen het, ingevolge enige ander bepaling van hierdie Wet op skadeloosstelling geregtig is.

94. (1) Na sodanige ondersoek as wat hy nodig ag, kan die Toevoegings tot kommissaris by die Minister aanbeveel die byvoeging by of vergoedingspligtige skrapping uit die Tweede Bylae van enige siekte of werkzaamheid.

(2) Die Gouverneur-generaal kan by proklamasie in die Staatskoerant bedoelde Bylae ooreenkomsdig so 'n aanbeveling wysig : Met dien verstande dat daar minstens drie maande voor die uitvaardiging van daardie proklamasie, in die Staatskoerant 'n kennisgewing gepubliseer is—

- (a) van die voorname om daardie proklamasie uit te vaardig en van sy voorgestelde inhoud ; en
(b) wat elkeen, wat beswaar het teen die uitvaardiging van daardie proklamasie, uitnodig om 'n beswaarskrif daarteen by die kommissaris in te dien.

CHAPTER XI.

MISCELLANEOUS.

Mutual associations.

95. (1) The Minister may, for such period and subject to such conditions as he, after consultation with the commissioner, may determine, issue a licence to carry on the business of insurance of employers against their liabilities to workmen under this Act to a mutual association which had been licensed prior to the eighteenth day of April, 1940, under the provisions of paragraph (a) of sub-section (1) of section *seventy-five* of the Workmen's Compensation Act, 1934 (Act No. 59 of 1934): Provided that the Minister may, from time to time, require that, in addition to any securities deposited under the Insurance Act, 1923 (Act No. 37 of 1923), securities considered by him to be sufficient to cover the liabilities of the mutual association under this Act be deposited with the commissioner.

(2) Subject to the provisions of sub-section (4) a security so deposited with the commissioner shall be used solely for making good the default of the association concerned in respect of any liability of an employer under this Act, and for payment of any costs lawfully incurred in connection with such making good or the enforcement of such liability.

(3) The Minister may from time to time determine the conditions upon which, the manner in which and the period within which any such security shall be made available to a person entitled to payment therefrom.

(4) When the Minister is satisfied that the whole or any portion of such security is no longer necessary and that the association concerned is not in a position to incur a liability payable therefrom, he shall cause such security, or portion thereof, to be returned to such association.

(5) When an association has deposited with the commissioner any such security and thereafter fails to meet in full any of its liabilities under this Act, or is placed in liquidation then, notwithstanding the provisions of any other law, such security shall vest in the commissioner for the purpose of the liabilities of the association under this Act.

(6) If at any time the Minister is satisfied that a mutual association has failed to comply with any of the conditions imposed by him in terms of sub-section (1), he may suspend or withdraw the licence issued to that association under the said sub-section and no appeal shall lie against his decision.

Employers to notify commissioner.

96. (1) Every employer carrying on business in the Union and not exempted under sub-section (2) shall, within fourteen days of the date of commencement of this Act, or of the date on which he commences business, whichever date is the later, in the prescribed manner furnish the commissioner with the prescribed particulars of his business, and thereafter, within the period fixed by the commissioner, with such additional particulars as the commissioner may from time to time require. Every such employer shall forthwith inform the commissioner of any change in the particulars so furnished.

(2) The Minister may, by notice in the *Gazette*, exempt from the provisions of sub-section (1), to the extent indicated in such notice, employers who have furnished particulars to a designated inspector under section *fifty-nine* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937) or under section *twenty-eight* of the Wage Act, 1937 (Act No. 44 of 1937), or employers referred to in sub-section (1) of section *seventy*.

(3) Every person not resident in the Union who, and every corporate body not registered in the Union under the law relating to companies which, carries on business in the Union and in connection therewith employs a workman shall notify the commissioner of the address of his or its chief office and of the name of his or its chief officer in the Union, and such officer shall be authorized and required to perform the duties of an employer as provided by this Act, and shall accept service of any document issued under this Act which affects such person or body.

(4) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

Employer to keep records.

97. Every employer shall in respect of all his workmen keep records of wages paid, time worked and payment made for piece-work and overtime, and of any other particulars pre-

HOOFSTUK XI.

DIVERSE.

95. (1) Die Minister kan vir sodanige tydperk en onderhewig Onderlinge aan sodanige voorskrifte as wat hy, na beraadslaging met die verenigings. kommissaris mag bepaal, 'n lisensie uitrek om besigheid te dryf in verband met die versekering van werkgewers teen hulle aanspreeklikheid teenoor werkmense ingevolge hierdie Wet, aan 'n onderlinge vereniging wat voor die agtende dag van April 1940, ingevolge die bepalings van paragraaf (a) van sub-artikel (1) van artikel *vyf-en-sewentig* van die Werkmense Skadeloosstelling Wet, 1934 (Wet No. 59 van 1934) gelisensieer was: Met dien verstande dat die Minister van tyd tot tyd kan gelas dat, benewens enige sekuriteite gedeponree ingevolge die „Verzekeringswet, 1923“ (Wet No. 37 van 1923), sekuriteite deur die kommissaris as genoegsaam geag om die aanspreeklikheid van die onderlinge vereniging ingevolge hierdie Wet te dek, by die kommissaris gedeponree word.

(2) Behoudens die bepalings van sub-artikel (4) moet enige aldus gedeponree sekuriteit gebruik word uitsluitlik vir die herstel van die versuim van die betrokke vereniging ten opsigte van enige aanspreeklikheid van 'n werkewer ingevolge hierdie Wet, en vir betaling van enige koste wettiglik aangegaan in verband met bedoelde herstelling of met die afdwing van bedoelde aanspreeklikheid.

(3) Van tyd tot tyd kan die Minister vasstel op welke voorwaardes, op watter wyse en binne watter tydperk enige sodanige sekuriteit beskikbaar gestel moet word vir 'n persoon wat op betaling daaruit geregtig is.

(4) Wanneer die Minister oortuig is dat die geheel of enige gedeelte van so 'n sekuriteit nie meer nodig is nie en dat die betrokke vereniging nie in staat is om 'n aanspreeklikheid daaruit betaalbaar op te loop nie, moet hy daardie sekuriteit of gedeelte daarvan aan bedoelde vereniging laat teruggee.

(5) Wanneer 'n vereniging sodanige sekuriteit by die kommissaris gedeponree het en daarna versuim om enige van sy aanspreeklikhede ingevolge hierdie Wet ten volle na te kom, of in likwidasië geplaas word, dan word die kommissaris, niet-teenstaande die bepalings van enige ander wet, eienaar van bedoelde sekuriteit ten einde aan die aanspreeklikhede van die vereniging ingevolge hierdie Wet te voldoen.

(6) Indien die Minister te eniger tyd oortuig is dat 'n onderlinge vereniging versuim het om aan enige deur hom kragtens sub-artikel (1) opgelegde voorskrif te voldoen, kan hy die lisensie aan daardie vereniging uitgereik ingevolge bedoelde sub-artikel opskort of intrek, en teen sy beslissing kan nie geappelleer word nie.

96. (1) Elke werkewer wat 'n besigheid in die Unie dryf, en wat nie kragtens sub-artikel (2) vrygestel is nie, moet binne veertien dae vanaf die inwerkingtreding van hierdie Wet, of die datum waarop hy besigheid begin, watter datum ook al die jongste is, die kommissaris op die voorgeskrewe wyse, van die voorgeskrewe besonderhede van sy besigheid in kennis stel en moet binne 'n deur die kommissaris bepaalde tydperk daarna sodanige addisionele besonderhede verstrek as wat die kommissaris van tyd tot tyd mag verlang. Elke sodanige werkewer moet onverwyd die kommissaris van enige verandering van die aldus verstekte besonderhede in kennis stel. Werkewer moet kommissaris in kennis stel.

(2) Die Minister kan deur kennisgiving in die *Staatskoerant*, van die bepalings van sub-artikel (1) in die mate wat in daardie kennisgiving aangedui word, werkewers vrystel, wat besonderhede aan 'n aangewese inspekteur verstrek het ingevolge artikel *nege-en-vyftig* van die Nywerheid-versoenoingswet, 1937 (Wet No. 36 van 1937), of ingevolge artikel *agt-en-twintig* van die Loonwet, 1937 (Wet No. 44 van 1937), of in sub-artikel (1) van artikel *seventig* bedoelde werkewers.

(3) Elke persoon wat nie in die Unie woonagtig is nie, en elke regspersoon wat nie ingevolge die Wet betreffende maatskappye in die Unie geregistreer is nie, en wat in die Unie besigheid dryf en 'n werksman in verband daar mee in diens neem, moet die adres van sy hoofkantoor en die naam van sy hoofamptenaar in die Unie aan die kommissaris medeel en daardie amptenaar is gemagtig en verplig om die verpligtings van 'n werkewer, soos deur hierdie Wet bepaal, na te kom en moet die diening aanneem van elke ingevolge hierdie Wet uitgegewe stuk wat daardie persoon of regspersoon aangaan.

(4) Elke persoon wat versuim om aan die bepalings van hierdie artikel te voldoen, is aan 'n misdryf skuldig.

97. Elke werkewer moet ten opsigte van al sy werkmense Werkewer moet aantekenhou van lone, werktyd en die stukwerkloon en aantekenhou. oortydloon en van alle ander voorgeskrewe besonderhede, en hy

scribed and he shall at all reasonable times produce such records, on demand, to any person authorized under section *seventeen* for his inspection. An employer who fails to comply with any provision of this sub-section shall be guilty of an offence.

Threats and compulsion.

98. Any person who, by threats or in any other manner whatever, compels or attempts to compel any workman to do or to omit to do any act the doing or omission of which deprives or is intended to deprive him of any right to compensation shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months, or to both such fine and such imprisonment.

Priority of assessment and compensation.

99. (1) The amount of any assessment, penalty or other payment due to the commissioner or compensation due in respect of any workman by an employer—

(a) at the date of the sequestration or assignment of the employer's estate under the law relating to insolvency ; or

(b) at the date of the commencement of the winding up under the law relating to companies, if the employer is a company,

shall, notwithstanding anything to the contrary in any other law contained, have priority over all debts whatsoever other than debts secured by mortgage, tacit hypothec, pledge or right of retention and the expenses, costs, fees and charges referred to in the Insolvency Act, 1936 (Act No. 24 of 1936) and in the case of the winding up of a company all expenditure properly incurred in the winding up, including the remuneration of the liquidator.

(2) For the purposes of this section, "compensation" shall include medical aid, and in the case of a continuing liability include the capitalized value, as determined by the commissioner, of any pension or periodical or other payment under such liability.

Compensation not to form part of deceased workman's estate.

100. Compensation under this Act in respect of the death of a workman shall not form part of his estate.

Certain documents exempt from stamp duty.

101. Notwithstanding anything to the contrary in any law in force relating to stamp duty, any affidavit, certificate, receipt or other document required or issued under any provision of this Act shall be exempt from stamp duty.

Compensation may not be assigned, charged, attached or set-off.

102. Compensation shall not—
(a) be capable of being assigned or charged ;
(b) be attached by the order of any court ;
(c) be set off against any debt due by the person entitled to such compensation.

Insurance companies licensed under Act No. 59 of 1934 to furnish information.

103. (1) Every insurance company and every mutual association licensed under sub-section (1) of section *seventy-five* of the Workmen's Compensation Act, 1934 (Act No. 59 of 1934) shall, notwithstanding the repeal of the said Act, from time to time furnish to the commissioner, in the manner prescribed and on or before a specified date, the prescribed particulars in regard to the employers insured with them immediately prior to the date of commencement of this Act, the premiums paid by such employers, and such other matters as may be prescribed.

(2) Failure to comply with the provisions of this section shall constitute an offence.

Evidence.

104. (1) Every record of a decision or award made by the commissioner and every copy of or extract from an entry in any book or record kept by the commissioner, and of any document filed with the commissioner, purporting to be certified by the commissioner to be a true copy or extract, shall upon production be received in any court as *prima facie* evidence of the matters so certified without proof of the commissioner's signature.

(2) In any proceedings under this Act, an affidavit purporting to be made by the commissioner, or by a person authorized under sub-section (1) of section *seventeen* in respect of any matter investigated by him in terms of such authorization, in which it is stated—

(a) that any person or body of persons is an employer, principal, contractor, workman or dependant under this Act ; or

(b) that any person is or has been lawfully required under this Act to pay any amount to the commissioner, or to a workman or other person named in the affidavit ; or

moet daardie aantekenings te alle redelike tye op versoek aan enige ingevolge artikel *seventien* gemagtigde persoon ter insage voorlê. 'n Werkewer wat versuim om aan enige bepaling van hierdie sub-artikel te voldoen is aan 'n misdryf skuldig.

98. Iemand wat 'n werksman deur dreigemente of op enige ander wyse hoegenaamd dwing of probeer dwing om 'n handeling te verrig of te versuim as die verrigting of versuim daarvan vir die werksman die verlies van 'n reg op skadeloosstelling ten gevolge het of beoog, is aan 'n misdryf skuldig, en na skuldigbevinding strafbaar met 'n boete van hoogstens honderd pond, of by wanbetaling, met gevangenisstraf van hoogstens ses maande met of sonder harde arbeid, of met beide sodanige boete en sodanige gevangenisstraf.

99. (1) Die bedrag van 'n aanslag, pene of ander aan die kommissaris verskuldigde betaling of die skadeloosstelling wat deur 'n werkewer ten opsigte van 'n werksman verskuldig is—

- (a) op die datum van die sekwestrasie of afstand van die werkewer se boedel ingevolge die wet op insolvensie; of
- (b) op die datum wanneer begin word met likwidasie ingevolge die wet op maatskappye, as die werkewer 'n maatskappy is,

het, ondanks enige daarmee strydige bepaling van 'n ander wet, voorrang bo alle skulde hoegenaamd, behalwe skulde wat deur spesiale verband, regshipoteek, pand of retensiereg gewaarborg is en die uitgawe, koste, fooie en aansprake bedoel in die Insolvensiewet, 1936 (Wet No. 24 van 1936), en, in die geval van likwidasie van 'n maatskappy, die uitgawes behoorlik beloop in verband met die likwidasie, met inbegrip van besoldiging van die likwidateur.

(2) Vir die doeleinades van hierdie artikel sluit „skadeloosstelling“ geneeskundige behandeling in, en in geval van voortdurende aanspreeklikheid die gekapitaliseerde waarde soos deur die kommissaris vasgestel van enige pensioen of periodieke of ander uitkering ingevolge daardie aanspreeklikheid.

100. Skadeloosstelling ingevolge hierdie Wet, weens die dood van 'n werksman maak nie deel van sy boedel uit nie.

Skadeloosstelling maak nie deel van afgestorwe werksman se boedel uit nie.

101. Ondanks enige teenstrydige bepaling van 'n bestaande wet op seëlsregte, is elke beëdigde verklaring, sertifikaat, kwitansie of ander stuk wat ingevolge 'n bepaling van hierdie Wet vereis of uitgereik word, van seëlsregte vrygestel.

102. Skadeloosstelling kan nie—

- (a) afgestaan of verpand word nie;
- (b) op bevel van 'n gereghof in beslag geneem word nie;
- (c) in vergelyking gebring word nie met 'n skuld van die persoon wat op die skadeloosstelling geregty is.

Skadeloosstelling kan nie afgestaan, verpand, in beslag geneem of in skuld vergelyking gebring word nie.

103. (1) Elke versekeringsmaatskappy en elke onderlinge vereniging gelisensieer ingevolge sub-artikel (1) van artikel *vyf-en-sewentig* van die Werksmense Skadeloosstelling Wet, 1934 (Wet No. 59 van 1934), moet, nieteenstaande die herroeping van daardie Wet, van tyd tot tyd aan die kommissaris, verstrek op die voorgeskrewe wyse en op of voor 'n bepaalde datum, die voorgeskrewe besonderhede met betrekking tot die werkewers wat by hulle verseker is onmiddellik voor die inwerkingtreding van hierdie Wet, die premies wat deur bedoelde werkewers betaal word, en sodanige ander sake as wat voorgeskryf mag word.

(2) Versuim om aan die vereistes van hierdie artikel te voldoen is 'n misdryf.

104. (1) Elke aantekening van 'n deur die kommissaris gemaakte beslissing of toewysing en elke afskrif van of uittreksel uit 'n aantekening in 'n boek of stuk deur die kommissaris gehou en van 'n by die kommissaris ingediende stuk, wat voorgee deur die kommissaris as 'n juiste afskrif of uittreksel gesertifiseer te wees, word by voorlegging in 'n hof as *prima facie* getuenis van die aldus gesertifiseerde feite aangeneem, sonder bewys van die kommissaris se handtekening.

(2) In enige verrigtings ingevolge hierdie Wet, is 'n beëdigde verklaring wat voorgegee word as deur die kommissaris gemaak, of deur 'n persoon kragtens sub-artikel (1) van artikel *seventien* gemagtig, ten opsigte van enige saak deur hom ingevolge sodanige magtiging ondersoek, waarin dit vermeld word—

- (a) dat 'n persoon of groep persone 'n werkewer, lasewer, aannemer, werksman of nabestaande ingevolge hierdie Wet is; of
- (b) dat 'n persoon wettiglik ingevolge hierdie Wet verplig is of was om enige bedrag aan die kommissaris of aan 'n werksman of ander in die beëdigde verklaring gemelde persoon te betaal; of

- (c) that any amount referred to in paragraph (b), or any portion thereof had or had not been paid on a date specified in the affidavit,

shall on its mere production in those proceedings by any persons, but subject to the provisions of sub-section (3) be *prima facie* proof of the facts stated therein.

(3) The person presiding over the proceedings in which any document referred to in sub-section (1) or affidavit referred to in sub-section (2) is adduced in evidence, may cause the commissioner or the person making the affidavit as the case may be to be subpoenaed to give oral evidence, or may cause written interrogatories to be submitted to him for reply and such interrogatories and any reply on oath purporting to be a reply from such person shall in like manner be admissible as evidence in such proceedings.

Penalties.

105. Every person who is guilty of an offence under this Act, shall, where no penalty is specially provided for such offence, be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months, or to both such fine and such imprisonment.

Reciprocal arrangements for the administration of compensation.

106. For the purpose of giving effect to any convention with a foreign State or with the Government of any member of the British Commonwealth of Nations or of any part of His Majesty's Dominions providing for reciprocity in matters relating to compensation to workmen for accidents causing disablement or death, the Governor-General may make rules by proclamation in the *Gazette* including rules—

- (a) for determining in any case where a workman is entitled to compensation both under this Act and under the law of any such country with which the convention is made, under the law of which party to the convention such workman or his dependants shall be entitled to recover compensation;
- (b) for conferring on any court, powers for the admission of evidence taken in any such country, and the procuring and taking of evidence for use in any such country or otherwise for the purpose of facilitating proceedings for the recovery of compensation under the respective laws of any such country;
- (c) whereby compensation awarded in the territory of any such country to persons resident or becoming resident in the Union, may be transferred to and administered by the commissioner, and whereby compensation awarded under this Act to persons resident or becoming resident in the territory of any such country may be transferred to and administered by a competent authority in that territory.

Regulations

107. (1) The Governor-General may make regulations as to—

- (a) the place of meeting and the procedure to be followed at any meeting of the commissioner and assessors or at any proceeding under this Act with which assessors are concerned, or at any investigation under this Act;
- (b) the procedure to be followed in connection with notices of accidents and claims for compensation and the form of, and particulars to be submitted with, such notices and claims;
- (c) the forms to be used in connection with such procedure or to be used for any other matters dealt with by this Act;
- (d) subject to the provisions of section *seventy-nine* the fees payable to medical practitioners for services rendered in connection with any matter under this Act;
- (e) the fees payable to advocates and attorneys for services rendered in connection with any matter under this Act;
- (f) the procedure to be followed in paying assessments and penalties to the commissioner;
- (g) the persons to whom, the places at which, and the method by which payments of assessments under this Act shall be made;
- (h) the form of the certificate referred to in sub-section (3) of section *thirty-seven*, the issue of copies thereof and the place and manner in which such certificates shall be exhibited;

(c) dat 'n bedrag waarna in paragraaf (b) verwys word, of 'n gedeelte daarvan op die in die beëdigde verklaring gemelde datum betaal of nie betaal is nie ; op die blote vertoning in daardie verrigtings deur enige persoon, maar onderhewig aan die bepalings van sub-artikel (3) *prima facie* bewys van die daarin vermelde feite.

(3) Die persoon presiderende oor die verrigtings waarin 'n in sub-artikel (1) bedoelde stuk of 'n beëdigde verklaring, waarna in sub-artikel (2) verwys word, as bewys aangevoer word, kan die kommissaris of die persoon wat die beëdigde verklaring maak, na gelang van die geval, laat dagvaar om mondelings getuenis af te lê of skriftelike ondervraging aan hom laat stuur vir beantwoording en bedoelde ondervraging en enige antwoord onder eed wat voorgee te wees 'n antwoord van sodanige persoon is op gelyke wyse toelaatbaar as getuenis in sodanige verrigtings.

105. Elke persoon wat aan 'n misdryf ingevolge hierdie Wet Strawwe. skuldig is, is as daar geen besonder straf op daardie misdryf gestel is nie, by skuldigbevinding strafbaar met 'n boete van hoogstens vyftig pond of by wanbetaling met gevangenisstraf van hoogstens drie maande met of sonder harde-arbeid, of met beide daardie boete en daardie gevangenisstraf.

106. Ten einde uitvoering te gee aan enige konvensie met 'n vreemde Staat of met die Regering van enige lid van die Britse Gemenebes of enige deel van Sy Majesteit se Dominiums wat voorsiening maak vir resiprositeit in sake betreffende skadeloosstelling aan werksmense vir ongevalle wat arbeidsongeskiktheid of dood veroorsaak kan die Goewerneur-generaal by proklamasie in die *Staatskoerant*, reëls neerlê, insluitende reëls :

- (a) om in 'n geval waar 'n werksman geregtig is op skadeloosstelling beide kragtens hierdie Wet en kragtens die regsbepalings van so 'n land met wie die konvensie aangegaan is te bepaal kragtens die wet van watter party tot die konvensie, daardie werksman of sy nabestaandes geregtig is om skadeloosstelling te verhaal ;
- (b) om aan enige hof mag te verleen om getuenis toe te laat wat in so 'n land afgeneem is, en om getuenis te verkry en af te neem vir gebruik in so 'n land of andersins ter vergemakliking van verrigtings vir die verhaal van skadeloosstelling kragtens die onderskeidelike regsbepalings van so 'n land ;
- (c) waarby skadeloosstelling wat toegeken is in die gebied van so 'n land aan persone wat in die Unie woonagtig is of word, oorgedra kan word aan en beheer word deur die kommissaris, en waardeur skadeloosstelling wat kragtens hierdie Wet toegeken is aan persone wat in die gebied van so 'n land woonagtig is of word, oorgedra kan word aan en beheer word deur 'n bevoegde gesag in daardie gebied.

107. (1) Die Goewerneur-generaal kan regulasies uitvaardig Regulasies. in verband met—

- (a) die plek van vergadering en die prosedure wat gevolg moet word op enige vergadering van die kommissaris en assessore of by enige verrigtings ingevolge hierdie Wet waarmee die assessore te doen het, of by enige ondersoek ingevolge hierdie Wet ;
- (b) die prosedure wat gevolg moet word in verband met kennisgewings van ongevalle en eise om skadeloosstelling en die vorm van, en besonderhede wat tesame met sodanige kennisgewings of eise ingedien moet word ;
- (c) die vorms wat in verband met sodanige prosedure gebruik moet word of wat in verband met enige ander saak, deur hierdie Wet behandel, gebruik moet word ;
- (d) behoudens die bepalings van artikel *nege-en-sewentig* die gelde betaalbaar aan geneeshere ten opsigte van dienste gelewer ten opsigte van enige saak ingevolge hierdie Wet ;
- (e) die gelde betaalbaar aan advokate en prokureurs vir dienste gelewer ten opsigte van enige saak ingevolge hierdie Wet ;
- (f) die prosedure wat gevolg moet word by die betaling van aanslae en penes aan die kommissaris ;
- (g) die persone aan wie, die plekke waar, en die wyse waarop betalings van aanslae ingevolge hierdie Wet gemaak moet word ;
- (h) die vorm van die in sub-artikel (3) van artikel *sewe-en-dertig* bedoelde sertifikaat, die uitreiking van afskrifte daarvan, en die plek waar en wyse waarop sodanige sertifikate vertoon moet word ;

- (i) the disposal of moneys payable to any person (other than the commissioner) under this Act or the Workmen's Compensation Act, 1934 (Act No. 59 of 1934) and not claimed by the person entitled thereto within a prescribed period;
- (j) all other matters which by this Act are required or permitted to be prescribed.

(2) Different regulations may be made under sub-section (1) in respect of different classes of employers and workmen and of different areas, and in making such regulations the Governor-General may apply such method of discrimination or differentiation as he may deem advisable.

(3) Any regulations made under sub-section (1) may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of fifty pounds or imprisonment for a period of six months, with or without hard labour.

Amendment of section 74bis of Act 24 of 1925.

108. Paragraph (b) of section *seventy-four bis* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925) as inserted by section *seven* of the Railways and Harbours Amendment Act, 1938 (Act No. 18 of 1938), is hereby amended by the deletion of the words "or the Workmen's Compensation Act, 1934."

Repeal of laws.

109. The Workmen's Compensation Act, 1934 (Act No. 59 of 1934) and the Workmen's Compensation Amendment Act, 1936 (Act No. 38 of 1936) are hereby repealed with effect from the fixed date: Provided that any claim for compensation under those Acts, in respect of an accident which happened or a scheduled disease which was contracted prior to the fixed date shall, save in so far as hereinbefore is otherwise provided, be dealt with thereunder as if this Act had not been passed.

Short title.

110. This Act shall be called the Workmen's Compensation Act, 1941, and shall commence on a date to be fixed by the Governor-General by proclamation in the *Gazette*: Provided that the provisions of this Act relating to the right to compensation shall not come into operation until a date to be fixed in like manner.

First Schedule.

Injury.	Percentage of Disablement.
Loss of two limbs	..
Loss of both hands, or of all fingers and both thumbs	..
Total loss of sight	..
Total paralysis	..
Injuries resulting in being permanently bedridden	..
Any other injury causing permanent total disablement	..
Loss of arm at shoulder	60
Loss of arm between elbow and shoulder	50
Loss of arm at elbow	47½
Loss of arm between wrist and elbow	45
Loss of hand at wrist	42½
Loss of four fingers and thumb of one hand	42½
Loss of four fingers	35
Loss of thumb—both phalanges	25
one phalanx	10
Loss of index finger—three phalanges	10
two phalanges	8
one phalanx	4
Loss of middle finger—three phalanges	6
two phalanges	4
one phalanx	2
Loss of ring finger—three phalanges	5
two phalanges	4
one phalanx	2
Loss of little finger—three phalanges	4
two phalanges	3
one phalanx	2
Loss of metacarpals—first or second (additional)	3
third, fourth or fifth (additional)	2
Loss of leg—at hip	70
between knee and hip	40 to 70
below knee	30 to 42½
Loss of toes—all	15
great, both phalanges	5
great, one phalanx	2
other than great, if more than one toe lost each	1
Eye : loss of—*whole eye	30
*sight of	30
*sight of, except perception of light	30
lens of	20
Loss of hearing—both ears	50
one ear	7

- (i) die beskikking oor geld ingevolge hierdie Wet of die Werkmense Skadeloosstelling Wet, 1934 (Wet No. 59 van 1934) aan iemand anders as die kommissaris betaalbaar, wat nie binne 'n voorgeskrewe tydperk deur die daartoe geregtigde persoon opgëis word nie ;
(j) alle ander sake wat deur hierdie Wet voorgeskryf moet word of toegelaat word om voorgeskryf te word.

(2) Verskillende regulasies kan ingevolge sub-artikel (1) ten opsigte van verskillende klasse van werkgewers en werkmense en van verskillende gebiede gemaak word, en by die maak van sodanige regulasies kan die Goewerneur-generaal sodanige wyse van diskriminasie en onderskeiding gebruik as wat hy raadsaam ag.

(3) Enige regulasie kragtens sub-artikel (1) uitgevaardig kan strafbepalings voorskryf vir enige oortreding daarvan of versuum om daaraan te voldoen van 'n boete van hoogstens vyftig pond of gevangenisstraf van hoogstens ses maande met of sonder harde arbeid.

108. Paragraaf (b) van artikel *vier-en-sewentig bis* van die Wysiging van „Spoorwegen en Havens Superannuatie Fonds Wet, 1925“ artikel 74bis van (Wet No. 24 van 1925) soos ingevoeg deur artikel *sewe* van die Wysigingswet op die Wette op Spoorweë en Hawens, 1938 (Wet No. 18 van 1938), word hiermee gewysig deur die woorde „of de Werksmense Skadeloosstelling Wet, 1934“ te skrap.

109. Die Werksmense Skadeloosstelling Wet, 1934 (Wet No. 59 van 1934), en die Werksmense Skadeloosstelling Wysigingswet, 1936 (Wet No. 38 van 1936), word hiermee herroep met ingang van die vasgestelde datum: Met dien verstande dat enige eis om skadeloosstelling ingevolge daardie wette ten opsigte van 'n ongeval wat gebeur het of ten opsigte van 'n vergoedingspligtige siekte wat voor die vasgestelde datum opgedoen is, daaronder behandel word asof hierdie Wet nie uitgevaardig was nie, behalwe vir so ver hierintevore anders bepaal word.

110. Hierdie Wet heet die Ongevallewet, 1941, en tree Kort titel in werking op 'n datum deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* vasgestel te word: Met dien verstande dat die bepalings van hierdie Wet met betrekking tot die reg op skadeloosstelling nie in werking tree tot 'n datum op dieselfde wyse vasgestel nie.

Eerste Bylae.

Besering.		Percentasie van Arbeids- ongeskiktheid.
Verlies van twee ledemate	..	
Verlies van albei hande of alle vingers en albei duime	..	
Algehele blindheid	..	
Algehele verlamming	..	
Besering as gevolg waarvan die werksman blywend bedleend word	..	100
Enige ander besering wat blywende algemene arbeidsongeskiktheid veroorsaak	..	
Verlies van <i>arm</i> by die skouer	..	60
Verlies van <i>arm</i> tussen elmboog en skouer	..	50
Verlies van <i>arm</i> by die elmboog	..	47½
Verlies van <i>arm</i> tussen pols en elmboog	..	45
Verlies van <i>hand</i> by die pols	..	42½
Verlies van vier <i>vingers</i> en een <i>duim</i>	..	42½
Verlies van vier <i>vingers</i>	..	35
Verlies van <i>duim</i> —albei litte een lit	..	25
Verlies van <i>voorvinger</i> —drie litte twee litte een lit	..	10
Verlies van <i>middelvinger</i> —drie litte twee litte een lit	..	6
Verlies van <i>ringvinger</i> —drie litte twee litte een lit	..	4
Verlies van <i>pinkie</i> —drie litte twee litte een lit	..	2
Verlies van <i>handwortelbeen</i> —eerste of tweede (verdere) derde, vierde of vyfde (verdere)	..	3
Verlies van <i>been</i> —by die heup tussen knie en heup onder knie	..	70 40 tot 70 30 tot 42½
Verlies van <i>tone</i> —almal groottoon, albei litte groottoon, een lit ander tone, as meer as een toon verloor is, elkeen	..	15 5 2 1
Oog : verlies van hele-oog*	..	30
siensvermoë*	..	30
siensvermoë, behalwe onderskeidning van lig*	..	30
lens	..	20
Verlies van <i>gehoor</i> —albei ore een oor	..	50 7

Total permanent loss of use of member shall be treated as loss of member.

An injury to the left arm or hand and in the case of a left-handed workman, to the right arm or hand may in the discretion of the commissioner be rated at ninety per cent. of the above percentage.

Where there are two or more injuries the sum of the percentages for such injuries may be increased, in the discretion of the commissioner.

* See proviso to paragraph (d) of sub-section (1) of section *thirty-nine*.

Second Schedule.

Description of Disease.	Description of Occupation.
Ankylostomiasis (Hookworm) in workmen other than Asiatics or Natives.	Mining carried on underground.
Anthrax	The handling of wool, hair, bristles, hides and skins.
Arsenical poisoning	Any work involving the use of arsenic or its preparations or compounds.
Benzine, poisoning by	Any work involving the use of benzine.
Cyanide rash	The handling of cyanide or any work involving the use of cyanide.
Dermatitis due to dust, liquids or other external agents present in the specific process or processes of the workman's occupation.	
Halogen derivatives of Hydrocarbons, poisoning by the.	Any work involving the manufacture or use of or contact with the halogen derivatives of hydrocarbons.
Lead poisoning or its sequelae	The handling of lead or its preparations or compounds or any work involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelae	Any work involving the use of mercury or its preparations or compounds.
Pathological manifestations due to radium or X-rays.	Any work involving the use of radium or X-rays.
Phosphorus poisoning	Any work involving the use of phosphorus or its preparations or compounds.
Silicosis	Excavation work.

Algehele blywende verlies van die gebruik van 'n ledemaat moet beskou word as verlies van die ledemaat.

Besering aan die linkerarm of hand en, in die geval van 'n werksman wat links is, aan die regterarm of hand kan na goeddunke van die kommissaris bereken word op negentig persent van bestaande persentasie.

Wanneer daar twee of meer beserings is, kan die totaalbedrag van die persentasies vir daardie beserings na goeddunke van die kommissaris verhoog word.

*Sien voorbehoudsbepaling tot paragraaf (d) van sub-artikel (1) van artikel *nege-en-dertig*.

Tweede Bylae.

Beskrywing van Siekte.	Beskrywing van Werksaamheid.
Haakwurmsiekte ingeval van werksmense behalwe Asiatis of Naturelle.	Mynwerk ondergrond voortgesit.
Miltsiekte	Hantering van wol, haar, borselhaar, huide en velle.
Arseenvergiftiging	Enige werk waarby die gebruik van arseen of die preparate of bestanddele daarvan inbegrepe is.
Bensien, vergiftiging deur	Enige werk waarby die gebruik van bensien inbegrepe is.
Sianieduitslag	Die hantering van sianied of enige werk waarby die gebruik van sianied inbegrepe is.
Huidontsteking te wyte aan stof, vloeistof of ander uitwendige middels wat in die bepaalde proses of prosesse van die werksaamheid van die werksman aanwesig is.	—
Afgeleide halogenen van hidrokoolstowwe, vergiftiging deur die.	Enige werk waarby die vervaardiging of gebruik van of aanraking met afgeleide halogenen of hidrokoolstowwe inbegrepe is.
Loodvergiftiging of die gevolge daarvan.	Die hantering van lood of die preparate daarvan of samestellings of enige werk waarby die gebruik van lood of die preparate of samestellings daarvan inbegrepe is.
Kwikvergiftiging of die gevolge daarvan.	Enige werk waarby die gebruik van kwik of die preparate of samestellings daarvan inbegrepe is.
Patologiese openbarings aan radium of X-strale te wyte.	Enige werk waarby die gebruik van radium of X-strale inbegrepe is.
Fosforvergiftiging	Enige werk waarby die gebruik van fosfor of die preparate of samestellings daarvan inbegrepe is.
Silikose	Uitdrawingswerk.