CHAPTER 269
THE INDUSTRIAL AND LABOUR RELATIONS ACT

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CHAPTER 269

INDUSTRIAL AND LABOUR RELATIONS

An Act to revise the law relating to the formation of trade unions and employers' representative organisations, including the formation of federations of trade unions and federations of employers organisations, recognition and collective agreements, settlement of disputes, strikes, lockouts, essential services and the Tripartite Labour Consultative Council; the Industrial Relations Court; to repeal and replace the Industrial Relations Act, 1990; and to provide for matters connected with or incidental to the foregoing.

[30th April, 1993]

PART I
PRELIMINARY

1. This Act may be cited as the Industrial and Labour Relations (Amendment) Act, 1997, and shall be read as one with the Industrial and Labour Relations Act, in this Act referred to as the principal Act.

2. (1) Subject to subsection (2), this Act shall not apply to-

(a) the Zambia Defence Force;
(b) the Zambia Police Force;
(c) the Zambia Prison Service;
(d) the Zambia Security Intelligence Service; and

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(e) Judges, registrars of the court, magistrates and local court justices.

(2) The Minister may, after consultation with the Tripartite Consultative Labour Council, by statutory instrument, and subject to such conditions as he may prescribe, exempt any person or class of persons or any trade, industry or undertaking from all or any of the provisions of this Act, or any regulation or order made, or any direction given, in pursuance of this Act.

(3) The Companies Act, the Societies Act and the Co-operatives Societies Act shall not apply to any trade union or association.

(4) Any organisation which is intended to carry out activities of a trade union or an employers' association shall be registered only under this Act and any registration under the Companies Act, the Societies Act and the Co-operative Societies Act shall be void.

3. (1) In this Act, unless the context otherwise requires-

"bargaining unit" means-

(a) the management of the undertaking and the trade union representing employees in such undertaking where collective bargaining is at the level of an undertaking, other than an industry; and

(b) the negotiating team representing the employers' organisation and the negotiating team representing the trade union in the industry concerned where collective bargaining is at level of an industry;

"Chairman" means the person appointed Chairman of the Court under section eighty-six;

"collective agreement" means an agreement negotiated by an appropriate bargaining unit in which the terms and conditions affecting the employment and remuneration of employees are laid down;

"collective bargaining" means the carrying on of negotiations by an appropriate bargaining unit for the purpose of concluding a collective agreement;

"collective dispute" shall be construed in accordance with section seventy-five;

"Commissioner" means the Labour Commissioner;
"Congress" means the Zambia Congress of Trade Unions continued under section twenty-eight;

"Court" means the Industrial Relations Court established under section eighty-four;

"deadlock" means a situation arising out of a collective dispute where the parties to the dispute have exhausted the procedure, whether formal or otherwise, mutually agreed to by the parties for the settlement of the dispute, where conciliation in terms of section seventy-eight has proved unsuccessful, and where either or both parties are of the opinion that further negotiations are unlikely to lead to the settlement of the dispute;

"Deputy Chairman" means the person appointed Deputy Chairman of the Court under section eighty-six;

"eligible employee" means a unionisable employee other than a member of the management of an undertaking;

"employee" means any person who has entered into, or works under, a contract of employment with an employer whether such contract is express or implied, oral or written, or serving a probationary period of employment, a casual employee, an employee specifically engaged on a temporary basis for work of an intermittent or seasonal nature;

"employer" means any person who, or body of persons, firm, company, corporation or public authority which, has entered into a contract to employ any person and includes any agent, representative or manager of such person, body of persons, firm, corporation, company or public authority who is placed in authority over the persons employed;

"employers' organisations"-

(a) means any group of employers registered under this Act whose principal objectives are the representation and promotion of employers' interest and the regulation of relations between employers and employees or between employers and trade unions; and

(b) includes a federation of employers organisation;

"essential service" shall be construed in accordance with section one hundred and seven;

"executive board" means the duly elected executive committee of a representative body;

"executive officer" means a person elected or appointed by a representative body to be responsible for the day to day administration, management and organisation of that representative body;

"Federation" means the Zambia Federation of Employers continued under section fifty-five;

"federations of employers' organisations" means any organisation
whose membership consists wholly mainly of-

(a) registered employers organisations which are affiliated to the organisation; or

(b) individual employers who are not members of any employers' organisation and whose principal objectives include the regulation of relations between employers affiliated to the federation of employers' organisations and trade unions and federations of trade unions;

"federation of trade unions" means an organisation whose membership consists of registered trade unions affiliated to such federation and whose principal objectives are the promotion and regulation of relations between the trade unions affiliated to the federation or between employees, their trade unions, employers and employers' organisations;

"lock-out" means the closing down of a place of employment or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, as a result of a dispute, and done with a view of compelling those persons, or to aid another employer in compelling those persons or to aid him, to accept terms or conditions of employment or terms of conditions affecting employment;

"member" means a member of the union;

"officer of a trade union" means a duly elected or appointed office holder of a trade union including a trustee, but does not include its employees;

"officer of an employers' organisation" means a duly elected or appointed office holder of an employers' organisation, who shall not be an employee of that organisation;

"proper officer" means a labour officer as defined in section three of the Employment Act;

"recognition agreement" means an agreement described in Part VII;

"Registrar" means the person appointed Registrar of the Court under section eighty-seven;

"representative body" means a trade union, a federation of trade unions, an employers' organisation and a federation of employers organisations or any other representative body registered under this Act; and

"strike" means the cessation of work or withdrawal of labour contrary to the terms and conditions of a contract by a body of persons employed in any undertaking acting in combination; or a concerted refusal or a refusal under a common understanding of any number of persons who are so employed to continue to work or provide their labour;

"trade union"
(a) means any group or organisation of employees registered as a trade union under this Act whose principal objectives are the representation and promotion of interests of the employees and regulation of relations between employees and employers; and 
(b) includes a federation of trade unions; 
"trustee" in relation to a representative body means a person elected or appointed to the post of trustee; 
"undertaking" means any company, firm, trade, business, industry or any other kind of enterprise, any statutory board or corporation or any local or public authority or any branch or autonomous division thereof. 
(As amended by Act No. 30 of 1997)

PART II

TRADE UNIONS

4. An employee shall cease to be an eligible employee and become a member of management if the employee-
   (a) is empowered to make management decisions; 
   (b) is entrusted with personnel management and industrial relations functions; or 
   (c) reports directly to the Chief executive:

Provided that where there is a disagreement on the point when an eligible employee becomes a member of management, the matter shall be referred to the Minister for resolution, subject to appeal to the Court.

5. Notwithstanding anything to the contrary contained in any other written law and subject only to the provisions of Constitution and this Act every employee shall have the following rights:
   (a) the right to take part in the formation of a trade union; 
   (b) the right to be a member of a trade union of that employee's choice; 
   (c) the right, at any appropriate time, to take part in the activities of a trade union including any activities as, or with a view to becoming, an officer of the trade union, seeking election or accepting appointment, and if so elected or appointed, to hold office as such officer subject only
to the constitution of the trade union concerned;

(d) the right to obtain leave of absence from work in the exercise of the rights provided for in paragraph (c) and the leave applied for shall not be unreasonably withheld by the employer;

(e) the right not to be prevented, dismissed, penalised, victimised or discriminated against or deterred from exercising the rights conferred on the employee under this Act;

(f) the right of any employee not to be a member of a trade union or to be required to relinquish membership;

(g) the right not to be dismissed, victimised or prejudiced for exercising or for the anticipated exercise of any right recognised by this Act or any other law relating to employment; or for participating in any proceedings relating thereto;

(h) the right not to do work normally done by an employee who is lawfully on strike or who is locked out, unless such work constitutes an essential service, or if on request the employee voluntarily waives the right specified under this Act;

(i) the right not to be dismissed, penalised or disciplined on the grounds that the employee-

   (i) has been or is a complainant or witness or has given evidence in any proceedings, whether instituted against the employer before the Court or any other court; or
   
   (ii) is entitled to a reward, benefit or compensation against any employers, organisation or class of employers to which the employer of that employee belongs or against any other person, in consequence of a decision made by a court in favour of that employee or in favour of a trade union or class of employees to which the employee belongs.

(2) Any employee who has reasonable cause to believe that the employee's services have, or employment has, been terminated or that the employee has suffered any penalty, disadvantage or victimisation for exercising or in connection with the exercise of any rights specified under this section may-

(a) within thirty days after exhausting administrative channels available to that employee in the employing undertaking; or
(b) where administrative channels are not available, within thirty days of
that termination of services or employment, or of knowing that the
employee has suffered any penalty, disadvantage or victimisation;

may lay a complaint before the Court.

(3) The Court shall, if it finds in favour of the complainant-

(a) grant to the complainant damages or compensation for loss of
employment;

(b) make an order for re-employment or re-instatement; or

(c) make such other order as it may consider appropriate in the
circumstances.

(4) No employer or employer's organisation or any person acting on
behalf of the employer or employers' organisation shall render financial
or other assistance in any form to any trade union or any officer or
member thereof with the subject of exercising any control over, or
influence in, the activities of such trade union.

(5) Any person or employer or employers' organisation who, or which,
contravenes the provisions of subsection (4) shall be guilty of an
offence, and shall be liable upon conviction, to a fine not exceeding two
thousand seven hundred and seventy-eight penalty units and may be
prohibited from holding office in an employer's organisation for such
period as the Court may determine.

(As amended by Act No. 13 of 1994 and as repealed and replaced by Act
No. 30 of 1997))

6. Every employee shall promote, maintain and co-operate with the
management of the undertaking in which the employee is employed in
the interest of industrial peace, greater efficiency and productivity.

Obligations of employees in respect of trade union and its activities

7. (1) Every trade union shall within six months from the date of
formation, and subject to section nine, apply to the Commissioner for
registration under this Act; and.

Registration and consequences of non-registration
(2) If the Commissioner refuses to register a trade union, the Commissioner shall notify the trade union of such refusal and the trade union shall be dissolved within six months from the date of the notification.

(3) Every trade union which is not registered or dissolved, as the case may be, within the period prescribed in subsection (1) or (2), and every officer of such trade union, shall be guilty of an offence and liable, upon conviction, to a fine not exceeding four penalty units for every day that it remains unregistered or undissolved, as the case may be, after the expiration of such period, and every such officer may in addition be prohibited from holding office in any other trade union for such period as may be determined by the Court.

(As amended by Act No. 13 of 1994 and Act No. 30 of 1997)

8. (1) No trade union or officer shall perform any act in furtherance of the objects for which it has been formed unless such trade union is registered under this Act.

(2) Any trade union which, or officer who, contravenes subsection (1) shall be guilty of an offence and liable upon conviction to a fine not exceeding two hundred penalty units, and every such officer may in addition be prohibited from holding office in any other trade union for a period determined by the Court.

(As amended by Act No. 13 of 1994)

9. (1) An application to register a group of employees as a trade union shall be submitted to the Commissioner in such form as may be prescribed by the Minister.

(2) An application to register a group of employees as a trade union shall be signed by not less than fifty supporters or such lesser number as may be prescribed by the Minister and shall be accompanied by-

(a) two duly certified copies of the constitution of the proposed trade union;

(b) such other information or document as may be required by the Commissioner by notice in writing addressed and delivered to the
executive officer of the trade union within such period as may be determined by the Commissioner and specified in such notice.

(3) On being satisfied that an application for registration as a trade union has complied with the conditions of registration prescribed under this Act and that the constitution of the proposed trade union provides for matters set out in the Schedule to this Act, the Commissioner shall register the group of employees as trade union and issue the trade union with certificate of registration in the prescribed form, upon payment of the prescribed fee.

(4) A certificate of registration issued under subsection (3) unless proved to have been withdrawn or cancelled, shall be prima facie evidence that provisions of this Act relating to registration have been complied with.

(5) A group of employees shall not be registered as trade union under this section-

(a) under a name identical to, or by which, any other trade union has been registered or so nearly resembles such name as to be likely to deceive its own members or members of the public; or

(b) if it does not comply with the conditions of registration prescribed, in consultation with the Tripartite Consultative Labour Council, under this Act.

(As repealed and replaced by Act No. 30 of 1997)

10. Every trade union established by, and registered in accordance with, section six of the Industrial Relations Act, 1990, is hereby continued as if established and registered under this Act.

11. (1) The Constitution of a trade union in force immediately before the commencement of this Act shall continue in force in so far as it is not written law or until it is amended or replaced under this Act.

(2) The Constitution of every trade union registered under this Act and every amended thereof shall be registered with the Commissioner and shall be accompanied by a duly certified copy of the resolution adopting the constitution or amendment thereof signed by the executive board.
(3) The Constitution of every trade union registered under this Act—

(a) shall not be amended to the extent that the amendment becomes inconsistent with the freedom of association enshrined in the Constitution or with any other written law; and

(b) shall include provisions set out in the Schedule to this Act.

(As repealed and replaced by Act No. 30 of 1997)

12. (1) The Commissioner shall, after obtaining the approval of the Minister, cancel the certificate of registration of a trade union—

(a) at the request of the trade union which has resolved to be dissolved and an application has been made in the prescribed form;

(b) if the certificate of registration has been obtained by fraud or mistake;

(c) if the trade union has wilfully violated any of the provisions of this Act; or

(d) if the trade union is dormant.

(2) Where the Commissioner intends to cancel the certificate of registration under paragraph (b) or (c) of subsection (1), he shall, at least three months before cancelling the certificate, give notice in writing to the union and the union may make representations to the Commissioner within that period of notice.

(3) The Commissioner may, after receipt from the trade union of representations, if any, and after the expiration of the three months notice, cancel the certificate of registration and shall notify the trade union accordingly.

(4) A trade union whose registration is cancelled shall have a right of appeal to the Court in accordance with the provisions of section thirteen.
(5) A trade union whose certificate of registration has been cancelled under this section shall, from the time of such cancellation, cease to operate as a trade union and shall be dissolved unless an appeal against such cancellation is preferred under section thirteen to the Court:

Provided that in the case of any cancellation, other than cancellation made under paragraph (a) of subsection (1), in respect of which no appeal is preferred to the court, the cancellation shall not have effect until the Court confirms the cancellation.

13. (1) Any person aggrieved by any refusal of the Commissioner to register a trade union, or by any decision to register an organisation as a trade union, or by the cancellation of a certificate of registration, may appeal, to the Court not later than thirty days after the notification of such refusal, decision or cancellation, as the case may be.

(2) The Commissioner shall have the right to be heard on any appeal preferred under subsection (1).

(3) The Chairman may make rules governing such appeals, providing for the method of tendering evidence, prescribing the procedure to be followed, the fees to be paid, and notices to be given to the Commissioner.

(4) The Court, in an appeal referred to in subsection (1), may-

(a) set aside the decision of the Commissioner refusing the registration of a trade union or cancelling a certificate of registration, if it is satisfied that grounds exist which qualify or entitle such trade union to be registered, or if it is satisfied that the cancellation of the certificate of registration should not have been made; and order the Commissioner to register the trade union or order the Commissioner to restore the certificate of registration subject to such conditions, if any, as the Court may specify;

(b) dismiss the appeal; or

(c) make such other as it considers appropriate in the circumstances.

(As amended by Act No. 30 of 1997)
14. (1) Subject to subsection (5) of section nine, a trade union may, in accordance with the provisions of its constitution, change its name.

(2) Notice in writing of every change of name, signed by seven members, and countersigned by the executive officer of the executive committee of a trade union, shall be sent to the Commissioner within thirty days of the change, and the Commissioner shall register the change of name if he is satisfied that the change complies with subsection (1).

(3) No change of name shall affect any right or obligation of a trade union or of any member, and legal proceedings in respect of such right or obligation may be commenced or, if pending, continued by, or against, the trustees of the trade union or any other officer who may sue or be sued on behalf of such trade union, notwithstanding its new name.

(4) Notice in writing of every change in the address of the registered office of a trade union shall be sent to the Commissioner within thirty days of the change, and the Commissioner shall register the change of address.

(5) Failure to send a notice as required by subsection (2) or (4), as the case may be, shall render the executive officer of a trade union liable, upon conviction, to a fine not exceeding twenty penalty units for every day during which the failure continues.

(As amended by Act No. 13 of 1994 and Act No. 30 1997)

15. (1) Two or more trade unions may, in accordance with the provisions of their respective constitutions, amalgamate as one trade union and the new trade union so formed shall be registered in accordance with the provisions of this Act.

(2) Any legal proceedings in respect of any rights or obligations of a trade union which has amalgamated with another trade union may be commenced, be continued, if pending, by, or against, the trade union formed as a result of the amalgamation.
16. (1) When it is intended to dissolve a trade union voluntarily, notice of such intention, signed by the members of the executive committee of the trade union and a copy of the resolution to dissolve the trade union, shall be sent to the Commissioner with a copy to a federation of trade unions, if the trade union is affiliated to it, and the Congress may comment on the intended dissolution within fourteen days of the receipt of the notice.

(2) If the Commissioner is satisfied that the intended dissolution of a trade union is in accordance with its constitution, the Commissioner shall approve the dissolution of such trade union.

(3) The Commissioner shall notify his approval to the trade union, a federation of trade unions, if the trade union is affiliated to it.

(4) The dissolution shall become effective from the date the Commissioner approves such dissolution.

(5) Where a trade union is dissolved under subsection (2) or dissolved under subsection (5) of section twelve-

(a) the property of the trade union shall vest in the liquidator appointed by the Commissioner who shall have all the powers to recover, realise and sell such property as a trustee in bankruptcy has in relation to bankrupt's property under the Bankruptcy Act and Part V of the Bankruptcy Act relating to remuneration and costs shall, with the necessary modifications, apply to such liquidator;

(b) the liquidator shall proceed to wind up the affairs of the trade union and, after satisfying and providing for all the debts or other liabilities of the trade union, prepare a scheme for the application of its remaining assets or property for purposes likely to benefit the former members of the dissolved trade union; or distribute the assets or property or the proceeds among its former members, as the Commissioner may determine.

(6) No action or other proceedings shall lie or be instituted against the liquidator in respect of anything done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.
(As amended by Act No. 30 of 1997)

17. (1) From the commencement of this Act-

(a) a trade union with a valid certificate of registration issued before the commencement of this Act and which was affiliated to the Congress before the commencement of this Act, shall, subject to paragraph (b) continue to be affiliated to it;

(b) a trade union affiliated to the Congress before the commencement of this Act may, in accordance with the provisions of its constitution, cease to be affiliated to the Congress;

(c) a trade union registered under this Act may, in accordance with its constitution, be affiliated to a federation of trade unions of its choice;

(d) two or more registered trade unions which have ceased, in accordance with their constitutions, to be affiliated to the congress, or which were not affiliated to the Congress or a federation of trade unions may, in accordance with their constitutions, establish or form a federation of trade unions of their choice and shall register the federation under this Act; and

(e) a registered trade union affiliated to a federation of trade unions shall have rights and privileges specified in the constitution of that federation of trade unions.

(2) Every registered trade union shall, upon request, supply a copy of its current constitution to every person who becomes a member of that trade union.

(3) Any person who, with intent to mislead or defraud-

(a) gives to any member of a registered trade union or to any person intending or applying to become a member of such trade union, a copy of a constitution or any amendment to it other than the current version purporting that it is the current constitution of such trade union or current amendment to it, as the case may be; or
(b) gives to any person a copy of any constitution purporting it to be a constitution of a registered trade union when it is not registered; shall be guilty of an offence and shall be liable, upon conviction-
(i) for misleading, to a fine not exceeding four hundred penalty units; or
(ii) to a fine not exceeding eight hundred penalty units where there was an intention to defraud; and
in addition, may be prohibited from holding office in a trade union for such period as the Court may determine.
(As amended by Act No. 13 of 1994 and Act No. 30 of 1997)

18. (1) No person shall be qualified for election or appointment as an officer of a trade union if he-

Disqualification
from election or appointment as officer of trade union

(a) has not been engaged or employed for a period of twelve months or more in the trade, occupation or industry with which the trade union is directly concerned:

Provided that the trade union may, if satisfied as to the suitability of a particular candidate, allow him to stand for such election, or be appointed, notwithstanding that he has been so engaged or employed for a period of less than twelve months;

(b) having been an officer (or a member of the executive) of a trade union whose certificate of registration has been cancelled under section eleven, fails to satisfy the Commissioner that he did not contribute to the circumstances leading to such cancellation;

(c) has been convicted of an offence involving dishonesty within a period of five years preceding the election or appointment;

(d) is an undischarged bankrupt;

(e) is of unsound mind; or

(f) has been suspended, under its constitution, from holding office in the trade union and his suspension has not been revoked, or the period
for which he was suspended has not expired.

(2) An officer of a trade union shall cease to hold office if any circumstances arise which would disqualify him under subsection (1) for election as an officer.

(3) No person who is a full-time officer of a trade union shall be a full-time officer of any other trade union or of a federation of trade unions unless he resigns from his first office.

(4) The Commissioner may call for such documentation and information, as he may think necessary, from the executive committee or any officer of a trade union in order to ensure that the provisions of this section are being complied with.

(5) Any person who acts or purports to act as an officer of a trade union after being disqualified under this section to hold office in a trade union shall be guilty of an offence and liable, upon conviction, to a fine not exceeding four hundred penalty units and in addition may be prohibited from holding office in any trade union for a period determined by the Court.

(As amended by Act No. 13 of 1994 and Act No. 30 of 1997)

19. (1) Where a trade union holds an election to fill any office, the trade union shall, within thirty days of the election or appointment, notify, in writing, the Commissioner, and a federation of trade unions, if the trade union is affiliated to it, of the result of the election or appointment, as the case may be.

(2) Failure to comply with subsection (1) shall render the executive officer of the trade union guilty of an offence and liable, upon conviction, to a fine not exceeding ten penalty units for every day during which such failure continues.

(3) The name and office of every office holder and trustee of the trade union shall be exhibited in a prominent place at the registered office, and at every branch office, of the trade union.

(As amended by Act No. 13 of 1994 and Act No. of 1997)
20. (1) Any member or officer of a trade union or any officer of a federation of trade unions, if the trade union is affiliated to it, who has reasonable grounds to believe that a person who is disqualified from holding office has been elected or appointed as an officer of trade union or that there is a reasonable case against such person for the fraudulent misuse of trade union funds, may, not later than thirty days from the date of election or appointment to the office or becoming aware of the fraudulent misuse of trade union funds, apply to the Court and the Court may grant such relief or remedy as it may consider just in the circumstances.

(As amended by Act No. 30 of 1997)

21. (1) As soon as practicable, but not later than twelve months after the expiry of each financial year of the trade union, the executive officer of every trade union shall submit to the Commissioner a report concerning the financial affairs of the trade union during that financial year.

(2) The report referred to in subsection (1) shall include information on the financial affairs of the trade union and there shall be appended to it-

(a) an audited balance sheet;

(b) an audited statement of revenue and expenditure; and

(c) such other information as the Commissioner may require.

(3) An executive officer of a trade union who, without good cause, fails to comply with this section shall be guilty of an offence and liable, upon conviction, to a fine not exceeding two hundred penalty units and may be prohibited from holding office in any trade union for a period not exceeding five years.

(As amended by Act No. 13 of 1994)

22. (1) An employer may, by agreement with an eligible employee, deduct the amount of subscription prescribed by the constitution of the trade union from the wages of such eligible employee if the employee is a member of such trade union.

(2) An eligible employee may, at any time, withdraw the agreement
referred to in subsection (1), by giving three months notice, in writing, to the trade union concerned.

(As amended by Act No. 30 of 1997)

23. An employer shall, not later than fourteen days after the end of each month, remit the subscription in the manner prescribed in the agreement. Remittance of subscription

(As amended by Act No. 13 of 1994 and Act No. 30 of 1997)

24. A trade union may purchase or take on lease in the name of the trustee of the trade union any land and sell, exchange, mortgage or let the land, and no purchaser, assignee, mortgagee or tenant shall inquire whether the trustee has authority for the sale, exchange, mortgage or letting, and the receipt of the trustees shall be a valid discharge for the moneys arising therefrom. Acquisition of land by trade unions

25. All real and personal property belonging to any trade union shall vest in trustees of the trade union, for the use and benefit of the trade union and the members. Property of trade union to vest in trustees

26. The trustees of a trade union, or any other officer of the trade union, who may be authorised so to do by the constitution shall have power to bring or defend or cause to be brought or defended, any action, suit or proceedings, whether civil or criminal, as the case may be, in any court of law, concerning the property, or any right or claim to property of the trade union and shall have power in all cases concerning the real or personal property of the trade union, to sue and be sued in court, in their proper names, without other description than the title of their office. Actions by or against trustees of trade unions

27. A trustee of a trade union shall not be liable to make good any deficiency occurring in the funds of the trade union unless such deficiency occurred due to neglect or wilful default on the part of the trustee. Limitation of liability of trustees of trade unions

PART III

FEDERATION OF TRADE UNIONS
28. The Congress formed and registered before the commencement of this Act, shall continue to exist as a body corporate and shall be deemed to be registered as a federation of trade unions under this Act.

(As repealed and replaced by Act No. 30 of 1997)

Continuation of Congress as federation of trade unions

29. The provisions of section eleven shall, with necessary modification apply, to a federation of trade unions registered under this Act.

(As repealed and replaced by Act No. 30 of 1997)

Constitution of federation of trade unions

30. (1) No person shall be qualified for election or appointment as an officer of a federation of trade unions if-

(a) he has been an officer, or a member of the executive, of a trade union the certificate of registration of which has been cancelled under section twelve and he fails to satisfy the Commissioner that he did not contribute to the circumstances leading to such cancellation or dissolution;

(b) he has been convicted of an offence involving dishonesty within five years preceding the election or appointment;

(c) he is an undischarged bankrupt;

(d) he is of unsound mind;

(e) he has been suspended, under the Constitution of a federation of trade unions, from holding office in a federation of trade unions and his suspension has not been revoked, or the period for which he was suspended has not expired.

(2) An officer of a federation of trade unions shall cease to hold office if any circumstances arise which would disqualify him under subsection (1) for election as an officer.
(3) No person who is a full time officer of a federation of trade unions shall be a full time officer of any trade union.

(4) The Commissioner may call for such documentation and information, as he may think necessary, from the executive committee or any officer of a federation of trade unions to ensure that the provisions of this section are complied with.

(5) Any person disqualified under this section to hold office in a federation of trade unions who acts or purports to act as an officer of a federation of trade unions, shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in a trade union for a period determined by the Court.

(As amended by Act No. 13 of 1994 and Act No. 30 of 1997)

31. (1) Where a federation of trade unions holds an election to fill any office in a federation of trade unions or makes an appointment to any office, the executive officer of a federation of trade unions shall, within thirty days of such election or appointment, notify the Commissioner, in writing, of such appointment or of the result of such election, as the case may be.

(2) Failure to comply with subsection (1) shall render the executive officer of a federation of trade unions guilty of an offence and liable upon conviction, to a fine not exceeding ten penalty units for every day during which such failure continues.

(3) The name and office of every office holder and trustee of a federation of trade unions shall be exhibited in a prominent place, where possible, at the registered office, and at every registered office of the affiliates of a federation of trade unions.

(As amended by Act No. 13 of 1994 and Act No. 30 of 1997)

32. Any member or officer of a trade union affiliated to a federation of trade unions may apply to the Court for an injunction prohibiting an officer of a federation of trade unions from holding office or dealing with the funds of a federation of trade unions, and the Court may, if it is

Injunction against officer or a federation of trade unions
satisfied that such officer of a federation of trade unions is disqualified under section thirty from holding office in a federation of trade unions or that there is a pending case against such officer for the fraudulent misuse of the funds of a federation of trade unions, grant such application and make the necessary order.

*(As amended by Act No. 30 of 1997)*

**33.** Section twenty-one shall apply, with the necessary modifications, to a federation of trade unions and its executive officer.

*(As amended by Act No. 30 of 1997)*

**34.** (1) Notwithstanding the other provisions of this Act relating to the affiliation of trade unions to a federation of trade unions, each trade union shall maintain its separate status and shall have the right to organise itself as it considers fit in accordance with its constitution.

(2) A federation of trade unions shall have no jurisdiction over any trade union affiliated to it in any domestic management or domestic matter unless such matter has been referred to the Congress by the trade union.

(3) A trade union or a federation of trade unions may affiliate to a trade union or organisation outside Zambia by a simple majority decision of the members present and voting at a general conference of the trade union or a federation of trade unions and shall inform the Commissioner within twenty-one days of such affiliation.

(4) A trade union or a federation of trade unions may receive outside material, technical or financial assistance and shall inform the Minister of such assistance within thirty days of such receipt.

(5) Subject to the other provisions of this Act, a federation of trade unions shall have general jurisdiction over trade unions affiliated to it, on-

(a) any issue requiring adoption of a common policy position affecting the affiliated trade unions;

(b) the provision of professional and technical advisers to trade unions involved in negotiations with employers associations or
litigation; and

(c) the submission of such information, data, documentation, annual reports and financial statements as a federation of trade unions may stipulate from time to time.

(As amended by Act No. 30 of 1997)

35. (1) Where a dispute arises between two or more trade unions affiliated to the same federation of trade unions, the parties to that dispute shall refer the dispute to the federation of trade unions for resolution by reconciliation.

(2) If a federation of trade unions fails to resolve the dispute, such dispute shall be referred to it under subsection (1), the dispute shall be referred to the Commissioner for arbitration, subject to appeal to the Court.

(3) Where the dispute involves trade unions not affiliated to any federation of trade unions, or any party to that dispute is not affiliated to any federation of trade unions, either party to the dispute may refer the dispute to the Commissioner for arbitration, subject to appeal to the Court.

(As repealed and replaced by Act No. 30 of 1997)

PART IV
EMPLOYERS' ORGANISATIONS

36. (1) Every employer's organisation shall, subject to section forty, apply to the Commissioner for registration under this Act within six months from the date of its formation.

(2) If the Commissioner refuses to register an association, the association shall be dissolved within six months from the date of the notification of the refusal to register.

(3) Every officer of an employers organisation which is not registered or dissolved, as the case may be, within the period prescribed in subsection (1) or (2), shall be guilty of an offence and shall be liable, upon
conviction, to a fine not exceeding one hundred and eleven penalty units for every day that the employers' organisation remains unregistered or undissolved, as the case may be, after the expiration of such period, and in addition, every such officer may be prohibited from holding office in any employers' organisation for such period as may be determined by the Court.

(As amended by Act No. 30 of 1997)

37. (1) Subject to this Act-

(a) employers shall have the right to participate in the formation of, and to join, an association and to participate in the lawful activities of such employers' organisation;

(b) nothing contained in any law shall prohibit any employer from being or becoming a member of any employers' organisation lawfully in being or subject the employer to any penalty by reason of the employers' membership of any such employers' organisation;

(c) no person shall impede, interfere with, or coerce, an employer in the exercise of his rights under this Act;

(d) no person shall subject an employer to any form of discrimination on the ground that the employer is or is not a member of any employers' organisation;

(e) no person shall subject another person to any form of discrimination on the ground that the person holds office in an association; and

(f) no person shall impede or interfere with the lawful establishment, administration or functioning of an employers' organisation

(2) No employee shall cease or suspend doing work for his employer on the ground that the employer-

(a) is or is not a member or holds or does not hold office, in an employers' organisation;
(b) participates in the lawful activities of an employers' organisation;

(c) has appeared as a complainant or as a witness or has given evidence in any proceedings before the Court or any other court; or

(d) is or has become entitled to any advantage, award, benefit or compensation in consequence of a decision made by the Court or any other court in favour of the employer, or in favour of an employers' organisation or class or category of employers to which such employer belongs, either against such employee or against the trade union or class or category of employees to which such employee belongs or against any other person.

(3) Any person who contravenes any provisions of this section shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in a trade union for such period as the Court may determine.

(As amended by Act No. 13 of 1994 and Act No. 30 of 1997)

38. (As amended by Act No. 13 of 1994 and repealed by Act No 30 of 1997)

39. (1) No employers' organisation or any of its officers shall perform any act in furtherance of the objects for which it has been formed unless such employers' organisation is registered under this Act.

(2) Where an employers' organisation, or any of its officers, contravene subsection (1), every officer of the employers organisation shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding two hundred penalty units, and every officer may, in addition, be prohibited from holding office in any other employers organisation for such period as may be determined by the Court.

(As repealed and replaced by Act No. 30 of 1997)

40. (1) An application for registration as an employers' organisation shall be submitted to the Commissioner in such form as may be prescribed by the Minister.

(2) Every application to register as an employers' organisation shall be
submitted under subsection (1) by not less than five members of the proposed employers' organisation or such a lesser number as Commissioner may accept to form an employers' organisation and shall be accompanied by-

(a) two duly certified copies of the constitution; and

(b) such other information or documents as may be required by the commissioner by notice in writing addressed and delivered to the prospective officers of the proposed employers organisation within such period as may be determined by the Commissioner and specified in such notice.

(3) On being satisfied that the organisation applying for registration as an employers' organisation has complied with the provisions of registration under this Act and that its constitution provides for matters set out in the Schedule to this Act, the Commissioner shall register the organisation as an employers' organisation and issue the employers' organisation with a certificate of registration in prescribed form upon payment of the prescribed fee.

(4) A certificate of registration issued under subsection (3) unless provided to have been withdrawn or cancelled, shall be prima facie evidence that the provisions of this Act relating to registration of employers' organisations have been complied with.

(5) No organisation shall be registered as an employers' organisation-

(a) under a name identical to, or by which, any other employers' organisation has been registered or so nearly resembles such name as to be likely to deceive its own members or members of the public; or

(b) if it does not comply with the conditions of registration prescribed, in consultation with the Tripartite Consultative Labour Council, under this Act.

(As amended by Act No. 30 of 1997)

41. Every employers' organisation established by, and registered in accordance with, section thirty-nine of the Industrial Relations Act, 1990, is hereby continued as if established and registered under this Act.

(As amended by Act No. 30 of 1997)

42. (1) The constitution or every employers' organisation in force immediately before the commencement of this Act shall continue in

Continuation of employers' organisation Act No. 36 of 1990

Constitution of employers'
force so far as it is not inconsistent with this Act, the Constitution or any other written law or until it is replaced or amended under this Act.

(2) The constitution of every employers' organisation and every amendment thereof shall be registered with the Commissioner and shall be accompanied by a copy of the resolution adopting the constitution or amendment thereof signed by the executive board.

(3) The constitution of every employer's organisation-

(a) shall not be amended to the extent that the amendment shall be inconsistent with the freedom of association enshrined in the Constitution, or with any other written law; and

(b) shall include provisions on the matters set out in the Schedule to this Act.

(As amended by Act No. 30 of 1997)

43. (1) No person shall be qualified for election as an officer of an employers' organisation if-

(a) he, or a member of the executive, of an employers' organisation the certificate of registration of which has been cancelled under this Act, fails to satisfy the Commissioner that he did not contribute to the circumstances leading to the cancellation;

(b) he has been convicted of an offence involving dishonesty within a period of five years preceding such election;

(c) he is of unsound mind;

(d) he is an undischarged bankrupt; or

(e) he has been suspended, under this Act or the constitution of the employers' organisation, from holding office in the association and his suspension has not been revoked, or the period for which he was suspended has not expired.
(2) An officer of an employers' organisation shall cease to hold office if circumstances arise which would disqualify him under subsection (1) for election as an officer.

(3) No person who is a full-time officer of an association shall be a full-time officer of any other employers' organisation or Federation unless he resigns from his first office.

(4) The Commissioner may call for such documentation and information which he considers necessary from the executive committee or any officer of an employers' organisation to ensure that the provisions of this section are being complied with.

(5) Any person who being disqualified under this section to hold office in any employers' organisation, acts or purports to act as an officer of that employers' organisation shall be guilty of an offence and liable upon conviction, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in any association for such period as the court may determine.

(As amended by Act No. 13 of 1994 and Act No. 30 of 1997)

44. (1) Where an employers' organisation holds an election to fill any office in the employers' organisation or makes an appointment to any office, the executive officer of the employers' organisation shall, within thirty days of the election or appointment, notify the Commissioner and the Federation if the employers' organisation is affiliated to it in writing, of the result of the election, or of the appointment, as the case may be.

(2) An executive officer who fails to comply with subsection (1) shall be guilty of an offence and liable, upon conviction to a fine not exceeding ten penalty units for every day during which the failure continues.

(3) The name and office of every office holder and trustee of the association shall be exhibited in a prominent place at the registered office, and at every branch of the employers' organisation.

(As amended by Act No. 13 of 1994 and Act No. 30 of 1997)
45. Any member or officer of an employers' organisation or any officer of a federation of employers' organisations, if the employers' organisation is affiliated to it, who has reasonable grounds to believe that a person who is disqualified from holding office has been elected or appointed as an officer of an employers' organisation or that there is a reasonable case against such person for the fraudulent misuse of employers' organisation funds, may, not later than thirty days from the date of election or appointment to such an office or of becoming aware of the fraudulent misuse of funds, apply to the Court and the Court may grant such relief or remedy as it may consider just in the circumstances.

(As repealed and replaced by Act No. 30 of 1997)

46. (1) The Commissioner may, with the approval of the Minister, cancel the certificate of registration of an employers' organisation -

(a) at the request of the employers' organisation which has resolved to be dissolved and the application has been made in the prescribed form;

(b) if the certificate of registration has been obtained by fraud or mistake; or

(c) if the employers' organisation has wilfully violated any of the provisions of this Act.

(2) Where the Commissioner intends to cancel the certificate of registration of an employers' organisation under paragraphs (b) or (c) of subsection (1), he shall at least three months before cancelling the certificate, give notice to the employers' organisation concerned, specifying the grounds upon which he intends to rely for the intended cancellation.

(3) The employers' organisation referred to in subsection (2) may make representations to the Commissioner in opposition to the grounds contained in the notice.

(4) The Commissioner may, after the receipt from the employers' organisation of representations, if any, and after the expiration of the three months notice, cancel the certificate of registration and shall notify the employers' organisation accordingly.

(5) An employers' organisation whose certificate of registration is cancelled may appeal to the Court.
(6) An employers' organisation whose certificate of registration is
cancelled shall from the time of the cancellation cease to operate as an
association and shall be dissolved unless an appeal against the
cancellation is preferred:

Provided that in the case of any cancellation other than a cancellation
made under paragraphs (a) and (c) of subsection (1), in respect of which
no appeal is preferred to the Court, the cancellation shall not have effect
until it is referred to the Court for confirmation.

(As amended by Act No. 30 of 1997)

47. (1) Any person aggrieved by a refusal of the Commissioner to
register an employers' organisation, or by the cancellation of
a certificate of registration, may appeal to the Court within thirty days of
the notification of refusal, decision or cancellation, as the case may be.

Appeal from
decisions of
Commissioner

(2) The Commissioner shall be entitled to appear and to be heard on any
appeal made under subsection (1).

(3) The Chairman may make rules governing appeals, provide for the
method of tendering evidence, prescribe the procedure to be followed,
the fees to be paid, and notices to be given to the Commissioner.

(4) The Court may in an appeal referred to in subsection (1)-

(a) set aside the decision of the Commissioner refusing the registration
of an employers' organisation or cancelling a certificate of registration if
it is satisfied that grounds exist which qualify or entitle such employers'
organisation to be registered, or it is satisfied that the cancelling or the
certificate of registration should not have been made; and order the
Commissioner to register the employers' organisation or order the
Commissioner to restore the certificate of registration, subject to such
conditions, if any, as the Court may specify;

(b) dismiss the appeal; or

(c) make such other order as it may consider appropriate in the
circumstances.

(As amended by Act No. 1997)

48. (1) Subject to subsection (5) of section forty an employers'
organisation may, in accordance with the provisions of its constitution,
change its name.

Change of name or
address of
employers'
organisation
(2) Notice in writing of every change of name, signed by all the members of the executive committee of an employers' organisation shall be submitted to the Commissioner within thirty days of the change and the Commissioner shall register the change of name if he is satisfied that the change complies with subsection (1).

(3) No change of name shall affect any right or obligation of an employers' organisation or of any member of the employers' organisation, and any legal proceedings in respect of the right or obligation of the employers' organisation may be commenced or continued, if pending, by or against the trustees of the employers' organisation or any other officer who may sue or be sued on behalf of the employers' organisation, notwithstanding its new name.

(4) Notice in writing of every change in the address of the registered office of an employers' organisation shall be sent by its executive officer to the Commissioner for registration within thirty days of the change of address.

(5) Failure to send a notice as required by subsection (2) or (4), shall render the association and its executive officer liable, upon conviction, to a fine not exceeding twenty penalty units each for every day during which the failure continues.

(Amended by Act No. 13 of 1994 and Act no. 30 of 1997)

49. (1) Two or more employers' organisations may amalgamate as one employers' organisation and the new employers' organisation shall be registered in accordance with this Act.

(2) Any legal proceedings in respect of any rights or obligations of an employers' organisation which has amalgamated with another employers' organisation may be commenced or be continued, if pending, by or against the employers' organisation formed as a result of the amalgamation.

(Amended by Act No. 30 of 1997)

50. (1) Where an employers' organisation is to be dissolved voluntarily, a notice of the intention to dissolve the employers' organisation signed by all the members of the executive of the employers' organisation and an authenticated copy of the minutes and resolution passed making the decision shall be submitted to the Commissioner with a copy to the Federation of employers' organisation, if the employers' organisation is affiliated to it, which may comment on the intended dissolution within...
fourteen days of receipt of the notice.

(2) If the Commissioner is satisfied that the intended dissolution of an employers' organisation is in accordance with its constitution he may approve the dissolution of the employers' organisation and the dissolution shall be effective from the date the Commissioner accords his approval.

(3) The Commissioner shall notify his approval to the employers' organisation and the Federation of employers' organisation, if the employers' organisation is affiliated to it.

(4) Where an employers' organisation is dissolved under subsection (2) or dissolved under section forty-six-

(a) the property of the employers' organisation shall vest in the liquidator appointed by the Commissioner who shall have all the powers to recover, realise and dispose of the property as a trustee in bankruptcy has in relation to a bankrupt's property under the Bankruptcy Act and Part V of the Bankruptcy Act relating to remuneration and costs with the necessary modifications, shall apply to such liquidator;

(b) the liquidator shall wind up the affairs of the employers' organisation and, after satisfying and providing for all the debts or other liabilities, prepare a scheme for the application of its remaining assets or property for purposes likely to benefit the former members of the dissolved employers' organisation, or distribute the assets or property or the proceeds among such of its former members as the Commissioner may determine.

(5) No suit or proceeding shall be instituted against the liquidator appointed by the Commissioner for or in respect of anything done or omitted to be done by him in the performance of his functions under this Act.

(As amended by Act No. 30 of 1997)

51. (1) From the commencement of this Act-

(a) an employers' organisation with a valid certificate of registration issued before the commencement of this Act which was affiliated to the Federation before the commencement of this Act shall be subject to paragraph (b), continue to be affiliated to it.

(b) and employers' organisation affiliated to the Federation before
the commencement of this Act or affiliated to a federation of employers' organisation after commencement of this Act, may, in accordance with the provisions of its constitution, cease to be affiliated to the Federation or a federation of employers' organisation, as the case may be;

(c) an employers' organisation registered under this Act may, in accordance with its constitution, be affiliated to a federation of employers' organisations of its choice;

(d) two or more registered employers' organisation which have ceased to be affiliated to the Federation before the commencement of this Act, or which are not affiliated to any federation of employers' organisation may, in accordance with their constitution establish a federation of employers' organisations of their choice and shall register the federation under this Act; and

(e) a registered employers' organisation affiliated to a federation of employers' organisation shall have the rights and privileges specified in the constitution of that Federation of employers' organisations.

(2) Every registered employers' organisation shall, upon request, supply a copy of its constitution and every amendment thereof to every member of that employers' organisation.

(As repealed and replaced by Act No. 30 of 1997)

52. Section twenty-one shall apply, with the necessary modifications, to an employers' organisation or executive officer as it applies to a trade union and its executive officer.

(As amended by Act No. 30 of 1997)

53. Section twenty-five shall apply, with the necessary modifications, to an employers' organisation and its trustees as it applies to a trade union and its trustees.

(As amended by Act No. 30 of 1997)

54. Sections twenty-six and twenty-seven shall apply, with the necessary modifications, to an employers' organisation and its trustees as they apply to a trade union and its trustees.

(As amended by Act No. 30 of 1997)

PART V
55. The Zambia Federation of Employers formed and registered before the commencement of this Act shall continue to exist as a body corporate and shall be deemed to be registered as a federation of employers' organisation under this Act.  
*(As repealed by Act No. 30 of 1997)*

56. The provisions of section thirty-three shall with necessary modification apply to a federation of employers' organisations registered under this Act.  
*(As repealed and replaced by Act No. 30 of 1997)*

57. Section thirty-four shall apply to the relationship between the Federation of employers' organisation and employers' organisation, with the necessary modifications, as it applies to a federation of trade unions.  
*(As amended by Act No. 30 of 1997)*

58. (1) No person shall be qualified for election as an officer of the Federation of employers' organisation if-

\[(a)\] he has not, for three years or more, been an officer of an employers' organisation or engaged in a managerial capacity or in the field of personnel management or industrial relations:

Provided that the Federation of employers' organisation may, if it is satisfied as to the suitability of a particular candidate, allow him to stand for such election, notwithstanding that he does not qualify under this paragraph;

\[(b)\] he, having been an officer or a member of the executive of any employers' organisation, the registration of which has been cancelled under the provisions of this Act, fails to satisfy the Commissioner that he did not contribute to the circumstances leading to the cancellation;
(c) he has been convicted of an offence involving dishonesty within a period of five years preceding the election or appointment;

(d) he is an undischarged bankrupt;

(e) he is of unsound mind; or

(f) he has been suspended, under the Constitution of the Federation of employers' organisation, from holding office in the Federation of employers' organisation and his suspension has not been revoked, or the period for which he was suspended has not expired.

(2) An officer of the Federation of employers' organisation shall cease to hold office if any circumstances arise which would disqualify him under subsection (1) for election as an officer.

(3) The Commissioner shall, for the purpose of satisfying himself that the provisions of this section are being complied with, request for such documentation or information, as he may think necessary, from the executive officer of the Federation of employers' organisation.

(4) Any person who, being disqualified under this section from holding office in the Federation of employers' organisation, acts or purports to act as an officer of the Federation of employers' organisation shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in the Federation of employers' organisation for a period determined by the Court.

(As amended by Act No. 13 of 1994 and by Act No.30 of 1997)

59. (1) Where the Federation of employers' organisation holds an election to fill any office in the Federation of employers' organisation or makes appointment to any office, the executive officer of the Federation of employers' organisation shall, within thirty days of the election or appointment, notify the Commissioner and a federation of trade unions, in writing, of the appointment or of the result of the election, as the case may be.

(2) Any executive officer who fails to comply with subsection (1) shall
be guilty of an offence and liable upon conviction, to a fine not exceeding ten penalty units for every day during which such failure continues.

(3) The name and office of every office holder and trustee of Federation of employers' organisation shall be exhibited in a prominent place at the registered office, where possible, and at every registered office of the affiliates of Federation of employers' organisation.

(As amended by Act No. 13 of 1994 and Act No.30 of 1997)

60. Section twenty-one shall apply, with the necessary modifications, to a Federation of employers' organisation and its executive officer as it applies to a trade union and its executive officer.

(As amended by Act No. 30 of 1997)

PART VI

FUNDS OF REPRESENTATIVE BODIES

61. (1) Notwithstanding anything contained in the constitution of a representative body, the funds of the representative body, shall be expended for the lawful objects authorised under its constitution.

(2) Any member of, a representative body may apply to the Court for an order to stop such a representative body from applying its funds to objects which have not been authorised by its constitution.

(3) A representative body shall, in accordance with generally accepted accounting principles and procedures-

(a) keep books and records account of its income, expenditure, assets and liabilities;

(b) prepare annual financial statements consisting of income and expenditure and a balance sheet showing its assets, liabilities and financial position at the end of each financial year; and

(c) have its books and records of account and financial statements audited annually by a qualified auditor appointed by the representative body, which audited report shall be submitted to the Commissioner.
(4) The books and records of account of representative body shall be open to inspection by any member of that body.

(As repealed and replaced by Act No. 30 of 1997)

62. (1) Every treasurer, former treasurer or other officer of a representative body shall, at such times as the officer is required by the constitution of such representative body or upon being requested to do so, submit to the trustees or members of that representative body a true account of-

(a) all monies received and disbursed by the officer; and

(b) the balance of monies in hand.

(2) The trustees or members of a representative body shall, on receipt of the account be submitted under subsection (1), cause the account to be audited.

(3) Notwithstanding subsection (1), or the constitution of a representative body may appoint an accountant

(4) The accountant appointed under subsection (3) shall-

(a) have access to all books of account, records, returns, reports and other documents relating to the transactions of the representative body;

(b) debit the accounts of the representative body with the professional fees and expenses reasonably incurred by the accountant in the performance of duties under this section.

(As amended by Act No. 13 of 1994 and repealed and replaced by Act No. 30 of 1997)

PART VII

RECOGNITION AGREEMENTS

63. (1) Every employer employing twenty-five or more eligible employees, or such lesser number as may be prescribed by the Minister, shall register himself with the Commissioner within a period not exceeding three months from the date of coming into operation of this section or, from the date upon which this section becomes applicable to
the employer, as the case may be.

(2) The registration shall be in the manner and in the form as may be prescribed:

Provided that an employer registered under the Industrial Relations Act, 1990, shall be deemed to be registered under this Act.

(3) An employer to whom this section applies and who fails without reasonable cause or excuse, (the onus of proof shall lie on the employer), to register in accordance with this section shall be guilty of an offence and liable, upon conviction, to a fine not exceeding two hundred penalty units

(As amended by Act No. 13 of 1994)

64. (1) Not later than three months from the date of registration under section sixty-three a registered employer and a trade union, if any, to which the employees belong, shall enter into a recognition agreement.

(2) Not later than three months from the date of issue of a certificate of registration, an employers' organisation and trade union to which the employees belong, shall enter into a recognition agreement.

(3) The Minister may, for good cause, extend the period laid down in subsection (1) and (2).

(4) A recognition agreement registered under the Industrial Relations Act, 1990, shall be deemed to be registered under this Act.

(5) Where the parties referred to in subsection (1) or (2), fail to conclude a recognition agreement under this Part, the failure shall be deemed to be a collective dispute and Part IX shall apply, with the necessary modifications.

(As amended by Act No. 30 of 1997)

65. (1) Every recognition agreement shall be in writing, signed by the representatives of the parties to it and shall provide-
(a) that the employer or employers' organisation, as the case may be, has recognised the trade union as representative of, and bargaining agent for, the eligible employees represented by the trade union so recognised for the purpose of regulating relations between the employer or employers' organisation and the trade union;

(b) for the rules relating to grievances and bargaining procedures;

(c) for the methods, procedures and rules under which the agreement may be reviewed, amended, replaced or terminated.

(2) Three copies of a recognition agreement and of any alterations to the agreement shall be delivered to the Commissioner by the parties to the agreement.

(3) The Commissioner may, if satisfied that all the conditions of the recognition agreement have been met, register the agreement and shall return a copy each to the parties concerned.

(As amended by Act No.30 of 1997)

PART VIII

COLLECTIVE AGREEMENTS

66. (1) Within three months from the date registration of the recognition agreement under subsection (3) of section sixty-five, the employer or employers' organisation, as the case may be, and the trade union, shall enter into collective bargaining for the purpose of concluding and signing a collective agreement.

(2) Collective bargaining may be undertaken-

(a) at the level of an undertaking, through negotiations between the management of the undertaking and the trade union representing the eligible employees; or

(b) at the level of an industry, though negotiations between the employers' organisation and the trade union representing the eligible employees.
(3) Every valid collective agreement in force prior to the commencement of this Act shall continue in force until its expiry or replacement under this Act.

*(As repealed and replaced by Act No. 30 of 1997)*

67. **Repealed by Act No. 30 of 1997**

68. Every collective agreement shall contain clauses, in this part referred to as statutory clauses, stipulating-

(a) the date on which the agreement is to come into effect and the period for which it is to remain in force; and

(b) the methods, procedures and rules for reviewing, amending, replacing or terminating the collective agreement.

69. (1) The bargaining unit shall-

(a) commence negotiations for the purpose of concluding a new collective agreement at least three months before the date of expiry of the current collective agreement;

(b) notify the Commissioner in writing, within fifteen days after the commencement of the negotiations, of the date on which the negotiations were commenced; and

(c) conclude and sign the collective agreement within three months after the commencement of the negotiations.

(2) If the bargaining unit fails, or neglects without reasonable cause or excuse (the onus of proof shall lie on the bargaining unit) to commence negotiations or conclude the collective agreement in the manner and within the period specified in paragraphs (a) and (c) of subsection (1), or to notify the Commissioner in the manner and within the period specified in paragraph (b) of subsection (1), every member of the bargaining unit shall be liable, upon conviction, to a fine not exceeding forty penalty units and may be prohibited from holding a position in the bargaining unit for a period not exceeding three months.

*(As amended by Act No. 13 of 1994)*
70. (1) The parties to a collective agreement shall, within fourteen days of signing, lodge five signed copies of the collective agreement with the Commissioner.

(2) The Commissioner shall, within fourteen days of receipt of the copies referred to in subsection (1), submit such copies, together with his comment to the Minister.

71. (1) The Minister may, after considering a collective agreement lodged in accordance with section seventy together with the comments of the Commissioner received under subsection (2)-

(a) direct that a copy of the collective agreement be returned to the parties together with his reasons for not directing the registration and give instructions to re-submit the collective agreement to the Commissioner; or

(b) direct the Commissioner to register the collective agreement.

(2) The Minister shall not direct the registration of a collective agreement unless he is satisfied that-

(a) the agreement contains the statutory clauses referred to in section sixty-eight; and

(b) the clauses in the agreement do not contain anything which is contrary to any written law.

(3) Every collective agreement which has been approved by the Minister shall-

(a) come into force on the date on which it is approved or on a later date specified in the collective agreement;

(b) remain in force for such period as shall be specified in the agreement;
(c) be binding on the parties to it.

(As amended by Act No.30 of 1997)

72. The parties to a collective agreement may by agreement vary the provisions of a collective agreement and the procedure set out in section seventy shall apply, with the necessary modifications, to the variation.

73. (1) Where a bargaining unit is unable to conclude a new collective agreement before the expiration of the existing collective agreement, or where for any other reason the bargaining unit desires to extend the period during which the existing collective agreement is to remain in force, it may apply to the Minister in that behalf.

(2) An application under subsection (1) shall be made not less than thirty and not more than sixty days before the expiration of the existing collective agreement:

Provided that the Minister may, consider an application made at any time before the expiration of the existing collective agreement.

(As amended by Act No. 30 of 1997)

74. As repealed by Act No. 30 of 1997

PART IX

SETTLEMENT OF COLLECTIVE DISPUTES

75. A collective dispute shall exist when there is a dispute between an employer or an organisation representing employers on the one hand and the employees or an organisation representing the employees on the other hand, relating to terms and conditions of, or affecting the employment of, the employees and one party to the dispute has presented in writing to the other party all its claims and demands and-

(a) the other party has, within fourteen days from the date of receipt of the claims or demands, failed to answer the claims or demands; or

(b) the other party has formally rejected the claims or demands and
has made no counter offer; or

(c) both the parties to the dispute have held at least one meeting with a view to negotiating a settlement of the dispute, but have failed to reach settlement on all or some of the matters in issue between them.

76. (1) Where a collective dispute arises and neither of either party to the dispute is engaged in an essential service, the parties to the dispute shall refer the dispute to-

(a) a conciliator appointed by the parties to the dispute; or

(b) a board of conciliation composed of-

(i) a conciliator appointed by the employer or an organisation representing employers;

(ii) a conciliator appointed by the employees or an organisation representing the employees; and

(iii) a conciliator appointed by the employer or the organisation representing the employers and employees or the organisation representing employees, who shall be the Chairman.

(2) Where the parties to a collective dispute not engaged in an essential service fail to agree within a period of seven days from the date when the collective dispute arose on the appointment of a conciliator or of the Chairman, they shall inform the Commissioner accordingly.

(3) The Commissioner on receipt of the information under subsection (2) shall request the Minister to appoint, within a period of seven days from the date of the request, a conciliator or Chairman of the board of conciliation from a list of names submitted and agreed upon by the representatives of employees and the representatives of employers.

(4) The conciliator or the board of conciliation appointed under subsection (1) or subsection (3) shall, within seven days of his or its appointment, summon the parties to the collective dispute to a meeting and proceed to conciliate in the dispute.
(5) Any party to a collective dispute or any agent or representative who
refuses or neglects without reasonable cause or excuse (the onus of
proof shall lie on such party) to attend a meeting summoned by the
conciliator or board of conciliation shall be guilty of an offence.

(6) Where a collective dispute arises and any of the parties to it are
engaged in an essential service, the parties to the dispute shall refer the
dispute to the Court.

(7) Any person who commits an offence under subsection (5) shall,
upon conviction, be liable-

(a) in the case of a body corporate, to a fine not exceeding one
thousand penalty units;

(b) in any other case to a fine not exceeding four hundred penalty
units.

(As amended by Act No. 13 of 1994 and by Act No. 30 of 1997)

77. (1) As soon as a collective dispute is settled by means of
conciliation, the conciliator or the Chairman of the Board of conciliation
shall cause a memorandum of the terms of the settlement to be prepared
which shall be signed by the parties to it and shall be witnessed by the
conciliator or the Chairman and each member of the board of
conciliation, as the case may be.

(2) The conciliator or the Chairman of the board of conciliation, shall,
within seven days of the settlement of a dispute by conciliation, submit
authenticated copies of the memorandum referred to in subsection (1) to
the Registrar.

(3) The Registrar shall, as soon as possible after receipt of a copy of the
memorandum refer it to the Court which shall, subject to the settlement
embodied in the memorandum, if not contrary to any written law,
approve the settlement.

(4) If the Court decides that the settlement as a whole or any term of the
settlement embodied in the memorandum is contrary to any written law,
the Registrar shall communicate the decision of the Court to the parties to the dispute accordingly.

78. (1) Where a conciliator or board of conciliation fails to settle a collective dispute the parties to the collective dispute may-

(a) refer it to the Court; or

(b) conduct a ballot to settle the dispute by a strike or lockout.

(2) Where a collective dispute is referred to the Court under subsection (1) or under subsection (6) of section seventy-six the decision of the Court shall, subject to section ninety-seven be binding upon the parties to the dispute for such period as the Court may specify in the Order.

(3) Where the parties, decide to proceed on strike or lockout, the parties shall not proceed on strike or lockout unless a simple majority decision of the employees present and voting is made by employees in favour of the strike or lockout.

(4) The strike or lockout may, subject to section seventy-five, commence ten days following the decision to do so and may continue for an indefinite period during which the dispute remains unresolved.

(5) The Minister may intervene before the commencement of the strike or lockout under subsection (4) to try and settle the dispute.

(6) The Minister may, after consultation with the Tripartite Consultative Labour Council apply to the Court for a declaration that the continuance of the strike or lockout is not in the public interest.

(7) The Court shall make a decision within seven days of the application for a declaration that the strike or lockout is not in the public interest.

(8) Where the Court issues a declaration in favour of the application, the strike or lockout shall cease and the dispute shall be deemed to have been referred to the Court under paragraph (a) of subsection (1).
(10) The Court shall have power to decide whether the workers on a legal strike should be eligible for payment of wages during the period of the strike.

(11) Where action in pursuance of a strike or a lock-out takes place in accordance with the provisions of this Act-

(a) the provisions of the recognition and collective agreements, if any, between the parties shall not be deemed to have been breached by reason only of such action; or

(b) the contract of employment with respect to each employee involved in the strike or lock-out shall not be deemed to have been breached by reason only of such action.

(As amended by Act No. 30 of 1997)

PART X

TRIPARTITE CONSULTATIVE LABOUR COUNCIL

79. (1) There is hereby constituted the Tripartite Consultative Labour Council, in this part referred to as the Council which shall consist of the Minister and such equal number of members representing the trade unions, the employers and the Government, as the Minister may determine but the members shall not be less than twenty-one.

(2) The members representing-

(a) the trade unions shall be nominated by trade unions registered under this Act;

(b) the employers shall be nominated by employers' organisation registered under this Act; and

(c) the Government shall be nominated by the Minister.

(3) The Commissioner shall act as the secretary to the Council and any committee which may be formed by the Council.

(As amended by Act No. 30 of 1997)
80. (1) The Council shall be chaired by the Minister, or in his absence, the Deputy Minister responsible for labour. 
Chairman and Vice-Chairman of Council

(2) There shall be two Vice-Chairmen of the council of which one shall be nominated by trade unions and the other nominated by the employers' organisation.

(As amended by Act No. 30 of 1997)

81. (1) Subject to the other provisions of this Part, the Council may regulate its own procedure. 
Proceedings of Consultative Council

(2) For the transaction of its business, the Council shall meet at least twice annually at such places and at such times, as the Chairman, in consultation with the trade unions and the associations, may determine.

(3) A meeting of the Council may be called by giving notice of not less than fourteen days:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving shorter notice.

(4) At any meeting of the Council, one-half of the members shall form a quorum.

(5) Decisions of the Council on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(6) The Council may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Council but such person shall have no vote.
(7) The validity of any proceedings, act or decision of the Council or any committee of the Council shall not be affected by any vacancy in the membership of the Council or committee of the Council, as the case may be, or by any defect in the appointment of any member or member of such committee or by reason that any person not entitled to do so took part in the proceedings.

(8) The Government, trade unions and the employers' organisation shall be responsible for paying allowances for the attendance of meetings of the Council, to their respective representatives.

(As amended by Act No. 30 of 1997)

82. (1) The council may establish any number of standing or adhoc committees to assist the Council in the performance of its functions.

(2) The Council may appoint as members of a committee established under subsection (1), persons who are or are not members of the Council and such persons shall hold office for such period as the Council may determine.

(3) Subject to any specific or general direction of the Council, a committee established under this section may regulate its own procedure.

83. The functions of the Council shall be to advise the Government on all issues relating to labour matters, manpower development and utilisation and any other matter referred to the Council by the Government.

PART XI

INDUSTRIAL RELATIONS COURT

84. The Industrial Relations Court established by section sixty-four of the Industrial Relations Act, 1990, is hereby continued as if established under this Act.
85. (1) The Court shall have original and exclusive jurisdiction to hear and determine any industrial relation matters and any proceedings under this Act.

(2) The Court shall have jurisdiction to commit and punish for contempt any person who disobeys or unlawfully refuses to carry out or to be bound by, an order made against that person by the Court under this Act.

(3) The Court shall not consider a complaint or application unless it is presented to it within thirty days of the occurrence of the event which gave rise to complaint or application:

Provided that, upon application by the complainant or applicant, the Court may extend the thirty day period for three months after the date on which the complainant or applicant has exhausted the administrative channels available to that person.

(4) The Court shall have the jurisdiction to hear and determine any dispute between any employer and an employee notwithstanding that such dispute is not connected with a collective agreement or other trade union matter.

(5) The Court shall not be bound by the rules of evidence in civil or criminal proceedings, but the main object of the Court shall be to do substantial justice between the parties before it.

(6) An award, declaration, decision or judgement of the Court on any matter referred to it for its decision or on any matter falling within its exclusive jurisdiction shall, subject to section ninety-seven, be binding on the parties to the matter and on any parties affected.

(7) It shall be within the exclusive jurisdiction of the Court to resolve any ambiguity in any collective or recognition agreement brought to its notice by any of the parties concerned.

(8) No person shall take part in a lockout or a strike against or in defiance of any award, declaration, decision or judgement of the Court and any person who contravenes this subsection shall be liable, upon conviction, to a fine not exceeding two thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(9) For the purpose of this section "industrial relations matters" shall
include issues relating to-

(a) inquiries, award and decisions in collective disputes;

(b) interpretation of the terms of awards, collective agreements and recognition agreements;

(c) general inquiries into, and adjudication on, any matter affecting the rights, obligations and privileges of employees, employers and their representative bodies.

85A. Where the Court finds that the complaint or application presented to it is justified and reasonable, the Court shall grant such remedy as it considers just and equitable and may-

(a) award the complainant or applicant damages or compensation for loss of employment;

(b) make an order for reinstatement, re-employment or re-engagement;

(c) deem the complainant or applicant as retired, retrenched or redundant; or

(d) make any other order or award as the court may consider fit in the circumstances of the case.

(As amended by Act No. 13 of 1994 and Act No.30 of 1997))

86. (1) The Court shall consist of the following members:

(a) a Chairman;

(b) Deputy Chairmen; and

(c) not more than ten members as the Minister may appoint.

(2) A person shall not be qualified for appointment as Chairman or Deputy Chairman, unless he qualifies to be appointed as High Court Judge.

(3) The Chairman and Deputy Chairmen shall be appointed by the President on the recommendation of the Judicial Service Commission.

(4) The members, other than the Chairman and Deputy Chairman, shall hold office for a period of three years but shall be eligible for re-appointment.
(5) The Chairman and Deputy Chairmen shall have the same tenure and security of office as a judge of the High Court prescribed in the Constitution in the Article relating to tenure of office of judges of the Supreme and High Court and shall be subject to removal from office for inability to perform the functions of his office under that Article.

(As amended by Act No.30 of 1997)

87. (1) There shall be a Registrar and such Deputy Registrars and such Assistant Registrars, as may be necessary, who shall be public officers and who shall be appointed by the Judicial Service Commission.

(2) The Judicial Service Commission may appoint such other officers of the Court, as may be necessary.

88. Repealed by Act No. 30 of 1997

89. (1) The Chairman or a Deputy Chairman shall preside over the Court.

(2) The court, when hearing any matter, shall be duly constituted if it consists of three members or such uneven number as the Chairman may direct:

Provided that the Chairman or a Deputy Chairman may deal with interlocutory matters and deliver a ruling or make any order in chambers and may deliver any ruling or judgement made by the Court duly constituted.

(3) Subject to subsection (2), the determination of any matter before the Court shall be according to the opinion of the majority of the members of the Court considering or hearing the matter:

Provided that on a point of law the decision of the Chairman or the Deputy Chairman shall prevail.

(4) A person shall not sit or act as a member of the Court, if he has any interest direct or indirect, personal or pecuniary, in any matter before the Court.

(5) The sittings of the Court shall be held in such places as the Chairman may direct.

(As amended by Act No.30 of 1997)

90. (1) The court may, on application, declare who is or should be the Declaration by
holder of any office in a representative body.

(2) The Chairman may make rules providing for the procedure to be
followed on an application for a declaration under this section and
prescribing any fees which shall be payable on any application.

(3) Without prejudice to the power of the Court to punish for contempt
of court, where it has been declared under subsection (1) that any person
is or should be the holder of an office, any other person who acts or
purports to act as the holder of the office contrary to the terms of the
declaration, shall be liable upon conviction, to a fine not exceeding one
thousand penalty units or to imprisonment for a term not exceeding
three months, or to both.

(As amended by Act No. 13 of 1994 and Act No.30 of 1997)

91. (1) At any hearing before the Court, any party may appear in person
or be represented-
(a) by an officer of a representative body; or
(b) by a legal practitioner.

(As amended by Act No.30 of 1997)

92. (1) The court may summon witnesses, call for the production and
inspection of, books, documents, records and other things, and to
examine witnesses.

(2) A summons for the attendance of a witness or for the production of
books, documents, records or other things shall be signed by the
Registrar or Deputy Registrar and served in the same manner as if it
were a subpoena for the attendance of a witness at a civil trial in the
High Court.

(3) Any person giving evidence or summoned to give evidence or to
produce any book, document, record or other thing before the Court,
shall be entitled to the same privileges and immunities as if he were
summoned to attend or were giving evidence in civil proceedings before
the High Court.

(4) A person summoned under this section, other than a public officer or
a person having an interest in the proceedings for which he is
summoned, may on the order of the Court be paid from moneys
appropriated by Parliament such allowances as may be prescribed by the
Chairman.
93. (1) If any person who has been summoned under section ninety-two having reasonable notice of the time and place at which he is required to attend, fails to attend, or fails to remain in attendance until duly excused by the Court from further attendance, the Chairman or Deputy Chairman may, upon being satisfied by the return of the person charged with the service of the summons, that the summons was duly served upon such person, issue a warrant signed by him for the apprehension of the person.

(2) A person against whom a warrant has been issued under subsection (1), shall be apprehended by any police officer to whom the warrant is delivered and shall be brought before the Court to give evidence or to produce a book, document, record or other thing.

(3) If any person who has been summoned under section ninety-two-
(a) refuses to be sworn or affirmed as a witness;
(b) having been sworn or affirmed refuses to answer fully and satisfactorily any question he is lawfully required to answer; or
(c) refuses or fails to produce any book, document, record or other thing and does not excuse his refusal or failure to the satisfaction of the Court;

the Chairman or Deputy Chairman may order that person to be detained in custody, as if he were a prisoner awaiting trial, for any period not exceeding eight days unless he sooner consents to do what is required of him.

(4) Where the person referred to in subsection (3), upon being brought before the Court at an adjourned hearing, further refuses or fails to do what is required of him, the Chairman or Deputy Chairman may, if he sees it fit, adjourn the proceedings and order that person to be detained for a like period until the person consents to do what is required of him.

94. (1) The Court shall deliver judgment within sixty days after the hearing of the case.

(2) Failure to deliver judgment, within the period stipulated in subsection (1) shall amount to inability by the Chairman or Deputy Chairman to perform the functions of his office and the provisions of the Constitution in dealing with the inability by a judge to perform his functions under the Constitution shall apply.

95. (1) The Registrar or Deputy Registrar shall cause every award, decision or judgment of the Court to be communicated to the parties concerned and to the Commissioner.
(2) The Chairman may cause to be published in the *Gazette* any award, decision or judgment of the Court which, in his opinion, is of general interest.

96. The Chairman shall, by statutory instrument, make rules regulating the procedure of the Court.

97. Any person aggrieved by any award, declaration, decision or judgment of the Court may appeal to the Supreme Court on any point of law or any point of mixed law and fact.

**PART XII**

**GENERAL**

98. An act done by a person in contemplation or furtherance of a collective dispute shall not be actionable on the ground that it induces some other person to break a contract of employment, or that it interferes, with the trade, business or employment of some other person, or with the right of that other person to dispose of his capital or labour as he wishes.

99. (1) An agreement by two or more persons to do, or procure to be done, any act in contemplation or furtherance of a collective dispute shall not be punishable as a conspiracy if such act when committed by one person would not be punishable as a crime.

(2) An act done in pursuance of an agreement by two or more persons shall not, if done in contemplation or furtherance of a collective dispute, be actionable unless the act, if done without any such agreement would be actionable.

(3) Nothing in this section shall—

(a) affect the law relating to conspiracy for which punishment is prescribed by any law in force in the Republic; or

(b) affect the law relating to riot, unlawful assembly, breach of the peace, or sedition.

100. (1) Where any person or in combination with others wilfully break a contract of service or of hire, knowing or having reasonable cause to believe that the probable consequence of their so doing will endanger human life or cause serious bodily injury or expose any property,
whether real or personal, to destruction or serious injury, shall be guilty of an offence and liable, upon conviction, to a fine not exceeding four hundred penalty units or to imprisonment for a term not exceeding six months, or to both.

(2) No prosecution under this section shall be brought except by, or with the written consent of, the Director of Public Prosecutions.

(As amended by Act No. 13 of 1994)

101. (1) No employer or other person shall take part in a lockout which is not in contemplation or furtherance of a collective dispute to which the employer or that person is a party.

(2) No employee, trade union or other person shall take part in a strike which-

(a) has not been authorised by a strike ballot taken in the manner provided by the constitution of a trade union under this Act; or

(b) is not in contemplation or furtherance of a collective dispute to which the employee or trade union is a party.

(3) Any employer or other person who does any act in contravention of subsection (1), shall be liable, upon conviction-

(a) in the case of a body corporate, to a fine not exceeding one thousand penalty units

(b) in any other case to a fine not exceeding four hundred penalty units.

(4) Any employee, trade union or other person who does any act or incites any person to do any act in contravention of subsection (2), shall be guilty of an offence and shall be liable upon conviction-

(a) in the case of the trade union, to a fine not exceeding one thousand penalty units; or

(b) in the case of an employee or other person, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in a trade union for such period as the Court may determine.

(As amended by Act No. 13 of 1994)

102. (1) Any person acting on behalf of a trade union or a federation of trade unions in contemplation or furtherance of the settlement of a collective dispute may attend at or near a place not being a dwelling house, where a person works or carries on business, for the purpose of Attendance at or near place of residence, business or employment for certain purposes
peacefully persuading an employee or an employer involved in the collective dispute to take part in a lawful demonstration:

Provided that no person shall intimidate that other person or any other person in that place or obstruct the approach thereto or egress therefrom.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(As amended by Act No.30 of 1997)

103. (1) Any person acting in contemplation or furtherance of the settlement of a collective dispute may attend, at or near a dwelling house or place where another person resides or happens to be, for the purpose of peacefully obtaining or communicating information or of persuading or inducing the other person to take part in a strike or a demonstration:

Provided that no person shall intimidate that other person in that place.

(2) Any person who contravenes subsection (1) shall be charged with the offence of watching and besetting such house or place wrongfully and without legal authority within the meaning of subsection (1) of section one hundred and seventy-three of the Penal Code, and shall be liable, upon conviction, to a fine not exceeding four hundred penalty units or to imprisonment for a term not exceeding six months or to both.

(As amended by Act No. 13 of 1994)

104. Any person who wilfully obstructs or hinders the Commissioner, or any other person, in the exercise of any of his powers under this Act shall be liable, upon conviction, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in a trade union or employers' organisation for such period as the Court may determine.

(As amended by Act No.30 of 1997)

105. All offences under this Act may be prosecuted before a subordinate court of the first or second class.

106. Any person who does any act prohibited by this Act or who omits to do any act which he is required to do under this Act shall be charged with an offence and, where no specific penalty is provided by this Act in respect of such act or omission, he shall be liable, upon conviction, to a fine not exceeding one thousand penalty units and, in the case of an individual, he may also be barred from holding office of a trade union or employers' organisation for such period as the Court may determine.
107. (1) Every employee engaged or employed in an essential service shall be issued by his employer with an essential service certificate in such form and in such manner as may be prescribed and such certificate shall be prima facie evidence for the purpose of any inquiry or proceedings under this section that the person to whom such certificate has been issued is engaged or employed in an essential service and that the attention of such employee has been drawn to the provisions of this section.

(2) Any person engaged or employed in an essential service who, without just cause or excuse (the onus of proof shall lie on him), does any act, or omits to do any act, the doing or the omission of which is likely to hinder or interfere with the carrying on of an essential service, shall be guilty of an offence.

(3) No employer or other person shall take part in a lockout and no employee, trade union or other person shall take part in a strike which is likely to hinder or interfere with the carrying on of any essential service.

(4) No person engaged in an essential service shall be eligible for payment of his salary if such person goes on strike or go-slow.

(5) Any person who incites or encourages a person engaged or employed in an essential service to do any act, or omit to do any act, the doing or the omission of which is likely to hinder or interfere with the carrying on of an essential service, shall be guilty of an offence.

(6) A police officer may arrest without warrant any person whom he has reasonable grounds to believe is acting in contravention of this section, and any person who obstructs a police officer in the execution of his duties under this subsection shall be guilty of an offence.

(7) Any person who contravenes subsection (2), (4) or (5) shall be liable, upon conviction, to a fine not exceeding one thousand penalty units or to imprisonment for a term not exceeding six months and may be prohibited from holding office in a trade union for such period as the Court may determine.

(8) Any employer or other person who contravenes subsection (3) shall be guilty of an offence and shall be liable, upon conviction-

(a) in the case of a body corporate, to a fine not exceeding one thousand penalty units; or
(b) in any other case, to a fine not exceeding four hundred penalty units.

(9) Any employee, trade union or other person who contravenes subsection (3) shall be guilty of an offence and shall be liable, upon conviction-

(a) in the case of the trade union, to a fine not exceeding one thousand penalty units; or

(b) in the case of the employee or other person, to a fine not exceeding two hundred penalty units.

(10) For the purpose of this section, "essential service" means-

(a) any service relating to the generation, supply or distribution of electricity;

(b) any hospital or medical service;

(c) any service relating to the supply and distribution of water;

(d) any sewerage service;

(e) any fire brigade; or

(f) any service for the maintenance of safe and sound conditions in a mine of-

(i) underground working and drainage;

(ii) shafts and shaft installations; or

(iii) machinery and plant;

(g) such other service which the Minister may, in consultation with the Tripartite Consultative Labour Council, prescribe by statutory instrument as an essential service.

(As amended by Act No. 13 of 1994 and Act No. 30 of 1997)

108. (1) No employer shall terminate the services of an employee or impose any other penalty or disadvantage on any employee, on grounds of race, sex, marital status, religion, political opinion or affiliation, tribal extraction or status of the employee.

(2) Any employee who has reasonable cause to believe that the employees' services have been terminated or that the employee has suffered any other penalty or disadvantage, or any prospective employee who has reasonable cause to believe that the employee has been discriminated against, on any of the grounds set out in subsection (1) may, within thirty days of the occurrence which gives rise to such belief,
lay a complaint before the Court:

Provided that the Court may extend the thirty-day period for a further three months after the date on which the complainant has exhausted the administrative channels available to him.

(3) The Court shall, if it finds in favour of the complainant-

(a) grant to the complainant damages or compensation for loss of employment;

(b) make an order for re-employment or reinstatement in accordance with the gravity of the circumstances of each case.

(As amended by Act No.30 of 1997)

109. (1) The Minister may, by statutory instrument, make regulations governing the conduct of ballots for any representative body, and such regulations may include provisions relating to the giving of notices to any person qualified to vote in such ballots.

(2) Where a secret ballot is to be held in more than one place in connection with any matter, it shall be held in all such places on the same day or days and between the same hours.

110. (1) Any interested person who has reasonable grounds to believe that the election of any person to any office in a representative body has been conducted in an irregular manner, that person may, not later than twenty-one days after the holding of such election, lay a complaint before the Court.

(2) The Court may, if it is satisfied that an irregularity has occurred in the conduct of any election, declare the election null and void and order fresh elections to be conducted under the supervision of such person, and on such conditions, as the Court may determine.

111. The Minister shall each year lay before the National Assembly a report on the working of this Act.

112. The Minister may, by statutory instrument-

(a) make regulations for the purpose of giving effect to the provisions of this Act; and

(b) make regulations prescribing all matters which by this Act are required or permitted to be prescribed.

(As repealed by Act No. 30 of 1997)
113. (1) The Industrial Relations Act, 1990, is hereby repealed.

(2) Notwithstanding the repeal of the Industrial Relations Act, 1990, any statutory instrument or directive issued or made under that Act shall remain in force, so far as it is not inconsistent with this Act until revoked or cancelled under this Act.

SCHEDULE

(Sections 11, 29, 42, 56)

The Constitution of every representative body shall include-

(a) the name of the representative body and the address of its registered office in Zambia;

(b) the principal objects for which the representative body is established and the class or classes of employees or employers which the representative body shall represent:

Provided that-

(i) a representative body may include in its constitution objects other than principal objects and, subject to the other provisions of this Act, any such representative body shall have power to apply its funds for any lawful objects authorised under its constitution;

(ii) no objects of any representative body shall not, by reason that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust;

(c) the purposes to which the funds of the representative body may be applied;

(d) the organisational structure of the representative body, the mode of appointment and removal of the officers responsible for the administration of the representative body and the powers and duties of such officers;

(e) the payment of subscriptions and fees by the members and the method of collection and the grounds for disqualifying a member from voting on any matter concerning the representative body;

(f) the vesting and safe custody of the funds and property of the trade representative body, the banking and investment of its funds, and the maintenance, inspection and periodic auditing of its accounts and all other financial records;

(g) provision for disqualification from election or appointment to
any office in the representative body of any office holder who has misappropriated the funds of the representative body;

(h) the election of the officers within six months after registration of a representative body and thereafter, at regular intervals of not more than four years;

(i) the election of not less than two and not more than four trustees of the representative body;

(j) the election by secret ballot supervised by a proper officer for a strike;

(k) the procedure for amending the constitution of the representative body; and

(l) a provision to ensure that all classes of members of a representative body are adequately and effectively represented on all organs of a representative body.

**SUBSIDIARY LEGISLATION**

**CHAPTER 269**

**THE INDUSTRIAL RELATIONS ACT**

**SECTION 109—THE CONDUCT OF BALLOT REGULATIONS**

**Regulations by the Minister**

1. These Regulations may be cited as the Conduct of Ballot Regulations, and shall apply to every ballot conducted by a trade union, the Congress, association, the Federation or any other body of members thereof.

2. Where a trade union, the Congress, association or the Federation is required to conduct a ballot it shall—

   (a) not less than seventy-two hours before the ballot is held, notify the proper officer in writing specifying the matter to be determined and the day and the time when balloting shall take place;

   (b) not less than twenty-four hours before the ballot is held, furnish to the proper officer a list of the persons who are eligible to vote in the ballot together with such other particulars concerning such persons as the proper officer may require;
on the request of the proper officer, furnish him with such
evidence, by affidavit or otherwise, as he may require as to the
eligibility to vote of all or any of the persons referred to in
paragraph (b);

before the ballot is conducted, give adequate notice of such
intention to its members:

Provided that in the case of a strike ballot or lockout ballot not less than
forty-eight hours notice shall be given to the members before such ballot
is conducted.

3. The proper officer in consultation with a trade union, the Congress,
association or the Federation, as the case may be, shall appoint a place or
places at which the voting point shall be established.

4. Every voting point shall throughout the period of voting be
supervised by a proper officer who shall keep order thereat, and shall
regulate the number of voters to be admitted to such point at any one
time.

5. If the proper officer so directs, the trade union, Congress,
association or Federation shall not less than one hour before the voting
is held, provide, to the satisfaction of the proper officer, enclosed voting
booths, chairs and tables in such number as may be necessary.

6. For the purpose of enabling voters to cast their votes for or against
the proposal to be determined by the ballot, the proper officer shall-
(a) determine the number of ballot boxes to be put in voting booth;
(b) ensure that each ballot box is clearly distinguished from the
other, by colour or by a mark affixed to it;
(c) affix notice at the entrance to each voting booth stating the
proposal to be determined by the booth;
(d) take such steps as may seem to him necessary to explain to
voters the purpose and method of voting.

7. Each ballot box shall be constructed in such a manner that the
balloting tokens can be freely introduced therein but cannot be
withdrawn therefrom without the box being unlocked, cut or broken

Establishment
of voting points

Supervision
of voting points

Equipment at
voting points

Distinguishing
ballot boxes,
etc.

Structure of
ballot boxes
8. (1) Immediately before a ballot is held, the presiding officer shall show each ballot box empty to any representative of a trade union, the Congress, association or the Federation who may be present and who has previously made his presence known to the proper officer;

(b) such other persons as may be present.

(2) The proper officer shall ensure that the ballot box is sealed in a manner that it cannot be opened without breaking the seal.

9. Every ballot shall be conducted in accordance with the following provisions, that is to say-

(a) every voter taking part in a ballot shall present himself to the proper officer at a voting point during the hours laid down for the taking of the ballot and shall before recording his vote, identify himself by the production of his membership card or otherwise, as the proper officer may direct;

(b) the proper officer shall mark off the name or number of each voter on the list provided under paragraph (b) of regulation 2;

(c) the proper officer shall then deliver to the voter a token marked with an official mark in such form as the proper officer may direct and any token not so marked shall be void and shall not be counted;

(d) the voter shall then-

(i) enter the balloting booth alone;

(ii) record his vote by placing the token in the ballot box or boxes as the case may be, provided therein; and

(iii) leave the balloting booth without delay.

10. As soon as practicable after the close of each day of voting, the proper officer shall at each voting point seal each ballot box, and all the ballot boxes together shall be locked by him in such place as he may open.
provide for the purpose.

11. Any person otherwise eligible to vote at any voting point who, at the time of voting, finds himself at another voting point may cast his vote at that point:

Provided that-

(a) he can satisfactorily identify himself to the proper officer at the voting point where he wishes to cast his vote, and

(b) he is in possession of a letter from a responsible official of the trade union, Congress association or Federation as the case may be, stating that he is eligible to vote in the ballot; or

(c) any proper officer at the voting point where such person wishes to cast his vote has been advised by telegram or otherwise in terms similar to those specified under paragraph (b).

12. The trade union, Congress, association or Federation may appoint no more than three representatives to attend at the counting of votes after the ballot has been closed.

13. (1) Except in the case of a ballot conducted at more than one voting point, the proper officer at each voting point shall, as soon as practicable after the close of voting, count the votes and record the result of the ballot in the presence of representatives referred to under regulation 12 and the result so recorded shall be published in such a manner as the proper officer may direct.

(2) Where a ballot is conducted at more than one voting point the ballot figures for all voting points shall be added together so as to record the total results of the ballot and the result shall be published in such manner as the Labour Commissioner may direct.

SECTION 112-THE REPRESENTATIVE BODY (REGISTRATION AND PRESCRIBED FORMS) REGULATIONS

Regulations by the Minister

1. These Regulations may be cited as the Representative Body (Registration and Prescribed Forms) Regulations.
2. In these Regulations, unless the context otherwise requires—Interpretation

"representative body" means any representative body under the Industrial and Labour Relations Act, 1993, and includes a trade union, the Congress, an association and the Federation.

3. An application for registration as a representative body, shall be in Form 1 set out in the Schedule.

4. An employee engaged or employed in an essential service as provided for under section one hundred and seven of the Industrial and Labour Relations Act, shall be issued with an essential service certificate by his employer in Form 7 set out in the Schedule.

5. The forms set out in the Schedule to these Regulations are hereby prescribed for the purpose mentioned in each form.
SCHEDULE

PRESCRIBED FORMS

(Regulation 3)

THE INDUSTRIAL AND LABOUR RELATIONS ACT

Cap. 269

The Representative Body (Registration and Prescribed Forms) Regulations.

APPLICATION FOR REGISTRATION OF REPRESENTATIVE BODY

1. This application is made by-
   (a) not less than one hundred trade union members; or
   (b) not less than five association members or such lesser number as the Commissioner may accept.

2. The representative body shall be registered in the name of

as set out in rule No. ........................................................................ of the constitution of the representative body.

3. To the best of our belief, there is no other existing representative body registered in the name identical to or so nearly resembles the names of this representative body, so as to cause confusion to its members and the public at large.

4. The representative body was established on the ........................................................... day of ..................................................... in the year......................................................, by a resolution of the general meeting of the said representative body and an authenticated copy of such a resolution is hereby attached to this application.

5. The registered office of the representative body to which all communications and notices may be addressed is at

as set out in rule No. ........................................................................ of the constitution of the representative body.

6. The objects for which the representative body is established, and the class or classes or category or categories of employees or employers as the case may be which the representative body shall represent is set out in rule No. ........................................... of the
constitution of the representative body.

7. The provision for the organisational structure of the representative body, the mode of appointment and removal of officers responsible for the administration of the representative body and the powers and duties of such officers are set out in rule No. .......................... of the constitution of the representative body.

8. The purpose to which the funds of the representative body may be applied are set out in rule No. ........................................ of the constitution of the representative body.

9. The provision for the payment of subscriptions and fees by the members and the methods of collection thereof are set out in rule No. ........................................ of the constitution of the representative body.

10. The provision for the vesting and safe custody of the funds and property of the representative body, and the banking and investment of the funds, maintenance, inspection and periodical auditing of its accounts and other financial records are set out in rule No. ........................................ of the constitution of the representative body.

11. The provisions for disqualification of a member from voting on any matter concerning the representative body or from election or appointment to any office in the representative body of an office holder who has the function of dealing with the funds or to any office in the representative body or its organs are set out in rule No. .............................. of the constitution of the representative body.

12. The provision for election of officers within six months after registration of the representative body, and thereafter at regular intervals of not more than four years are set out in rule No. ............................. of the constitution of the representative body.

13. The provision for ensuring that all categories of members of the representative body are adequately and effectively represented on all the organs of the representative body are provided for in rule No. ........................................ of the constitution of the representative body.

14. The provision for the manner of dissolving the representative body are set out in rule No..............of the constitution of the representative body.

15. The provision for ensuring the secrecy of any ballot regarding the taking of decisions—

(a) for the election of delegates, trustees or other officers;
(b) affiliation or disaffiliation to national or international organisations;
(c) on any proposal to dissolve the representative body or to reconstitute it so as to split it into two or more representative bodies;
(d) on any proposal to amalgamate it with one or more representative bodies, are set out in rule No..............of the constitution of the representative body.

16. The procedure for amending or altering the constitution of the representative body is provided for in rule No. .......................... of the constitution of the representative body.

17. The provision for safe-guarding the rights of individual members to a reasonable opportunity to vote in all matters concerning the representative body or to stand for any position in the representative body are set out in rule No. .......................... of the constitution of the representative body.
18. Accompanying this application are two copies of the constitution authenticated by duly authorised officers of the representative body.

19. The names and titles of officers of the representative body (including trustees) are as follows-

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20. We, the undersigned, have been duly authorised by the representative body to make this application on its behalf. (The number required to make this application should be as indicated in paragraph 1).

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CERTIFICATE OF REGISTRATION

No.

IT IS HEREBY CERTIFIED that the

whose registered office is situated at

has been duly registered under the Industrial and Labour Relations Act, 1993, as a representative body for

this ................................................ day of ................................................, the year ..............

Signed: ......................................................................

Name:.........................................................................

Commissioner
APPLICATION FOR REGISTRATION OF ALTERATION OR ADDITION TO THE
REPRESENTATIVE BODY'S CONSTITUTION

Name of Representative Body
Certificate of Registration No.
Registration office situated at

1. This application for the registration or alteration or addition to the constitution of the
above named representative body is made by-

(a) seven members in case of trade union; or

(b) four members in case of employer's association, whose names are subscribed at the
foot hereof including the executive officers.

2. The applicants have been duly authorised to make this application on behalf of the
said representative body, such authority consisting of a resolution passed at a general
meeting held on the ............................................... day of ....................................................
in the year ......................................................

3. With this application are sent-

(a) a copy of the resolution or other authority authorising the alteration or addition to
the constitution and signed by each of the applicants with their name and designation
against each signature;

(b) two copies of the previous registered constitution amended or underlined in red
showing where and in what manner alterations or addition have been made.

4. We, the persons whose names, signatures and designations are subscribed at the foot
hereof, have made this application on behalf of the said representative body satisfied that
the rules of the constitution were duly complied with.

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REQUEST TO CANCEL CERTIFICATE OF REGISTRATION

Name of the Registration Body

Certificate of Registration No.

To: THE COMMISSIONER

1. The above-named representative body desires that its certificate of registration under the Industrial and Labour Relations Act, 1993 may be cancelled on the following grounds: (State reasons for desiring cancellation of the certificate of registration)

2. (1) The request is duly made following a general meeting on ................................... day of ............................................ 19......... during which it was resolved as follows:
"that the trustees be authorised to request the commissioner to cancel the certificate of registration of this representative body"

(2) If not at the general meeting, state in what manner the request has been determined:

3. This request is made on behalf of the representative body accordingly.

Name Designation Signature

1.
2.
3.
4.
5.
6.

7.  

Note: Seven officers are required in case of trade unions whilst four officers are required for employers' associations.

Registered Office

Name and address to which communications are to be sent
Form 5

THE INDUSTRIAL AND LABOUR RELATIONS ACT

The Representative Body (Registration and Prescribed Forms) Regulations

(Regulation 5)

To: The Commissioner P.O. Box 32186 Lusaka

I/We (name and address of employer)

carrying on the business of
at
and employing .......................................................... eligible employees, do hereby
apply for registration as an employer under section sixty-three of the Act.
Dated the day of

......................................................... 19............

Signature
Designation:
THE INDUSTRIAL AND LABOUR RELATIONS ACT
(Cap. 269)

The Representative Body (Registration and Prescribed Forms) Regulations

(Regulation 5)

CERTIFICATE OF REGISTRATION

IT IS HEREBY CERTIFIED that (name and address of employer)
carrying on the business of
is registered as an employer under section sixty-three of the Act.
Dated the ................................. day of ........................................ 19............
Signature: ......................................................
Name: ............................................................

Commissioner
THE INDUSTRIAL AND LABOUR RELATIONS ACT
(Cap. 269)

The Representative Body (Registration and Prescribed Forms) Regulations

(Regulation 5)

ESSENTIAL SERVICE CERTIFICATE

Name and address of employer
Name of employee:
Employee's National Registration Card No.
Capacity in which employed
This is to certify that the employee mentioned herein is employed in an essential service
(specify it here)
    Dated this ...................................................... day of ......................................... 19..........
Signed: .......................................................... Signed: ..........................................................
Name: ............................................................ Name: ..........................................................
    (Employee) (Employer)

Note: This certificate must be prepared in duplicate and one copy to be handed to the
employee and the other copy to be retained by the employer.
THE INDUSTRIAL RELATIONS COURT RULES
[ARRANGEMENT OF RULES]

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Rules by the Chairman

PART I
PRELIMINARY

1. These Rules may be cited as the Industrial Relations Court Rules.*

* These Rules made under the repealed Act are continued in operation by section 15 of the Interpretation and General Provisions Act (Cap. 2).

2. In these Rules, unless the context otherwise requires-

"Act" means the Industrial Relations Act;

"Registrar" means the Registrar of the Court and includes any officer of the Court authorised by the Chairman to perform the functions of the Registrar;

"Court" means the Industrial Relations Court established under section ninety-six;

"Judge" means the Chairman or the Deputy Chairman;
"Part" means a Part of these Rules;

"seal" means any device capable of making an imprint, whether embossed or otherwise, on paper.

PART II

APPLICATIONS TO THE COURT

3. This Part applies to applications to the Court under-
   - section 17 (injunction against an officer of a trade union);
   - section 44 (injunction against an officer of an association);
   - section 74 (3) (determination of alleged contravention of written laws or infringement of collective agreements, works agreements or works rules);
   - section 88 (interpretation of any clause in a collective agreement);
   - section 99 (1) (declaration by the Court); and
   - section 102 (Court to resolve ambiguities in collective agreements, its awards and decisions).

4. An application to which this Part applies shall be made by serving on the Court notice in writing, or substantially in accordance with, the appropriate form in Part A of the Schedule.

*These Rules made under the repealed Act are continued in operation by section 15 of the Interpretation and General Provisions Act (Cap. 2).

5. On receipt of a notice under rule 4, the Registrar shall register the notice in the Court register and endorse the registration number thereon and seal the notice with the Court's seal, and shall return a sealed copy of the notice to the applicant and serve a sealed copy thereof on any other person considered by the Court to be a proper party to the proceedings, and every such person shall be a respondent to the application.

6. (1) The Registrar shall, as soon as practicable, notify every

Respondent's
respondent of the date appointed by the Court by which an answer to the application must be delivered.

(2) A respondent who desires to oppose the application shall, within the time appointed under sub-rule (1), deliver to the Court an answer in, or substantially in accordance with, Form IRC 7 contained in Part A of the Schedule, setting out his answer and the Registrar shall serve a copy of such answer on every party to the proceedings.

7. (1) If all parties to the proceedings have concurred in, or consented to, the application, or if no answer is delivered under rule 6 (2), the Court may, if it thinks fit, deal with the application without a hearing.

(2) Except where the Court deals with the application under sub-rule (1), the Registrar shall, as soon as practicable, give to every party to the proceedings notice of the arrangements made by the Court for hearing the application and shall notify every party of the date appointed by the Court by which any interlocutory application may be made.

(3) The Court may, if it thinks fit, deal with an application to which this Part relates without an oral hearing notwithstanding that the application is opposed, but the Court shall not do so unless-

(a) all parties to the proceedings consent; or

(b) any party desiring an oral hearing has been given an opportunity of applying to the Court for such hearing and the Court is satisfied that no injustice can be caused if the application is dealt with without an oral hearing.

PART III
COMPLAINTS TO THE COURT

8. This Part applies to complaints presented to the Court under-section 114 (2) (complaint of discrimination in employment);
section 120 (1) (complaint in respect of irregularities in election).

9. A complaint to which this Part applies shall be presented by serving on the Court notice in writing in, or substantially in accordance with, the appropriate form in Part B of the Schedule.

10. On receipt of a notice under rule 9, the Registrar shall register the notice in the Court register and endorse the registration number thereon and seal the notice with the Court's seal, and shall return a sealed copy of the notice to the complainant and serve a sealed copy thereof on any person from whom any relief is claimed (and on any other person considered by the Court to be a proper party to the proceedings), and every such person shall be a respondent to the complaint.

11. (1) The Registrar shall, as soon as practicable, notify every respondent of the date appointed by the Court by which an answer to the complaint must be delivered.

(2) A respondent who desires to answer a complaint shall, within the time appointed under sub-rule (1), deliver to the Court an answer in, or substantially in accordance with, Form IRC 10 contained in Part B of the Schedule, setting out his answer to the complaint, and the Registrar shall serve a copy of such answer on every other party to the proceedings.

12. The Registrar shall, as soon as practicable, give to every party to the proceedings notice of the arrangements made by the Court for hearing the complaint, and shall notify every such party of the date appointed by the Court by which any interlocutory application may be made.

PART IV

APPEALS TO THE COURT

13. This Part applies to appeals under-
    section 10 (1) (appeal from the decision of the Commissioner);
section 28 (3) (appeal from decision on disputes between trade unions);
section 37 (1) (appeal from the decision of the Commissioner);
section 59 (4) (appeal from the decision of a trade union);
section 73 (4) (appeal from decision of the Board of Review).

14. An appeal to which this Part applies shall be instituted by serving on the Court, within the time allowed under rule 15, notice in writing in, or substantially in accordance with, the appropriate form in Part C of the Schedule, together with a copy of the refusal, decision or cancellation, as the case may be, against which the appeal is lodged.

15. A notice under rule 14 shall be served within thirty days of the date of the notification to the appellant of the refusal, decision or cancellation, as the case may be, against which the appeal is lodged.

16. On receipt of a notice under rule 14, the Registrar shall register the notice in the Court register and endorse the registration number thereon and seal the notice with the Court's seal, and shall return a sealed copy of the notice to the appellant and serve a sealed copy thereof on every person who, in accordance with rule 17, is a respondent to the appeal.

17. The respondents to an appeal shall be-
(a) in the case of an appeal under section 10 (1) or 37 (1), the Commissioner;
(b) in the case of an appeal under section 28 (3), the Congress;
(c) in the case of an appeal under section 59 (4), the trade union in question; and
(d) in the case of an appeal under section 73 (4), parties to the proceedings before the Board of Review, other than the appellant.

18. (1) The Registrar shall, as soon as practicable, notify every respondent of the date appointed by the Court by which any answer under sub-rule (2) shall be delivered.

(2) Subject to sub-rule (3), a respondent who wishes to resist an appeal
shall within the time appointed under sub-rule (1) deliver to the Court an answer in, or substantially in accordance with, Form IRC 16 contained in Part C of the Schedule, setting out the grounds on which he relies, and the Registrar shall serve a copy of such answer on every other party to the proceedings.

(3) A respondent who wishes to cross-appeal may do so by including in an answer delivered under sub-rule (2) a statement of the grounds of his cross-appeal.

19. The Registrar shall, as soon as practicable, give to every party to the proceedings notice of the arrangements made by the Court for hearing an appeal, and shall notify every such party of the date appointed by the Court within which any interlocutory application may be made.

PART V

REFERENCE OF A COLLECTIVE DISPUTE TO THE COURT

20. This Part applies to a reference of a collective dispute made to the Court by the Minister.

21. (1) A reference of a collective dispute made to the Court by the Minister under the provisions of section 93 (3) shall be made in writing in, or substantially in accordance with, Form IRC 17 contained in Part D of the Schedule.

(2) A reference of a collective dispute made to the Court by the Minister under the provisions of section 95 (1) shall be made in writing in, or substantially in accordance with, Form IRC 18 contained in Part D of the Schedule.

(3) A reference of a collective dispute shall be accompanied by a notification in writing in, or substantially in accordance with, Form IRC
19 contained in Part D of the Schedule, stating the details of the issues in
the collective dispute.

22. When a reference of a collective dispute is made to the Court by the
Minister, the Court shall take cognizance of the dispute and register the
dispute in the Court register.

23. The Court shall notify the parties to a collective dispute referred to
the Court of the registration number of such dispute and shall fix the
date and place for giving directions as to the further conduct of the
dispute.

24. Each party to a collective dispute referred to the Court shall, within
such period as the Court may direct, being not less than seven days after
the date of such direction, present to the Court-

(a) in the case of the claimant, a statement of claim in writing in, or
substantially in accordance with, Form IRC 20 contained in Part
D of the Schedule, setting out-

(i) the nature and full particulars of each item of the claim or
demand involved in the dispute and as stated in the terms of
reference to the Court;

(ii) the class or classes of workers to whom the dispute relates; and

(iii) such submissions as the claimant party may wish to make in
support of its claim;

(b) in the case of the respondent, an answer in, or substantially in
accordance with, Form IRC 21 contained in Part D of the
Schedule, setting out-

(i) such answer as it may wish to give to the items of the claim of
demand raised in the statement of claim;

(ii) an admission of such submissions set out in the statement of
claim as the respondent admits, and a denial of such submissions
as the respondent does not admit; and

(iii) any submissions which the respondent may wish to make in
support of its answer;
and shall at the same time supply to the other party a copy of such answer.

25. Where the Court considers that either the statement of claim or the answer does not set out adequately the particulars required by the Court or for any other reason the Court requires clarification or amplification of any submission by a party, the Court may require the party to provide such further details as it may consider necessary within such period as it may determine, and the party so required shall provide to the Court and the other party to the dispute such clarification and amplification as is required.

26. (1) Each party shall notify the Court when submitting the statement of claim or answer, as the case may be, of any witnesses he proposes to call and shall at the same time notify the other party to the dispute, but a party may call further witnesses with the leave of the Court.

(2) The Court shall notify the parties of the date and place of the hearing of the dispute.

27. An award shall be communicated to the parties to a dispute in such manner as the Court may deem fit.

PART VI

REFERENCE UNDER SECTION 28 (4) OF A DISPUTE BETWEEN TRADE UNIONS

28. A reference to the Court under section 28 (4) of the Act of a dispute between trade unions shall be made in writing in, or substantially in accordance with, Form IRC 22 contained in Part D of the Schedule.

29. When a reference of a dispute is made to the Court under rule 28, the Court shall take cognizance of the dispute and register the dispute in
the Court register, and the provisions of rule 23 shall apply *mutatis mutandis* to such reference.

**PART VII**

**GENERAL PROVISIONS APPLYING TO ALL PROCEEDINGS**

30. This Part applies to all proceedings before the Court.

31. Any proceedings before the Court may be dealt with at such time and place as the Court may from time to time direct.

32. The Court may, on the application of any person or of its own motion, direct that any person not already a party to proceedings be added as a party, or that any party to proceedings shall cease to be a party, and in either case may give such consequential directions as it considers necessary.

33. (1) Without prejudice to rule 36, an interlocutory application may be made by giving notice in writing to the Court, specifying the directions or order sought.

(2) On receipt of a notice under sub-rule (1), the Registrar shall serve a copy thereof on every other party to the proceedings who appears to him to be concerned in the matter to which the notice relates and shall notify the applicant and every such other party of the arrangements made by the Court for dealing with the application.

34. A single Judge of the Court may exercise any powers vested in the Court not involving the final determination of a dispute or other matter, hereafter referred to as an interlocutory matter.
35. (1) Where an interlocutory order is made by a Judge in pursuance of rule 34, any party aggrieved by the order may appeal to the Court.

(2) Notice of appeal under sub-rule (1) may be given to the Registrar, either orally or in writing, within three days of the order appealed from and the Registrar shall notify every other party who appears to him to be concerned in the appeal and shall inform every such party and the appellant of the arrangements made by the Court for dealing with the appeal.

36. (1) Where it appears to the Court that the future conduct of any proceedings would thereby be facilitated, the Court may (either of its own motion or on application) at any stage of the proceedings appoint a date for the giving of directions as to their future conduct and thereupon the following provisions of this rule shall apply.

(2) The Registrar shall give to every party to the proceedings notice of the date appointed under sub-rule (1) and any party applying for directions shall, if practicable, before that date give to the Court particulars of any directions applied for.

(3) The Registrar shall take such steps as may be practicable to inform every party of any directions applied for by any other party.

(4) On the date appointed under sub-rule (1), the Court shall consider any application for directions made by any party and any written representation relating thereto and shall give such directions as it thinks fit for the purpose of securing the just, expeditious and economical disposal of the proceedings, including, where appropriate, directions in pursuance of rule 46 for the purpose of ensuring that the parties are enabled to avail themselves of opportunities for conciliation.

(5) Without prejudice to the generality of sub-rule (4), the Court may give such directions as it thinks fit as to-

(a) the amendment of any notice, statement of claim, answer or other document;
(b) the giving of further and better particulars;

(c) the delivery of interrogatories;

(d) the admission of any facts or documents;

(e) the discovery or further discovery of any documents;

(f) the mode in which evidence is to be given at the hearing;

(g) the consolidation of the proceedings with any other proceedings pending before the Court; and

(h) the place and date of the hearing.

(6) An application for further directions, or for a variation of any directions already given, may be made in accordance with rule 33.

37. Without prejudice to rule 36, the Court may, at any stage of the proceedings, of its own motion give any party to the proceedings directions as to any steps to be taken by him in relation thereto.

Court's power to give direction

38. The Court may, on the application of any party, make, as an interim order, any order which under the Act it could make as a final order in the proceedings.

Interim orders

39. (1) Any party may, not less than fourteen days before the date fixed for the hearing, serve notice on any other party requiring him to admit (saving all just exceptions) the authenticity of any documents specified in the notice, and unless that other party, within seven days of service of the notice upon him, gives notice to the first party requiring the document to be proved at the hearing, he shall be deemed, unless the Court otherwise directs, to have admitted its authenticity.

Notice to admit documents and facts

(2) Any party may, not less than fourteen days before the date fixed for the hearing, give to any other party notice to admit, for the purpose of the proceedings, any facts specified in the notice, and the Court shall, in exercising its discretion as to making an order for costs or expenses
under rule 44, take into consideration any unreasonable failure to admit, or delay in admitting, such facts.

40. A party to any proceedings may apply to the Court for an order directing any other party to make discovery or further discovery, either on oath or otherwise, of the documents relating to the proceedings which are or have been in his possession or power, and on the hearing of the application the Court may make such order, either generally or limited to certain classes of documents or to particular documents, as it thinks fit, including an order for the production or inspection of any documents.

41. (1) A party to any proceedings may apply to the Court for an order requiring any other party to answer interrogatories (or, as may be appropriate, a statement of facts), and the Court may give such directions as it thinks fit for the submission to the Court and service on any other party of the interrogatories or statement before the hearing of the application.

(2) A body corporate or an unincorporated association shall answer any interrogatories or statement of facts by its director, manager, secretary or other officer.

42. If a respondent to any proceedings fails to deliver an answer within the time appointed under these Rules, or if any party to proceedings fails to comply with an order or direction of the Court, the Court may order that he be debarred from taking any further part in those proceedings (except for the purpose of being heard on any application for discovery or recovery of documents, or the answering of interrogatories or a statement of facts, or the payment of costs or expenses by him), or may make such other order as the court thinks just.

43. Every order of the Court shall be drawn up by the Registrar and a copy, sealed with the seal of the Court, shall be served by the Registrar on every party to the proceedings to which it relates.

44. (1) Where it appears to the Court that any person has been guilty of unreasonable delay, or of taking improper, vexations or unnecessary steps in any proceedings, or of other unreasonable conduct, the Court may make an order for costs or expenses against him.
(2) Where an order is made under sub-rule (1), the Court may direct that the party against whom the order is made shall pay to any other party a lump sum by way of costs or expenses, or such proportion of the costs or expenses as may be just, and in the last mentioned case may itself assess the sum to be paid, or may direct that it be assessed by the Registrar, from whose decision an appeal shall lie to the Court.

45. (1) Any notice or other document required or authorised by these Rules to be served on, or delivered to, any person may be sent to him by post to his address for service or, where no address for service has been given, to his registered office, principal place of business or last known address, and any notice or other document required or authorised to be served on, or delivered to, the Court may be sent by post or delivered to the Registrar.

(2) A document served by post shall be assumed, in the absence of evidence to the contrary, to have been delivered in the normal course of post.

(3) The Court may inform itself in such manner as it thinks fit of the posting of any document by an officer of the Court.

(4) Any notice or other document required or authorised to be served on, or delivered to, an unincorporated body may be sent to its secretary, manager or other similar officer.

(5) The Court may direct that service of any document be dispensed with or be effected otherwise than in the manner prescribed by these Rules.

46. In exercising its powers under these Rules, the Court may, whether by adjourning any proceedings or otherwise, use its best endeavours to ensure that, in any case in which it appears to the Court that there is a reasonable prospect of agreement being reached between the parties, they are enabled to avail themselves of the services of conciliation officers or of other opportunities for conciliation.

47. The time prescribed by these Rules or by order of the Court for
doing any act may be extended (whether it has already expired or not) or abridged, and the date appointed for any purpose may be altered, by order of the Court.

48. (1) Failure to comply with any requirements of these Rules shall not invalidate any proceedings unless the Court otherwise directs.

(2) The Court may, if it considers that to do so would lead to the more expeditious or economical disposal of any proceedings, or would otherwise be desirable in the interests of justice, dispense with the taking of any step required or authorised by these Rules, or may direct that any such step be taken in some manner other than that prescribed by these Rules.

49. (1) A hearing by the Court shall take place at such time and place as the presiding Judge may determine.

(2) The Court shall have the power to adjourn any proceedings from time to time and from place to place.

**PART VIII**

**MISCELLANEOUS**

50. Where a person has been committed to prison for contempt of Court, a warrant in Form IRC 23 contained in Part E of the Schedule shall be issued by a Judge of the Court and shall be full authority to the officer in charge of a prison and to all other persons for carrying into effect the order of committal described in such warrant.

51. A warrant to apprehend a person under subsection (1) of section one hundred and five of the Act shall be in Form IRC 24 contained in Part E of the Schedule.

52. A warrant to detain a witness in custody under subsection (2) of
section one hundred and five of the Act shall be in Form IRC 25 contained in Part E of the Schedule.

53. The Forms set out in Part F of the Schedule or forms substantially to the like effect with such variations as the circumstances of each case may require, shall be used for all matters to which they may be applicable.

54. The Court or any other person authorised in writing in that behalf may at any time prior to the final determination of a matter before the Court enter any building, factory, workshop or other place or premises whatsoever and inspect the same or any work or machinery or interrogate any person therein in respect of anything situated therein or any question relating to the matter.

55. Nothing in these Rules shall be deemed to limit or otherwise affect the power of the Court to make such order as may be necessary for the ends of justice or to prevent the abuse of the process of the Court.

56. If in any matter a party, witness or other person is unable to speak or understand the English language, the Court may direct a fit and proper person to attend and interpret the proceedings. Before so interpreting the Court may ask such person to swear an oath in the following terms:

"I swear that I will well and truly interpret and explanation make of all such matters and things as shall be required of me to the best of my skill and understanding. So help me God."

57. When a party is represented by a person other than a legal practitioner, he shall file an authority to represent the party in, or substantially in accordance with, Form IRC 27 contained in Part F of the Schedule.

58. All writs and mandatory process to be used, issued or awarded by the Court shall run and be in the name of the President, and shall be sealed with the seal of the Court.
59. The process of the Court shall run throughout Zambia and an order of the Court shall be executed and enforced in like manner as if it were a judgment of the High Court.

60. (1) All proceedings, agreements or other documents filed in the Court shall save in the circumstances referred to in sub-rule (2) be on metric foolscap paper of good quality and shall be typewritten, mimeographed or printed in double spacing and shall be clear and easily legible. Only one side of the paper shall be used and a margin of not less than 4 cm shall be left on the left-hand side of each sheet.

(2) Where the nature of the document so requires, it may be reproduced by a photographic method.

(3) Any proceedings before the Court shall be paged consecutively and shall contain the following documents in the order in which they are hereinafter set out:

(a) a complete index of all documents in the case showing the pages at which they appear;

(b) all documents in the nature of pleadings in chronological order;

(c) copies of all affidavits and exhibits to be relied on by the parties;

(d) where the proceeding is an appeal from the decision of the Commissioner, a trade union or the Board of Review, a copy of the evidence and any other material placed before the Commissioner, the trade union or the Board of Review, as the case may be;

(e) such other documents, if any, as may be necessary for the proper determination of the proceedings.

PART IX

EVIDENCE AND PROCEDURE IN
THE COURT

61. The Court may call upon the parties in such order as it may think fit to state their case. Calling upon a party

62. The Court may accept, admit or call for any evidence at any stage of the proceedings and in any manner it thinks fit. Admission of evidence

63. Unless the Court otherwise directs, a witness shall give his evidence on oath or solemn affirmation administered in accordance with the provisions of section thirty-six of the High Court Act. Evidence on oath Cap. 27

64. A witness at any proceedings shall be examined viva voce but the Court may at any time order that any particular fact may be proved by affidavit. Oral evidence and affidavit

65. An affidavit filed in the Court shall be in, or substantially in accordance with, Form IRC 26 contained in Part F of the Schedule. Form of affidavit

66. Where statistical statements are to be filed as exhibits, on each statement shall be mentioned the following particulars:

(a) the source from which the figures have been compiled; and

(b) the name of the party submitting the exhibit. Statistical statements

67. In every matter fixed for hearing, if a party intends to rely on a book, publication, law report, etc., it shall file with the Registrar and serve on all other parties not less than four days before the date of hearing a list of such books, publications, law reports, etc. Party to supply list of books, etc.

PART X

FILING OF APPLICATIONS, APPEALS, COMPLAINTS,
REFERENCES, STATEMENTS OF CLAIM, ANSWERS AND OTHER DOCUMENTS

68. Every application, appeal, complaint, reference, statement of claim, answer or other document shall be filed in the office of the Registrar.

69. Wherever under these Rules, any application, appeal, complaint, reference, statement of claim, answer or other document is required to be filed with the Court, there shall also be filed eight copies of such document, but the Registrar may in any case order that a greater or lesser number of copies shall be filed.

70. Every application, appeal, complaint, reference, statement of claim, answer or other document to be filed with the Court shall be scrutinised by the Registrar and if it is in order shall be admitted to the file, entered in the register and given the case number. Every such document shall be sealed by the Registrar and shall thereupon be deemed to be issued.

71. If a document is not in order by reason of any formal defect, it shall be returned by the Registrar for rectification of the defect.

PART XI

VACANCY, SITTINGS, VACATION AND SEAL

72. If at any time between the commencement of the hearing of any matter and its final determination any member of the Court hearing such matter dies or is unable through serious illness to continue to sit as a member of the Court, the Chairman may, if he is of the opinion that a new hearing would result in unwarranted delay or expense or would for
any reason prejudice the parties or any of them, appoint another member of the Court to fill the vacancy.

73. The sittings of the Court shall be two in every year, the first sitting commencing on the 22nd day of January and terminating on the 31st day of May and the second sitting commencing on the 24th day of July and terminating on the 30th day of November:

Provided that the chairman may by statutory order alter the date of commencement or termination of a sitting of the Court.

74. (1) The offices of the Court shall be open on every day of the year except on Saturdays, Sundays, public holidays and such other days as the Chairman may direct.

(2) Subject to any order of the Chairman, the offices of the Court shall be open to the public on working days-

(a) during a sitting, from 0900 hours to 1200 hours and from 1400 hours to 1600 hours; and

(b) during vacation, from 0900 hours to 1200 hours.

75. (1) There shall be used in the Court such seal as the Chairman may direct.

(2) The seal of the Court shall be impressed upon every document required by the Act or the rules made thereunder or any other written law to be so sealed.

(3) The seal of the Court shall be kept in the custody of the Registrar.

PART XII
REGISTRAR OF THE COURT
76. The Registrar shall have the custody of the records of the Court and shall exercise such functions as are assigned to him under these Rules or as may be assigned to him by the Chairman or the Deputy Chairman.

Custody of records

77. Application in the following matters shall be made to the Registrar in writing, or substantially in accordance with, the Form IRC 28 contained in Part F of the Schedule or a letter addressed to him-

(a) for certified copies of documents;
(b) for issue of summonses to witnesses in any matter filed in or referred to the Court;
(c) for inspection of documents filed in the Court;
(d) for withdrawal of matters filed in the Court before these are placed for hearing; and
(e) for return of exhibits.

Applications to the Registrar

PART XIII

WITNESSES' AND ASSESSORS' ALLOWANCES

78. A witness or an assessor, other than a public officer or a person having an interest in the proceedings for which he is summoned, who has duly attended at or for the proceedings at the instance of a party or the Court, shall be entitled to allowances, unless the Court or the Registrar shall for sufficient reason disallow the allowances of any such witness or assessor.

Person entitled

79. (1) The allowances of witnesses and assessors shall be as follows:

<table>
<thead>
<tr>
<th>Class of person</th>
<th>Minimum sum payable per day</th>
<th>Maximum sum payable per day</th>
</tr>
</thead>
</table>

Allowances

Class of person
Professional persons, owners, directors or managers of business and expert witnesses or assessors . . . . . . 6.00 16.00

Clerks and artisans and persons of similar status . . . . . . 1.00 6.00

Peasant labourers and persons of similar status . . . . . . 0.30 1.50

(2) The above-mentioned allowances will be paid during the time for which a witness or assessor is necessarily detained and for the time reasonably occupied in travelling.

(3) No additional allowance will be paid merely because the witness or assessor attends in respect of more than one case on the same day.

(4) If in the opinion of the Registrar to whom a claim for allowance shall be submitted-

(a) a strict adherence to the scales mentioned in sub-rule (1) would result in hardship, he may in his discretion increase the amounts payable; or

(b) a reduction in any of the allowances provided for by this rule is justified in any particular case, he may in his discretion reduce or disallow the amounts payable.

80. (1) In addition to any sum to which a witness or assessor may be entitled under the last preceding rule, all witnesses and assessors provided for in rule 78 shall also be entitled to be reimbursed in respect of any expenses actually and reasonably incurred in travelling to and from the Court, and for necessary accommodation and subsistence.

(2) If in the opinion of the Registrar to whom a claim shall be submitted for the reimbursement of expenses, the sums expended and claimed
exceed what is reasonable, he may in his discretion reduce or disallow the amounts payable.

(3) If any witness or assessor travels by his own motor vehicle or motor cycle he may claim travelling expenses at the rate of seven ngwee per kilometre and three ngwee per kilometre respectively.

PART XIV

COURT FEES

81. The fees specified in Part G of the Schedule shall be paid by the party at whose instance they are incurred, and may be afterwards recovered as cost of cause, if the Court so order. The Court or a Judge may, on account of the poverty of any party, or for other sufficient reasons, dispense, if it or he sees fit, with the payment of any fee.

82. The Court fees or any of the fees payable under these Rules shall be paid by cash, postal order or Bank Certified Cheque.

(As amended by S.I. No. 157 of 1995)

83. The document to be stamped shall be the document indicated in the third column of Part G of the Schedule. Such documents shall be stamped before presentation at the Registry and unless so stamped, such document shall not, except as aforesaid, be accepted.

84. Upon receipt of any such document, the Registrar shall forthwith cancel such revenue stamps by means of impressing with indelible ink partly upon each and every such stamp and partly upon the document to which they are affixed, the stamp of the Registry with the true date of such impression and by writing his initials across or within the impression in such manner that the stamps are clearly defaced.

85. A receipt shall be issued by the Court or any officer thereof in respect of fees paid.

(As amended by S.I. No. 157 of 1995)
86. The Registrar shall ensure that each and every document requiring to be stamped hereunder is sufficiently and properly stamped before accepting the same.

Duty of the Registrar

87. (1) When any document not requiring to be stamped is inadvertently stamped or when stamps to a value in excess of those specified in Part G of the Schedule are inadvertently affixed or such document is not presented to or is not accepted for filing by the Court, the document may at the instance of the party by whom it was so stamped be cancelled and substituted by one bearing the correct value of stamps.

Refund of value in certain cases

(2) Refunds to the value of the stamps affixed to any document cancelled under the provisions of sub-rule (1) may be made by the Registrar to the party responsible for the stamping thereof:

Provided that-

(i) the application is made to the Registrar within thirty days of the date of cancellation of such document; and

(ii) the application is accompanied by the cancelled document which shall be attached by the Registrar to the voucher in support of the refund and shall thenceforth be the property of the Government.
SCHEDULE

PART A

REPUBLIC OF ZAMBIA
IRC 1

INDUSTRIAL RELATIONS COURT

Application No. .................................., 19..........

NOTICE OF APPLICATION UNDER SECTION 17

(Rule 4)

1. This application is made by (name and address of applicant)

2. Any communication for the applicant relating to this application may be sent to
(applicant's address for service, including telephone number, if any)

3. Name, designation and address of the officer of the trade union against whom the
order is sought to be made and the name and address of the trade union (name, designation
and address of that person)

(name and address of the trade union)

4. The grounds on which the application is made are (here set out the facts and matters
relied on in support of the application):

5. The applicant desires the Court to make the following order (here set out the other
order desired):

Signed:

Date: ..............................................................
INDUSTRIAL RELATIONS COURT

Application No. .................................., 19.......... 

NOTICE OF APPLICATION UNDER SECTION 44

(Rule 4)

1. This application is made by (name and address of the applicant)

2. Any communication for the applicant relating to this application may be sent to (applicant's address for service, including telephone number, if any)

3. Name, designation and address of the officer of the association against whom injunction is sought and the name and address of the association (name and address of the officer)

(name and address of the association)

4. The grounds on which the application is made are (here set out the facts and matters relied on in support of the application):

5. The applicant desires the Court to make the following order (here set out the order desired):

Date: ........................................................ Signed:
NOTICE OF APPLICATION UNDER SECTION 74 (3)

(Rule 4)

1. This application is made by (name and address of the applicant)

2. Any communication for the applicant relating to this application may be sent to (applicant's address for service, including telephone number, if any)

3. The application relates to the employee of (name(s) and address(es) of employer(s) concerned)

4. This application relates to the following contravention or infringement (here specify the alleged contravention or infringement):

5. The grounds on which this application is made are (here summarise the facts and matters relied on in support of the application):

6. The applicant seeks the following relief (here specify the relief under section 74 sought by the applicant):

Date: .............................................................. Signed:
NOTICE OF APPLICATION UNDER SECTION 88

(Rule 4)

1. This application is made by (name and address of the applicant)

2. Any communication for the applicant relating to this application may be sent to (applicant's address for service, including telephone number, if any)

3. The applicant and .............................................................. (name(s) and address(es) of other (party) (parties) to the collective agreement to which this application relates) are parties to (here give particulars of the collective agreement):

4. The applicant desires the Court to interpret the meaning of the following provisions in the collective agreement (here give the provisions for which interpretation is sought):

5. The applicant encloses herewith his memorandum in support of his interpretation (enclose the memorandum).

Date: ..............................................................
Signed: ..............................................................
NOTICE OF APPLICATION UNDER SECTION 99 (1)

(Rule 4)

1. This application is made by (name and address of the applicant):

2. Any communication for the applicant relating to this application may be sent to (applicant's address for service, including telephone number, if any):

3. The name(s) and address(s) of (organisation(s) and (person(s)) concerned in this application are (name(s) and address(es) of proposes respondents):

4. The grounds on which this application is made are (here summarise the facts and matters relied on in support of the application):

5. The applicant desires the Court to make a declaration to the following effect (here set out the declaration applied for):

Date: ..............................................................
Signed: ............................................................
REPUBLIC OF ZAMBIA
IRC 6

INDUSTRIAL RELATIONS COURT

Application No. .................................., 19..........

NOTICE OF APPLICATION UNDER SECTION 102

(Rule 4)

1. This application is made by (name and address of the applicant)

2. Any communication for the applicant relating to this application may be sent to (applicant's address for service, including telephone number, if any): .................

3. The applicant and ................................................................. (name(s) and address(es) of other party (parties) concerned in the collective agreement, Court's award or Court's decision to which the application relates) are parties to (here give particulars of the collective agreement, Court's award or decision, as the case may be):

4. The applicant desires the Court to resolve the following ambiguity (here set out in detail the alleged ambiguity specifying suggested amendment, if any, for resolving ambiguity):

5. The grounds on which this application is made are (here summarise the facts and matters relied on in support of the application):

Date: ..............................................................  Signed:
REPUBLIC OF ZAMBIA
IRC 7
INDUSTRIAL RELATIONS COURT

Application No. ..........................., 19..........

RESPONDENT'S ANSWER

(Rule 6 (2))

\{ Applicant(s) \\

Versus

\{ Respondents(s) \\

May it please the Honorable Court.

The Respondent(s) above named beg(s) respectfully to submit his/their answer as under (herein set out in numbered paragraphs the Respondent's answer to the application):

Date: ................................................................. Signed:
PART B

REPUBLIC OF ZAMBIA
IRC 8
INDUSTRIAL RELATIONS COURT

Complaint No. .............................................., 19...........

NOTICE OF COMPLAINT UNDER SECTION 114 (2)

(Rule 9)
1. This complaint is presented by (name and address of the complainant)

2. Any communication for the complaint relating to this complaint may be sent to (complainant's address for service, including telephone number, if any)

3. The name(s) and address(es) of the (employer(s)) against whom the complaint is made are (name(s) and address(es) of proposed respondent(s))

4. The grounds on which this complaint is presented are (here summarise the facts and matters relied on in support of the complaint, stating the date of alleged occurrence of the event giving rise to this complaint):

5. The complainant is seeking the following relief (here specify, in relation to each proposed respondent, the relief under section 114 (2) sought by the complainant):

Date: ..............................................................       Signed:
NOTICE OF COMPLAINT UNDER SECTION 120 (1)

(Rule 9)

1. This complaint is presented by (name and address of complainant)

2. Any communication for the complainant relating to this complaint may be sent to (complainant's address for service, including telephone number, if any)

3. The representative body against which this complaint is made is (name and address of the Congress, Federation, trade union or association alleged to have conducted election in irregular manner):

4. The grounds on which the complaint is presented are (here summarise the facts and matter relied on in support of the complaint stating the date of election in question):

5. The complainant is seeking the following relief (here specify the relief which is sought)

Date: ..............................................................  Signed:
May it please the Honourable Court.

The respondent(s) above named beg(s) respectfully to submit his/their answer as follows (herein set out in numbered paragraphs the Respondent's answer to the application):

Date: .............................................................. Signed:
PART C

REPUBLIC OF ZAMBIA
IRC 11

INDUSTRIAL RELATIONS COURT

Appeal No. ..........................................., 19.......... 

NOTICE OF APPEAL UNDER SECTION 10 (1)

(Rule 14)

1. The appellant is (name and address of appellant)

2. Any communication relating to this appeal may be sent to the appellant at (appellant's address for service, including telephone number, if any):

3. A copy of the *refusal/decision/cancellation by the Commissioner is attached hereto as Appendix A.

4. The *refusal/decision/cancellation by the Commissioner was notified to the appellant on (here state the date of notification):

5. The appellant appeals from the *refusal/decision/cancellation by the Commissioner mentioned in paragraph 3.

6. The appellant's grounds of appeal are (here state the grounds of appeal):

Date: ..............................................................  Signed:

*Delete whichever is not applicable
NOTICE OF APPEAL UNDER SECTION 28 (3)

(Rule 14)

1. The appellant is (name and address of appellant)

2. Any communication relating to this appeal may be sent to the appellant at (appellant's address for service, including telephone number, if any):

3. A copy of the decision of the Congress is attached hereto as Appendix A.

4. The decision of the Congress was communicated to the appellant on (here state the date on which decision was communicated to the applicant):

5. The appellant appeals from the decision of the Congress mentioned in paragraph 3.

6. The appellant's ground of appeal are (here state the grounds of appeal):

7. The names and address of other trade unions in the dispute are (here state the names and addresses of the trade unions):

Date: ........................................................ Signed:
REPUBLIC OF ZAMBIA
IRC 13

INDUSTRIAL RELATIONS COURT

Appeal No. ....................................., 19.............

NOTICE OF APPEAL UNDER SECTION 37 (1)

(Rule 14)

1. The appellant is (name and address of appellant)

2. Any communication relating to this appeal may be sent to the appellant at (appellant's address for service, including telephone number, if any):

3. A copy of the *refusal/decision/cancellation by the Commissioner is attached hereto as Appendix A.

4. The appellant appeals from the *refusal/decision/cancellation by the Commissioner mentioned in paragraph 3.

5. The appellant's grounds of appeal are (here state the grounds of appeal):

6. The *refusal/decision/cancellation by the Commissioner was notified to the appellant on (here state the date of notification):

Date: .................................................. Signed:

*Delete whichever is not applicable
REPUBLIC OF ZAMBIA
IRC 14

INDUSTRIAL RELATIONS COURT

Appeal No. ........................................, 19..............

NOTICE OF APPEAL UNDER SECTION 59 (4)

(Rule 14)

1. The appellant is (name and address of appellant)

2. Any communication relating to this appeal may be sent to the appellant at (appellant's address for service, including telephone number, if any):

3. A copy of the decision of ................................................... (name of the trade union) not approving the nomination of the appellant as a candidate for ................................................... (specify the election for membership of a council) and giving reasons therefor is attached hereto as Appendix A.

4. Any communication relating to this appeal may be sent to the trade union in question at (trade union's address for service, including telephone number, if any)

5. The appellant appeals from the decision of the trade union mentioned in paragraph 3.

6. The appellant's grounds of appeal are (here state the grounds of appeal):

Date: .............................................................. Signed:
REPUBLIC OF ZAMBIA
IRC 15
INDUSTRIAL RELATIONS COURT

Appeal No. ..........................................., 19..............

NOTICE OF APPEAL UNDER SECTION 73 (4)

(Rule 14)

1. The appellant is (name and address of the appellant):

2. Any communication relating to this appeal may be sent to the appellant at (appellant's address for service, including telephone number, if any):

3. A copy of the decision of the Board of Review is attached hereto as Appendix A.

4. The appellant appeals from the decision of the Board of Review mentioned in paragraph 3.

5. The parties to the proceedings before the Board of Review, other than the appellant, were (names and addresses of other parties to proceedings resulting in a decision appealed from):

6. The appellant's grounds of appeal are (here state the grounds of appeal):

Date: .............................................................. Signed:


REPUBLIC OF ZAMBIA
IRC 16
INDUSTRIAL RELATIONS COURT

Appeal No. ................................., 19..............

RESPONDENT'S ANSWER

(Rule 19 (2))

\{ Appellant(s)  

Versus  

\{ Respondents(s)  

May it please the Honourable Court.

The Respondent(s) above named beg(s) respectfully to submit his/their answer as under (here set out in numbered paragraphs the Respondent's answer to the appeal)

Date: ........................................................................................................... Signed:
PART D

REPUBLIC OF ZAMBIA
IRC 17

INDUSTRIAL RELATIONS COURT

Reference No. ................................., 19..........,

NOTICE OF REFERENCE OF A COLLECTIVE DISPUTE UNDER SECTION 93 (3)

(Rule 21)

1. I have received notice of a collective dispute between (here state names of the parties):

2. WHEREAS the parties to the dispute are unable to reach a settlement thereof and have requested me to refer the dispute to the Court and the Commissioner has recommended to me that such request be acceded to:

   NOW THEREFORE, in exercise of the powers contained in section 93 (3), I refer the said collective dispute to the Court.

3. Details of the issues in the collective dispute are as stated in Form IRC 19 attached hereto.

Date: ..............................................................

Minister of Labour and Social Services
REPUBLIC OF ZAMBIA
IRC 18

INDUSTRIAL RELATIONS COURT

Reference No. ................................, 19...........

NOTICE OF A REFERENCE OF A COLLECTIVE DISPUTE UNDER SECTION 95 (1)

(Rule 21)

1. I have received notice of a collective dispute between (here state the names of parties):

2. WHEREAS the parties to the dispute as well as the conciliator or the board of conciliation have failed to reach a settlement of the dispute:
   NOW THEREFORE, in exercise of the powers contained in section 95 (1), I refer the said collective dispute to the Court.

3. Details of the issues in the collective disputes are as stated in Form IRC 19 attached hereto.

Date: ..............................................................

Minister of Labour and Social Services
REPUBLIC OF ZAMBIA
IRC 19

INDUSTRIAL RELATIONS COURT

Reference No. ................., 19...........

NOTIFICATION OF ISSUES IN A COLLECTIVE DISPUTE UNDER SECTION 93 OR 95

(Rule 21)

1. The parties to the collective dispute are (here state the names of the parties):

2. The issues in dispute between the parties are (here state in detail each claim or demand):

Date: ..............................................................

Minister of Labour and Social Services
REPUBLIC OF ZAMBIA
IRC 20
INDUSTRIAL RELATIONS COURT
Reference No. .........................., 19...........

STATEMENT OF CLAIM

(Rule 24)

Claimant(s)

Versus

Respondents(s)

May it please the Honourable Court.

The ............................................................................................................... abovenamed beg(s) respectfully to submit the statement of claim as follows (herein set out in numbered paragraphs the claims made and the grounds therefore):

Date: .............................................................................................. Signature:

Signature:
REPUBLIC OF ZAMBIA  
IRC 21  
INDUSTRIAL RELATIONS COURT  
Reference No. ................................, 19...........

ANSWER  

(Rule 24)

} Claimant(s)

Versus

} Respondents(s)

May it please the Honourable Court.

The Respondent(s) abovemented beg(s) to submit his/their answer as follows (herein set out in numbered paragraphs the Respondent(s) answer to the statement of claim):

Date: ..........................................................  Signature:
REPUBLIC OF ZAMBIA
IRC 22

INDUSTRIAL RELATIONS COURT

NOTICE OF A REFERENCE OF A DISPUTE UNDER SECTION 28 (4)

(Rule 28)

   1. A dispute has arisen between us as to which of us shall have the exclusive right to represent (specify the class of employees)

   2. The dispute was referred to the Congress for its decision thereon but the Congress has failed to communicate its decision within thirty days after the dispute was referred to it.

   3. NOW THEREFORE, in accordance with the provisions of section 28 (4) of the Industrial Relations Act, 1971, we hereby refer the dispute to the Court and request the Court to take cognizance thereof.

   4. The addresses for service on us are as follows:

   5. Details of the issues of the dispute are as stated in Appendix A attached hereto.

Date .......................................Signed ............................ (for Trade Union)
Date .......................................Signed ............................ (for Trade Union)
PART E

REPUBLIC OF ZAMBIA
IRC 23

INDUSTRIAL RELATIONS COURT

WARRANT OF COMMITTAL

(Rule 50)

To each and all Police Officers of Zambia, Officers of this Court and the Superintend-ent/Officer in Charge of the Government Prison at

WHEREAS ..........................................................
of ............................................................. was on the ........................................ day
of .............................................., 19........, held to be in contempt of this Court and committed to
prison for a period of

NOW THEREFORE You are commanded in the President's name to lodge the
said .......... ...................................................................... in the prison
of .............................................. ........................... together with this warrant, in which
prison the aforesaid order shall be carried into execution according to law and for this the
present warrant shall be a sufficient authority to all whom it may concern.

Date .................... at ................... .the ................... day of ......................................, 19.........

Signature
Chairman/Deputy Chairman,
Industrial Relations Court
REPUBLIC OF ZAMBIA
IRC 24
INDUSTRIAL RELATIONS COURT

WARRANT TO APPREHEND DEFAULTING WITNESS

(Rule 51)

(*)Application/Appeal/Complaint/Reference No. .............................................. of 19........

...........................................  }

...........................................  }

Versus

...........................................  }

...........................................  }

WHEREAS
was commanded to attend in person before this Court at
on ........................................ day of .........................................., 19 ........, and subsequent days, to testify or to produce a book, document,
record or other thing in the above cause; he has failed to attend or has failed to remain in attendance until duly excused by this Court and
no sufficient reason for such failure seems to exist.

NOW THEREFORE You are hereby commanded in the name of the President to apprehend and to bring and have the
said ........................................................................... before this Court at ................................... on the ..................................... day
of ........................................., 19........

Issued at .................................. the ..................................... day of ........................................., 19........

(Signature) .................................................................
Chairman,
Industrial Relations Court

*Delete whichever is not applicable
**REPUBLIC OF ZAMBIA**  
**IRC 25**  
**INDUSTRIAL RELATIONS COURT**  
**WARRANT TO DETAIN IN CUSTODY**  
*(Rule 52)*

(*)Application/Appeal/Complaint/Reference No. ...............................................of 19..........

...........................................  }

Versus

...........................................  }

To each and all Police Officers in Zambia, the Officers of this Court, the Superintendent/Officer in Charge of the Government Prison at

WHEREAS ..................................................
of .................................................................... had been summoned under section *one hundred and four* of the Industrial Relations Act, 1971, and-

(a) has refused to be sworn or affirmed as a witness; or

(b) having been sworn or affirmed, has refused to answer fully and satisfactorily the question he was lawfully required to answer; or

(c) has refused or failed to produce a book, document, record or other thing;

and has not excused such refusal or failure to the satisfaction of this Court.

NOW THEREFORE YOU, the said Police Officers and the Officers of Court, are hereby commanded to convey the said ........................................ to the said prison and there deliver the said ................ to the Superintendent/Officer in Charge thereof together with this warrant; and you, the Superintendent/Officer in Charge of the said prison are hereby commanded to receive the said ........................................, into your custody and unless he/she sooner consents to do what is required of him/her until the ................ day of ................., 19..., and on that day to convey him/her at ................ hours before this Court to be further dealt with according to law, unless you, the said Superintendent/Officer in Charge, shall be otherwise ordered in the meantime.

Date .................... at .................... the ..................... day of ......................................, 19..........

(Signature)  

Chairman,
Court

*Delete whichever is not applicable
REPUBLIC OF ZAMBIA
IRC 26
INDUSTRIAL RELATIONS COURT
AFFIDAVIT (GENERAL FORM)

(Rule 65)

(*) Application/Appeal/Complaint/Reference No. ........................................... of 19..........

...........................................  }

Versus

...........................................  }

I, ....................................................................................., make oath and say as follows (herein set out, in numbered paragraphs, the facts deposed to):

Sworn by the said

...........................................  }

on the ........ day of

, 19..........

Before me:

Commissioner for Oaths

*Delete whichever is not applicable
PART F

REPUBLIC OF ZAMBIA
IRC 27

INDUSTRIAL RELATIONS COURT

AUTHORITY TO REPRESENT

(Rule 57)

*Application/Appeal/Complaint or Reference No. .......................................... of 19..........
I/We
have appointed Mr. .............................................................. to appear for me/us
in the above matter. The address of the appointee Mr. ............................................... is

Dated at ........................................ this ...................................... day of ............................., 19..........

Signed

*Delete whichever is not applicable
To:
THE REGISTRAR
INDUSTRIAL RELATIONS COURT
P.O. BOX 4009
LUSAKA

Dear Sir,

Application
Subject-Appeal No. ........................................ of 19..........
Complaint
Reference

Be pleased to supply the undersigned with a certified copy of ........................................ in the above matter.

Dated this ................................................................. day
of ................................................................. 19..........

Yours faithfully,

Signature

(This form may be adopted with suitable alterations in making application under rule 77)
REPUBLIC OF ZAMBIA
IRC 29
INDUSTRIAL RELATIONS COURT
NOTICE (GENERAL FORM)

(Rule 53)

Reference No. .........................., 19...........

Claimant(s)

Versus

Respondents(s)

PLEASE TAKE NOTICE that you are hereby required to file
............................................................................................ in the above matter on or before the ............................................. day
of .................................., 19..........

By order of the Chairman.

Registrar,
Industrial Relations Court
REPUBLIC OF ZAMBIA
IRC 30

INDUSTRIAL RELATIONS COURT

SUMMONS TO A WITNESS

(Subpoena ad Testificandum)

(Rule 53)

*Application/Appeal/Complaint/Reference No. ........................................................., 19........

(General Title)
To: ................................................................

You are commanded in the President's name to attend before the Industrial Relations Court at ........................................................... on the .................................................... day of .........................................., 19.........., at .................................... hours and so from day to day until the above cause is tried, to give evidence on behalf of

WITNESS The Honourable Chairman of Industrial Relations Court

Dated the ................................................ day of ....................................................... in the year of Our Lord One Thousand Nine Hundred and ......................................................

*Delete whichever is inappplicable
REPUBLIC OF ZAMBIA
IRC 31

INDUSTRIAL RELATIONS COURT

SUBPOENA DUCES TECUM

(Rule 53)

*Application/Appeal/Complaint/Reference No. .............................................. of 19....... 
To: .................................................................

You are commanded in the President's name to attend before the Industrial Relations Court at ........................................................... on the .................................................... day of .........................................., 19.........., at .................................... hours and so from day to day until the above cause is tried, to give evidence on behalf of and to produce at the time and place aforesaid

WITNESS the Honourable

Chairman of the Industrial Relations Court

Dated the ......................................... day of ......................................... in the year of Our Lord One Thousand Nine Hundred and .................................................................

*Delete whichever is inapplicable
REPUBLIC OF ZAMBIA
IRC 32

INDUSTRIAL RELATIONS COURT

NOTICE OF HEARING

(Rule 53)

*Application/Appeal/Complaint/Reference No. ................................................, 19........

BETWEEN

...........................................  }

...........................................  }

.............................................  }

and

.............................................  }

.............................................  }

TAKE NOTICE that the above cause will be heard and determined by the Industrial
Relations Court at ........ on the ........ day of ........, 19....., at ........ hours.

Dated the ................................................. day of ................................................, 19........

Any interlocutory application in the above cause may be made on or before the
.................................................... day of .................................................., 19........

Registrar

*Delete whichever is inapplicable
REPUBLIC OF ZAMBIA
IRC 33

INDUSTRIAL RELATIONS COURT

ORDER OF COSTS

(Rule 53)

*Application/Appeal/Complaint/Reference No. ................................................. of 19.........

...........................................  }  ..............................

...........................................  }  ..............................

versus

...........................................  }  ..............................

...........................................  }  ..............................

The Court doth hereby order that the abovenamed .........................................................
shall pay to the abovenamed ............................................................ the sum of K................
in respect of the costs in the above matter.

Dated this ............................................ day of ..................................................., 19..........

........................................................................

Registrar
Industrial Relations Court

*Delete whichever is inapplicable
REPUBLIC OF ZAMBIA
IRC 34

INDUSTRIAL RELATIONS COURT

ORDER (GENERAL FORM)

(Rule 53)

*Application/Appeal/Complaint/Reference No. ............................................ of 19..........

...........................................  }  ..............................

...........................................  }  ..............................

versus

...........................................  }  ..............................

...........................................  }  ..............................

UPON HEARING ......................................................... and

UPON READING the affidavit(s) of

IT IS HEREBY ORDERED BY THE COURT THAT

Dated this ..................................................................... day
of .........................................................................., 19..........

.................................................................

Registrar
Industrial Relations Court

*Delete whichever is inapplicable
PART G

FEES

(Rule 81)

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>On sealing any order of the Court</td>
<td>20</td>
</tr>
<tr>
<td>On filing an application to set aside a writ of fifa</td>
<td>100</td>
</tr>
<tr>
<td>On filing an application for amendment</td>
<td>100</td>
</tr>
<tr>
<td>On filing an application to set aside an order or the Court</td>
<td>100</td>
</tr>
<tr>
<td>On filing an application for amendment of a notice of complaint or Application</td>
<td>100</td>
</tr>
<tr>
<td>On filing an application to amend an Answer</td>
<td>100</td>
</tr>
<tr>
<td>On filing grounds of appeal</td>
<td>25</td>
</tr>
<tr>
<td>On filing an application for amendment of a document not specifically provided</td>
<td>25</td>
</tr>
<tr>
<td>On filing an appeal from an order of the Registrar</td>
<td>50</td>
</tr>
<tr>
<td>On application for taxing by the Registrar</td>
<td>50</td>
</tr>
<tr>
<td>On an application for copies of the notes of a Judge for use by the Supreme Court per page or part thereof</td>
<td>10</td>
</tr>
<tr>
<td>On an application for copies of the notes of a Judge for use by the Court per page or part thereof</td>
<td>10</td>
</tr>
<tr>
<td>On an application for copies of the notes of the Registrar for use by a Judge per page or part thereof</td>
<td>10</td>
</tr>
<tr>
<td>On sealing a summons to each witness</td>
<td>20</td>
</tr>
<tr>
<td>On filing an affidavit</td>
<td>20</td>
</tr>
<tr>
<td>On filing a certificate of service</td>
<td>20</td>
</tr>
<tr>
<td>On every search</td>
<td>25</td>
</tr>
<tr>
<td>On filing of a notice of intention to produce</td>
<td>20</td>
</tr>
<tr>
<td>On filing of bundles of exhibits</td>
<td>20</td>
</tr>
<tr>
<td>On certifying record of proceedings</td>
<td>50</td>
</tr>
<tr>
<td>On filing a notice of motion for committal</td>
<td>100</td>
</tr>
<tr>
<td>On filing any document not specifically provided for</td>
<td>20</td>
</tr>
<tr>
<td>Administering oath or affirmation</td>
<td>50</td>
</tr>
</tbody>
</table>

(As amended by S.I. No. 34 of 1996)
CHAPTER 270
THE EMPLOYMENT (SPECIAL PROVISIONS) ACT

ARRANGEMENT OF SECTIONS

Section
1. Short title
2. Interpretation
3. Application
4. Regulations with respect to employment
5. Repugnancy with other enactments
6. Republic not bound

CHAPTER 270
EMPLOYMENT (SPECIAL PROVISIONS)

An Act to make special provision with respect to employment during any period when a declaration under section 29 of the Constitution is in force; and to provide for matters incidental thereto.

[29th July, 1966]

1. This Act may be cited as the Employment (Special Provisions) Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation

"employee" means any person who has entered into or works under a contract of service, whether the contract is express 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.

3. The provisions of this Act and of any regulations made under this Act shall have effect only during a period when a declaration of a State of Emergency under the Constitution is in force.

4. (1) The President may, by statutory instrument, make such Regulations
regulations as appear to him to be necessary or expedient in the public interest for securing the continued employment of employees and for regulating the conditions of service of employees whose continued employment is secured by virtue of the regulations.

(2) Without prejudice to the generality of the powers conferred by subsection (1), regulations under that subsection may make provision for-

(a) prohibiting the dismissal or the termination in any other manner of the employment of employees, whether or not previous notice of such dismissal or termination has been given to the employees, except in such circumstances and upon such conditions, if any, as may be prescribed by or under the regulations, including provision prohibiting any such dismissal or termination except with the approval of an officer or authority specified by or appointed under the regulations;

(b) the establishment of a tribunal for the purpose of reviewing the decisions of an officer or authority referred to in paragraph (a), including provision with respect to-

(i) the constitution of the tribunal;

(ii) the persons who may apply to the tribunal for the review of any such decision;

(iii) the circumstances and manner in which and the conditions upon which any such application for review may be made;

(iv) the powers, practice and procedure of the tribunal in relation to any such application for review;

and may make or authorise the making of such incidental, supplemental and consequential provisions as appear to the President to be expedient for the purposes of the regulations.

(3) Regulations under this section may-

(a) exempt or provide for the exemption of any person or class of persons from the operation of all or any of the provisions of the regulations;

(b) make different provision with respect to different areas in Zambia, different persons or classes of persons and different
circumstances;

(c) prescribe penalties for contraventions of or failure to comply with the provisions of the regulations, not exceeding a fine of fifteen thousand penalty units.

(As amended by Act No. 13 of 1994)

5. Regulations made under section four and anything done under the authority of such regulations shall have effect notwithstanding anything inconsistent therewith contained in any other enactment having the force of law in Zambia other than this Act, the Constitution, the Emergency Powers Act or the Preservation of Public Security Act; and for so long as regulations made under section four have the force of law, any provision of such an enactment shall, to the extent of the inconsistency, have no effect.

6. Nothing in this Act or in any regulations made under this Act shall be construed as binding the Republic.

SUBSIDIARY LEGISLATION

THE EMPLOYMENT (SPECIAL PROVISIONS) REGULATIONS [ARRANGEMENT OF SECTIONS]

Regulation
1. Title
2. Interpretation
3. Application and exemption
4. Restriction on dismissal or termination of employment
5. Prohibition of variation of conditions of service
6. Decision of Proper Officer to be made promptly
7. Establishment and Constitution of Employment Review tribunal
8. Meetings and Proceedings of tribunal
9. Application for Review
10. Hearing and determination of Review
11. Penalty

SECTION 4 - THE EMPLOYMENT (SPECIAL PROVISIONS) REGULATIONS

Regulations by the President

1. These Regulations may be cited as the Employment (Special Provisions) Regulations.

2. In these Regulations, unless the context otherwise requires-

"Chairman" means Chairman of the Tribunal;

"proper officer" means a Principal Labour Officer, a Senior Labour Officer, a Labour Officer, an Assistant Labour Officer, a Labour Inspector, a District Executive Secretary, or an Administrative Secretary in the district or town within which a person is employed;

"Secretary" means the Employment Secretary of the Tribunal;

"Tribunal" means the Employment Review Tribunal established under regulation 7.

3. (1) These Regulations shall not apply in relation to-

(a) an employer the number of whose employees is less than five; or

(b) a person who is adjudged or otherwise declared bankrupt; or

(c) a company which is being wound up.

(2) The Minister may, by writing under his hand, exempt any person or class of persons from all or any of the provisions of these Regulations; and any such exemption may be made subject to such conditions and restrictions, if any, as may be specified by the Minister.
4. (1) No person shall dismiss or otherwise terminate the employment of any employee, irrespective of whether previous notice of the dismissal or termination has been given to the employee or not, unless:

- Approval of the proper officer in writing, has been given to the dismissal or termination; or

- The employee is dismissed on the grounds of wilful disobedience, misconduct, neglect or incompetence and:
  - The person by whom the employee is dismissed would, but for the provisions of these Regulations, have been entitled to dismiss the employee on those grounds summarily and without notice; and
  - The person by whom the employee is dismissed notifies the proper officer, within four days after the date of dismissal, of the circumstances and reasons leading to the dismissal;

- In the case of an employee who was engaged for a period of fixed duration or for the performance of a specific task, the employment is terminated on the expiry of that period or, as the case may be, on the performance of that task.

5. Any person who withholds or alters to the detriment of any employee any of the benefits to which the employee is entitled under his contract of service shall be guilty of an offence.

6. Where an application is made to the proper officer for the approval of any matter under these Regulations, the proper officer shall notify the applicant of his decisions on it as soon as reasonably practicable.

7. (1) For the purpose of these Regulations, there shall be established a tribunal to be known as "the Employment Review Tribunal".
(2) The Tribunal shall consist of three members appointed by the Minister, one of whom shall be designated by the Minister as the Chairman of the Tribunal.

(3) The Minister shall appoint a public officer to be Secretary to the Tribunal.

(4) The Members of the Tribunal shall hold office during the pleasure of the Minister.

(5) The Minister may appoint-

(a) such number of alternate members of the Tribunal as he thinks fit, and an alternative member may attend any meeting of the Tribunal when a member is unable to do so for any reason, and when attending any such meeting, an alternate member shall, for all purposes, be deemed to be a member of the Tribunal;

(b) an alternate Chairman from among the alternate members and the alternate Chairman may perform all the functions of the Chairman, when the latter is unable to do so for any reason.

8. (1) Meetings of the Tribunal shall be convened by the Secretary, acting in accordance with the directions of the Chairman, and may be adjourned from time to time and from place to place.

(2) At any meeting of the Tribunal, the Chairman and one other member shall form a quorum.

(3) The Chairman shall preside at the meeting of the Tribunal.

(4) At a meeting of the Tribunal decisions shall be taken by a majority of votes of the members present and voting and, in the event of an equality of votes, the Chairman shall have a second or casting vote, in addition to a deliberative vote.

(5) Proceedings of every meeting of the Tribunal shall be recorded and
a copy of the record shall be furnished to the Minister.

(6) Subject to the provisions of these Regulations, the Tribunal may regulate its meetings and procedure in any manner it considers fit.

9. (1) Where any application for the approval of any matter under these Regulations is refused by the proper officer, the applicant may, not later than fourteen days after his being notified of the refusal, apply to the Tribunal for a review of the decision of the proper officer.

(2) An application for review under sub-regulation (1) shall be made in writing addressed to the Secretary to the Tribunal and shall specify the grounds upon which review is sought.

(3) On receiving an application for review, the Secretary shall inform the applicant and the employee concerned of the place, date and time at which the application will be heard by the Tribunal.

10. (1) The Tribunal shall consider every application for review made under regulation 9 and may, after due inquiry-

(a) dismiss the application, and confirm the decision of the proper officer; or

(b) allow the application in whole or in part, and declare the dismissal of the employee or termination of his employment to be lawful; or

(c) remit the matter to the proper officer for the further inquiry and consideration.

(2) For the purposes of any inquiry held by the Tribunal, it may hear and receive such oral and written evidence as it thinks fit, and the Chairman may administer on oath to a witness.

(3) At any inquiry held by the Tribunal, the applicant and the employee to whom the application related shall be entitled to be heard in person or
by a representative and to submit representations in writing:

Provided that, except with the leave of the Tribunal, no person shall be entitled to be represented at any such inquiry by a legal practitioner.

(4) The decision of the Tribunal on any application reviewed under these regulations shall be binding and final.

11. A person guilty of any offence under any provision of these Regulations is liable on conviction, to a fine not exceeding ninety thousand penalty units.

(As amended by Act No. 13 of 1994)

CHAPTER 271
THE WORKERS' COMPENSATION ACT (REPEALED AND REPLACED BY ACT NO. 10 OF 1999)

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CHAPTER 271

WORKERS' COMPENSATION

An Act to make provision for the establishment and administration of a Fund for the compensation of Workers disabled by accidents to, or diseases contracted by, such Workers in the course of their employment, and for the payment of compensation to dependants of Workers who die as a result of such accidents or diseases; for the payment of contributions to such Fund by employers; for the grant of pensions and allowances to certain dependants of Workers who, being in receipt of pensions for such disablement, die from causes not connected with such accidents or diseases; for the appointment and powers of a Workers' Compensation Commissioner and the establishment and powers of a Workers' Compensation Board and an Appeal Tribunal; and for matters incidental to and connected with the foregoing.

[1st April, 1964]

(As amended by Act No. 27 of 1994)

PART I

PRELIMINARY
1. This Act may be cited as the Workers' Compensation Act.  

2. In this Act, unless the context otherwise requires-

"accident" means an accident resulting in injury to a worker or in damage to, or destruction of, any artificial aid used by a worker in the course of his or her employment;

"assessment" means an assessment or a provisional assessment made under the provisions of Part XI, and any instalment thereof;

"Board" means the Workers' Compensation Fund Control Board established under the provisions of section twelve;

"boarding-house" means any premises in which board and lodging are provided for gain for three or more persons who are not members of the family of the person who provides the board and lodging;

"business" means any industry, undertaking, trade, occupation or other activity in which any worker is employed;

"child" means an unmarried son or daughter under the age of eighteen years, and includes an illegitimate child, a posthumous child, a step-child, an adopted child if the Commissioner is satisfied that such child was adopted prior to the accident concerned, the illegitimate child of the wife of a worker, the child of any woman with whom the worker was, in the opinion of the Commissioner, living as man and wife at the time of such accident if such child was wholly supported by the worker and a child in respect of whom a worker had assumed, under the law and custom of the community of which he is a member, responsibility for support and who was supported by the worker at the time of such accident;

"children's allowance" means the monthly allowance payable in respect of a child or children of a disabled or deceased worker under the provisions of Part VI;

"Commissioner" means the Workers' Compensation Commissioner appointed under the provisions of section thirteen;
"Commonwealth" means-

(a) the self-governing members of the Commonwealth of Nations;

(b) all British Colonies;

(c) all states and territories under the protection of Her Britannic Majesty through Her Government in the United Kingdom; and

(d) obsolete;

"compensation" means compensation under this Act, and includes medical aid and any benefit of any nature to which a worker or his dependants may be entitled under this Act;

"date of commencement" means the 1st April, 1964;

"disablement", in relation to a worker, means disablement which results in the loss or diminution of wage-earning capacity or in the reduction of the chances of obtaining employment;

"earnings" means the average remuneration of a worker at the time of an accident calculated in the manner provided in section sixty-seven;

"employer" means a person regarded as, or deemed to be, an employer by section five, and includes a principal and the lawful representatives, successors or assigns of such person or principal;

"employer individually liable" means an employer to whom exemption has been granted under the provisions of section one hundred and five, and includes the State;

"financial year" means the period between the 1st April in any year and the 31st March next following, both dates included;

"Fund" means the Workers' Compensation Fund established under Part X;

"injury" means a personal injury, and includes the contraction of a disease;
"legal practitioner" has the meaning assigned to it by the Legal Practitioners Act; Cap. 30

"medical aid" means any or all of the benefits prescribed in paragraphs (a) to (e) inclusive of sub-section (1) of section eighty-seven; Cap. 297

"medical practitioner" means a person registered as a medical practitioner under the provisions of the Medical and Allied Professions Act and, in relation to any medical examination of, or report upon, any worker who is for the time being in any country outside Zambia, a person entitled to practise medicine in such country who has been approved for the purpose concerned by the Commissioner;

"partial disablement", in relation to a worker means the inability of such worker, 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 obtain other suitable work at the same rate of earnings as he was receiving at the time of such accident;

"pension" means the monthly payments of compensation referred to in Part VI, but does not include children's allowances or periodical payments;

"periodical payment" means a periodical payment of compensation under the provisions of sections fifty-six and fifty-seven;

"person under disability" means a minor, and a mentally disordered or defective person;

"pneumoconiosis" means any form of pneumoconiosis due to the inhalation of dust;

"prescribed" means prescribed by or under the authority of this Act;

"principal" means a person referred to as a principal in section ten;

"private domestic servant" means a person who is employed in domestic service in a private household which is not also a boarding-house;

"regulation" means a regulation made and in force under this Act;
"representative" means the executor or other person lawfully appointed to take charge of the estate of a deceased worker, and, if there is no such person so appointed, means any person specially appointed by the Commissioner under this Act to make an application on behalf of the deceased worker's dependants for compensation, and in other respects to act as the representative of such worker for the purposes of this Act;

"scheduled disease" means any disease specified in the Second Schedule;

"serious and wilful misconduct" means-

(a) drunkeness; or

(b) a contravention of any law made for the purpose of ensuring the safety or health of workers or of preventing accidents to workers, if the contravention was committed deliberately or with a reckless disregard of the provisions of such law; or

(c) any other act or omission which the Commissioner or any court on appeal may, having regard to all the circumstances of an accident, declare to be serious and wilful misconduct;

"technical assessor" means a person appointed under the provisions of section twenty-six;

"total disablement", in relation to a worker, means the inability of such worker, as a result of an accident in respect of which compensation is payable, to perform the work for which he was employed at the time of such accident or other suitable work;

"Tribunal" means the Workers' Compensation Appeal Tribunal established under the provisions of section twenty-seven;

"widow", in any case where a worker dies leaving no lawful widow or widower, includes any man or woman with whom such worker was, in the opinion of the Commissioner, living as man and wife at any relevant date.

3. (1) In this Act, unless the context otherwise requires and subject to the exceptions hereinafter mentioned, "worker"-

(a) means any person who has entered into, or works under, a contract of service or of apprenticeship or of 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

(b) includes any person whose occupation is conveying for gain persons or goods by means of any vehicle, vessel 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 is partly an agreed sum and partly a share in takings, but does not include any such person whose remuneration is fixed solely by a share in takings.

(2) 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 worker was working at the time when the accident causing the injury happened was illegal or otherwise unenforceable for any reason whatever, the Commissioner may deal with the matter as if such contract had at such time been a valid contract of service or apprenticeship or learnership, as the case may be.

(3) The following persons are excepted from the definition of "worker", that is to say:

(a) any person who is a member of any military forces lawfully in Zambia in respect of any injury arising out of and in the course of his/her employment in those forces;

(b) any person in-

(i) the Zambia Police Force or the public service;

(ii) the public service of any government or authority specified by the Minister by statutory notice;

except any such person in respect of whom no provision exists in any law for the payment of a gratuity or pension in case of injury or
death;

(c) Repealed by Act No. 19 of 1976;

(d) any person employed casually by an employer and not in connection with the employer's trade or business;

(e) any outworker, that is to say, any person to whom articles or materials are given out by any employer to be made up, cleaned, washed, ornamented, finished or repaired or adapted for sale on premises not under the control of the employer;

(f) members of the Defence Force;

(g) any person who is a member of the Unified African Teaching Service or the Teaching Service established under the provisions of the African Education Act.

(4) Any reference in this Act to a worker who has been injured shall, when the worker is dead or is a person under disability, include a reference to his representative or to his dependants or to any other person to whom or for whose benefit compensation is payable.


4. (1) Subject to the further provisions of this section and unless the context otherwise requires, "dependant" in this Act means-

(a) the widow, widower or invalid widower of a worker, if married to, or living with, the worker, as the case may be, at the time of the accident concerned;

(b) any child, if born before or within ten months after the time of the accident concerned;

(c) any parent or step-parent of a worker, or any adoptive parent who adopted such worker if the Commissioner is satisfied that the worker was adopted:

Provided that no adoptive parent shall be deemed to be a
dependant unless the worker was adopted prior to the accident concerned;

\[(d)\] any son or daughter (other than a child); any brother, sister, half-brother or half-sister; any sister or brother of a parent; or any grandparent or grandchild of a worker;

\[(e)\] any other relation to the worker, whether by consanguinity or affinity:

Provided that no person shall be deemed to be a dependant unless-

\[(i)\] being a person who falls within the provisions of paragraph \((e)\), he was wholly dependent for support and maintenance upon the worker at the time of the accident concerned; or

\[(ii)\] being a person who falls within the provisions of paragraph \((a), (b), (c)\) or \((d)\), he was wholly or partly dependent for support and maintenance upon the worker at the time of the accident concerned.

\[2\] The widow or child of a worker or a person in respect of whom a declaration has been made under the provisions of section sixty-four shall be deemed to be dependent for her or his support and maintenance upon such worker, unless the contrary is proved.

\[3\] In the case of a worker who leaves two or more widows, such widows or widower shall be entitled to share between themselves such compensation as would be payable to a single widow or widower of the deceased worker, jointly or in such proportions as the Commissioner, in his discretion, may decide.

**5.** (1) The Government and any person or any body of persons, corporate or unincorporate, having a contract of service or apprenticeship or learnership with a worker shall be regarded, for the purposes of this Act, as the employer of that worker, whether the contract was entered into before or after the commencement of this Act.

\[\text{Meaning of "employer"}\]

(2) If the services of a worker are temporarily lent or let on hire to another person by the person with whom a contract of service, apprenticeship or learnership is made, the latter shall, save as is
provided in sub-section (1) of section ten, be deemed to continue to be the employer of the worker while he is working for that other person.

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

(4) In respect of a worker employed by a club or other association of persons, the members of the managing committee, or, if there be no such committee, the secretary or other responsible officer, of the club or association 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" includes a manager, secretary, accountant, treasurer, duly authorised agent or other responsible person employed or appointed by the worker's employer.

(As amended by S.I. No. 156 of 1965 and Act No. 27 of 1994)

PART II

APPLICATION OF ACT

6. This Act shall apply in respect of accidents happening and scheduled diseases contracted on or after the date of commencement.

7. The provisions of section seventeen shall apply in respect of any accident happening and any scheduled disease contracted on or after the 1st April, 1945, and before the date of commencement, if the obligations of an insurer in respect of the accident or contracting of the disease have been transferred to the Board under the provisions of sub-section (2) of section ninety-nine.

8. (1) Where any injury is caused to a worker by the negligence, breach of statutory duty or other wrongful act or omission of the employer, or of any person for whose act or default the employer is responsible, nothing in this Act shall limit or in any way affect any civil liability of
the employer independently of this Act:

Provided that any damages awarded to a worker in an action at common law or under any law in respect of any such negligence, breach of statutory duty, wrongful act or omission, shall be reduced by the value, as decided by the court, of any compensation which has been paid or is payable under the provisions of this Act in respect of injury sustained by the worker.

(2) For the purposes of sub-section (1), "compensation" includes, in the case of a continuing liability, the capitalised value, as determined by the court, of the pension, periodical payment or allowance, as the case may be, which constitutes the liability.

9. (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 (in this section referred to as the third party) to pay damages to the worker in respect thereof -

(a) the worker may both claim compensation under this Act and take proceedings against the third party in a court to recover damages:

Provided that where any such proceedings are instituted the court shall, in awarding damages, have regard to the amount which, by virtue of the provisions of paragraph (b), is likely to become payable to the Commissioner or the employer individually liable, as the case may be, by the third party; and

(b) the Commissioner or the employer individually liable by whom compensation is payable shall have a right of action against the third party for the recovery of the compensation he is obliged to pay under this Act as the result of the accident, and may exercise such right either by joining in a suit instituted by the worker against the third party or by instituting separate suit:

Provided that the amount recoverable under this paragraph shall not exceed the amount of damages, if any, which in the opinion of the court would have been awarded to the worker but for the provisions of this Act.

(2) A worker shall, before instituting proceedings under sub-section (1),
in writing notify the Commissioner or the employer individually liable, as the case may be, of his intention to do so and shall likewise notify the Commissioner or such employer if he decides to abandon such proceedings or to relinquish or settle his claim for damages, and shall in connection with any such notification furnish such particulars as the Commissioner may require, and no proceedings in any court to recover damages against any person referred to in sub-section (1) may be taken by a worker until he has so notified the Commissioner or such employer of his intention to take such proceedings and unless he has lodged a claim for compensation.

(3) Notwithstanding anything to the contrary contained in any law, where written notice of intention to institute proceedings under the provisions of paragraph (b) of sub-section (1) has been given by the Commissioner, or an employer, to a third party within twelve months of the receipt by the Commissioner or employer, as the case may be, of due notice of the accident concerned, no such proceedings shall lapse, or be barred, under any law relating to the limitation of actions, until after the expiration of a period of three months from the date upon which the Commissioner has made an award, certified by him to be a final award, of compensation in respect of such accident.

(4) For the purposes of this section, "compensation" includes, in the case of a continuing liability, the capitalised value, as determined by the court, of the pension, periodical payment or allowance, as the case may be, which constitutes the liability.

10. (1) Where any person (in this section referred to as the principal), in the course or for the purposes of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the supervision of the contractor, of the whole or any part of any work undertaken by the principal, any worker engaged on such work shall be deemed to be the worker of the principal unless and until such contractor in respect of such work has been assessed as an employer and has paid all assessments due by him to the Fund for the current year, and any reference in this Act to the employer shall be deemed to be a reference to the principal:

Provided that if compensation becomes payable to the worker under this Act, the amount of compensation shall be calculated with reference to the earnings of the worker under the employer by whom he is immediately employed.
(2) Where the 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, on application made by the principal, finds that such contractor would have been liable had he been deemed under this Act to be the employer of the worker.

(3) It shall be the duty of the principal to ensure that any assessment for which the contractor is liable is paid and, if 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, but such principal shall be entitled to reimbursement by the contractor of any sum paid out under this sub-section.

(4) Where a principal has paid to the Commissioner any assessment or compensation under the provisions of sub-section (2) or (3), 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 anything contained in this section, the Commissioner shall first proceed against the contractor for the recovery of compensation instead of against the principal, and in the event of failure to recover fully from the contractor, may recover the balance from the principal.

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

11. (1) Where an employer carries on business chiefly within Zambia and the usual place of employment of his workers is in Zambia and an accident happens to his worker while the worker is temporarily employed by him out of Zambia, the worker shall be entitled to compensation in the same manner as if the accident had happened in Zambia: Workers employed outside Zambia, etc.
Provided that the provisions of this sub-section shall cease to apply to a worker after he has been employed out of Zambia for a continuous period of twelve months unless the Commissioner has, before the end of such period, agreed with the worker and the employer concerned that those provisions should, subject to such conditions as the Commissioner may determine, continue to apply.

(2) Where an employer carries on business chiefly outside Zambia and an accident happens to his worker ordinarily employed outside Zambia but temporarily employed by him in Zambia at the time of the accident, such worker shall not be entitled to compensation out of the Fund unless the employer has previously agreed with the Commissioner that such worker shall be entitled to compensation, and has paid assessment:

Provided that any such worker so employed in Zambia for a continuous period of more than twelve months shall be deemed to be ordinarily employed by such employer in Zambia.

(3) Where, by the law of the country in which an accident happens, a worker in the circumstances described in sub-section (1) is entitled to compensation in respect of such accident, or where an accident happens to a worker in Zambia 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 such worker 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 individually liable, 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 such worker elects to claim compensation under the law of another country-
(i) where the amount so recoverable is less than the compensation which would have been payable under this Act, the Commissioner or the employer individually liable, as the case may be, shall grant 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.

PART III
ADMINISTRATION

12. (1) (a) There is hereby established the Workers' Compensation Fund Control Board which shall consist of a Chairman and not more than eleven other members. The Chairman and the other members shall be appointed by the Minister.

(b) Each member of the Board shall be appointed for a term not exceeding three years but, on the expiry of such term, shall be eligible for re-appointment.

(2) Subject to the provisions of this Act, the Board shall be responsible for the administration of the Fund and of this Act and for advising the Minister on any matters in connection with the Fund or this Act, and in particular, but without derogating from the generality of the foregoing, the Board shall-

(a) give all necessary directions to the Commissioner for the effective administration of this Act;

(b) after the conclusion of each financial year, report to the Minister upon the administration of the Fund and of this Act during that year.

(3) The Board may, subject to the approval of the Minister, promote, establish and subsidise out of the Fund any organisation or scheme the objects of which consist of or include one or more of the following:
(a) the prevention of accidents or of any diseases which are due to the nature of any occupation;

(b) the promotion of the health or safety of workers;

(c) the provision of facilities designed to assist injured workers to return to work or to reduce or remove any handicap resulting from their injuries.

(4) The Board may guarantee loans made to employees of the Board to assist them acquire housing accommodation.

(5) A member of the Board shall cease to hold office if-

(a) he dies; or

(b) he resigns; or

(c) he is adjudicated bankrupt or enters into any arrangement for the benefit of his creditors; or

(d) he is adjudicated to be of unsound mind; or

(e) he is convicted of an offence and sentenced therefor to imprisonment without the option of a fine; or

(f) he is absent from four consecutive meetings of the Board without leave of the Chairman; or

(g) his appointment is terminated by the Minister.

(6) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of suing and being sued and, subject to the provisions of this Act, of purchasing or otherwise acquiring, holding, charging and alienating property, real or personal, and of doing or performing such acts or things as bodies corporate may by law do or perform.
(7) The Board may meet together for the despatch of business, adjourn and otherwise regulate its meetings and proceedings as it thinks fit.

(8) A majority of members (not including members who have been given leave of absence by the Chairman) shall constitute a quorum of any meeting of the Board, and all acts, matters or things authorised or required to be done by the Board shall be decided by resolution of any meeting at which a quorum is present.

(9) At a meeting of the Board at which the Chairman is not present the members present, if they constitute a quorum, shall elect one of their number to be Chairman of that meeting.

(10) The common seal of the Board shall not be affixed to any instrument except by authority of a resolution of the Board, and the sealing of any instrument shall be authenticated by the signature of the Chairman or of the Commissioner and of such other person as the Board may appoint for the purpose.

(11) The members of the Board shall be paid out of the Fund such remuneration, and such travelling and subsistence allowances, as the Minister may direct.

(No. 37 of 1969, No. 19 of 1976, No. 20 of 1979 and No. 24 of 1982)

13. (1) The Minister shall appoint a person to be the Workers' Compensation Commissioner.

(2) The Board may, subject to the approval of the Minister, appoint such other persons as, in its opinion, are necessary for the administration of this Act.

(3) The Commissioner may, subject to the general or special directions of the Minister, delegate any of his powers and functions under this Act to any person appointed under sub-section (2).

(4) The amount of remuneration and the terms and conditions of service
of all persons appointed under this section shall, subject to the approval of the Minister, be determined by the Board and such remuneration shall be paid out of the Fund.

(No. 37 of 1969)

14. Subject to the provisions of this Act, the Commissioner shall-

(a) receive notices of accidents and claims for compensation;
(b) inquire into or cause inquiry to be made into accidents;
(c) adjudicate upon all claims and other matters coming before him for decision;
(d) determine whether any person is a worker, employer, principal or contractor for the purposes of this Act;
(e) pay compensation payable from the Fund under the provisions 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) computation of earnings;
   (iv) the degree of disablement of any worker;
   (v) the amount and method of payment of any compensation;
   (vi) the withholding, revision, discontinuance or suspension of any compensation;
(g) determine whether any person is a dependant under this Act and, if so, the degree of dependence, and where there is more than one dependant, which shall receive compensation and the allocation of compensation among them;
(h) determine any question arising in respect of the necessity for, or the character or the sufficiency of, any medical aid;
(i) determine any question relating to the rendering of statements of wages, liability for assessment, rates of assessment, amount of assessment and method of payment of assessment;
(j) determine any other question falling within his purview in connection with the application of this Act or in respect of any employer or worker;
(k) after the conclusion of each financial year, report to the Board upon the administration of this Act during that year;
collect, compile and maintain such statistics and information relating to the occurrence or cause of accidents and scheduled diseases and the grant of benefits to persons under this Act as he may deem necessary or as may be required by the Board;

investigate whether any disease should be included in or deleted from the Second Schedule and make recommendations to the Board in regard thereto;

make any investigations and perform such other functions and duties as may have been assigned to him or as he deems necessary for the administration of this Act.

(As amended by No. 22 of 1965 and No. 37 of 1969)

15. (1) The Commissioner may, in writing, authorise any competent person either generally or specially to investigate any matter falling within his purview and to report to him upon any such matter, and any person so authorised shall have the power to require and take affidavits or declarations as to any matter to which the investigation or report relates, or to take any other declarations required under this Act, and in all cases to administer oaths and attest declarations.

(2) Upon the production of the written authority referred to in sub-section (1), such person may, without previous notice and at all reasonable times, enter upon any land, works, premises or other place, and may question any employer or other person and inspect any part of the land, works, premises or other place or any books or documents which may contain information required for the purposes of this Act and take copies of or extracts from such books or documents.

(3) Any person who obstructs any person authorised under sub-section (1) in the lawful exercise of his functions under this section or who makes or subscribes to any statement, knowing it is false, or who refuses to answer any questions or produce any document, shall be guilty of an offence.

(4) The Commissioner may himself exercise any powers mentioned in this section, and whenever the Commissioner is exercising any such power, all the provisions of this section shall apply.

16. (1) If any person in the exercise of any powers conferred or in the performance of any duties imposed by or under this Act acquires
information relating to the financial affairs of any other person, firm or business, or to any manufacturing or commercial secrets or working processes, he shall not, save for the purposes of legal proceedings under this Act, disclose such information to any other person, except-

(a) to a court of law or to any person who by law is vested with the power to compel the disclosure of such information; or

(b) to the Minister or to any person acting in the execution of this Act in so far as such information may be necessary for the execution thereof.

(2) Any person who wilfully contravenes the provisions of sub-section (1) shall be guilty of an offence.

17. (1) The Commissioner may, after giving notice in writing to the person concerned and giving him an opportunity to be heard, at any time review any compensation granted on any of the following grounds:

(a) that the worker has not submitted himself for examination or has not submitted a medical report when required to do so under the provisions of this Act;

(b) that the disablement which gave rise to the award is continued or aggravated by the unreasonable refusal or wilful neglect of the worker to submit himself to medical or surgical treatment;

(c) that the worker has absented himself in such manner that no notice can reasonably be served on him;

(d) that in the opinion of the Commissioner the degree of disablement has increased or diminished or that the worker is no longer permanently disabled;

(e) that any compensation awarded 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 may, after giving notice in writing to any person concerned and after giving such person an opportunity to be heard, at any time review any decision, not being an award of compensation, given by him under this Act.

(3) The Commissioner, after making such inquiry or receiving such evidence as he deems necessary, may confirm the award of compensation or order the discontinuance, suspension, reduction or increase of any such compensation, or, in the case of any decision referred to in sub-section (2) confirm, set aside or vary that decision.

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

18. (1) The Commissioner may, and at the request of any interested party shall, summon any person who may be able to give material information concerning the subject of any investigation or formal inquiry held by him under this Act or whom 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 or formal inquiry, to appear before him at a time and place specified in such summons, to be interrogated or to produce such book, document or thing, and the Commissioner may retain for further examination any book, document or thing so produced.

(2) A summons 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 summoned under the provisions 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) If any person, having been duly summoned under sub-section (1), fails without sufficient cause to attend at the time and place specified in
such summons, he shall be guilty of an offence.

(5) If any person, having been duly summoned under sub-section (1), or any person called under the provisions 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.

(6) In connection with the interrogation of any person by, or the production of any book, document or thing before, the Commissioner, the law relating to privilege, as applicable to a witness summoned to give evidence or produce any book, document or thing before a court of law, shall apply.

(7) Any witness who knowingly gives false testimony touching any matter which is material to any question then pending in any investigation or formal inquiry or intended to be raised in the investigation or inquiry shall be guilty of an offence and liable to imprisonment for a period not exceeding two years. It shall be immaterial whether such testimony is given on oath or under any other sanction authorised by law.

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

(9) A person summoned 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 Fund such allowances as may be prescribed or the amount of such loss and such expense, whichever is the less.

(10) 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.

(11) In this section, "Commissioner" includes any person acting within
the scope of any delegation made under the provisions of sub-section (3) of section thirteen.

(As amended by No. 37 of 1969)

19. (1) Any person affected by a decision of the Commissioner, or any trade union or employers' organisation of which the person in respect of whom such decision was given was at the relevant times a member, may, within thirty days of such decision, or within such further period as the Commissioner may on good cause shown allow, lodge with the Commissioner an objection against such decision.

(2) The Commissioner may consider an objection similarly lodged, as provided in sub-section (1), by a trade union or employers' organisation not falling within the provision of the said sub-section, if, in the opinion of the Commissioner, an important principle is involved.

(3) An objection under this section shall be in writing in the prescribed form, accompanied by particulars containing-

(a) a concise statement of the circumstances in which the objection is made and the relief or order which the objector claims, or the question which he desires to have determined;

(b) the full name and address of the objector and of any legal practitioner or other representative who is to represent such objector.

(4) If an objection is made by an employer individually liable, it shall be accompanied by a statement as to whether he admits his liability to pay compensation or denies such liability and whether the admission or denial is total or partial, and, if he admits or denies liability partially, a statement of the extent to which he admits or denies liability, and in the case of a denial of liability the grounds thereof shall be stated.

(5) If, owing to illiteracy, blindness or any other physical cause, an objector is unable to complete the prescribed form or to supply the information required, the Labour Officer or District Secretary of the District in which the objector resides shall fill in the objection and particulars in the prescribed form and shall lodge the objection with the Commissioner.
20. (1) If an objection under section nineteen arises out of a claim for compensation in respect of a worker's death, the objection made on behalf of the dependants shall be made by the representative of the deceased worker or, if there is no such representative, by a person appointed by the Commissioner to make such objection and in other respects to act as representative of the deceased worker for the purposes of this Act, and the Commissioner is hereby authorised to make such an appointment, and for the purposes of this sub-section, "dependants" includes persons who claim or may be entitled to claim to be dependants.

(2) A representative shall comply with the provisions of section nineteen as to the lodging of an objection and the particulars to accompany such objection.

21. An objection lodged under the provisions of section nineteen shall be considered and determined by the Commissioner in a formal inquiry in such manner as may be prescribed, and the Commissioner shall confirm any decision in respect of which the objection was lodged or give such other decision as in his opinion is equitable.

22. Any person affected by a decision referred to in section twenty-one may appeal to the Tribunal within twenty-one days of such decision or within such further period as the Tribunal may on good cause shown allow.

23. Except where the Commissioner otherwise orders, no obligation to pay any assessment, compensation or other amount to the Commissioner or the Fund, or any periodical payments to or in respect of a worker by reason 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) of section nineteen, or that an appeal has been lodged under section twenty-two, but if, as a result of any such objection or review, the amount payable by reason of the original decision is varied the person who made the payment shall be entitled to a refund or be liable to pay the additional amount, as the case may be.

24. (1) The Commissioner may of his own motion and shall at the request of any 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 High Court.

(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.

25. Whenever the Commissioner has any doubt as to the correctness of any decision given by the Tribunal on any question of law in connection with this Act, he may submit that decision to the High 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.

26. (1) The Commissioner may appoint as an assessor any person skilled in technical questions, other than medical, dental, or surgical questions, to sit with him and to act in an advisory capacity in a formal inquiry under the provisions of section twenty-one.

(2) A person shall not be appointed as an assessor under this section or, if appointed, no person shall sit if-

(a) he is an employee of, or associated in any pecuniary manner with, the employer of the worker concerned;

(b) he has, in connection with the injury or death out of which the formal inquiry arises, given professional assistance or advice in regard to the accident or question in dispute to any party to the inquiry or to any person who may become liable for the payment of compensation under this Act to such worker.

(3) There shall be paid out of the Fund to any assessor, other than an assessor employed in the public service, such fees as may be prescribed.

PART IV
WORKERS' COMPENSATION APPEAL TRIBUNAL

27. (1) There is hereby established a Tribunal to be known as the Workers' Compensation Appeal Tribunal which shall consist of a Chairman, appointed by the Minister, and two other members. Establishment of Worker's Compensation Appeal Tribunal

(2) The Chairman shall be a barrister, solicitor, or advocate entitled to practice in Zambia or a person who holds or has held judicial office in any part of the Commonwealth.

(3) The other members of the Tribunal for any sitting thereof shall be chosen by the Chairman from a list of persons nominated by the Minister and considered by the Minister to be persons suitable to be members of the Tribunal, having regard to the functions thereof.

(4) A person shall not be chosen or, if chosen, shall not sit or act as a member of the Tribunal if he has, in connection with the injury or death out of which the matter in dispute arises, given professional assistance or advice in regard to the accident or the matter in dispute to any party to the dispute or to any person who may become liable for the payment of compensation under this Act to the worker.

(5) Any person chosen as a member of the Tribunal shall, while engaged in any sitting or any work of the Tribunal, receive from moneys appropriated by Parliament such remuneration as may be prescribed and his reasonable expenses for travelling and subsistence in accordance with such tariff as may be prescribed.

(6) There shall be a Secretary of the Tribunal appointed by the Minister.

(7) A record of the proceedings of the Tribunal shall be kept and filed in the office of the Secretary of the Tribunal, and the same may be inspected and copies obtained upon payment of the same fees as if they were civil records of a subordinate court.

(As amended by G.N. No. 176 of 1964 and S.I. No. 156 of 1965)
28. The functions of the Tribunal shall be-
   (a) to hear any appeal made to it under the provisions of this Act;
   (b) to deal with any other matter with which it is required or
        permitted to deal under this Act;
   (c) generally to deal with all matters necessary or incidental to the
        performance of its functions under this Act.

29. All questions or matters requiring to be decided by the Tribunal
    shall be decided by a majority:

    Provided that any matter of law arising for decision at any sitting of the
    Tribunal, and any question arising at any such sitting as to whether a
    matter for decision is a matter of fact or a matter of law, shall be decided
    by the Chairman, and no other member of the Tribunal shall have a
    voice in the decision of any such matter.

30. (1) The Chairman of the Tribunal shall make rules to regulate its
    procedure, which shall be as simple and informal as possible, and, in any
    case not covered by such rules, the Tribunal shall act in such manner and
    on such principles as it deems best fitted to do substantial justice and to
    effect and carry out the objects and provisions of this Act.

    (2) Rules made under this section may provide for the examination, at
        the instance of the Tribunal, in private by medical practitioners or
        dentists of a worker who is a party to the dispute.

31. (1) At any hearing before the Tribunal any party may appear-

    (a) in person; or

    (b) by a legal practitioner; or

    (c) by a member of his family; or

    (d) by a person in the permanent and exclusive employment of such
party; or

(e) in the case of a worker, by an officer of a trade union, or of an organisation approved of by the Minister, or, in the case of an employer, by an officer of an employers' organisation; or

(f) by an officer of the Labour Department; or

(g) in the case of a company, by any director, secretary or other officer thereof, and, in the case of a corporate body which is not a company, by an officer thereof; or

(h) by leave of the Chairman, by any other person.

(2) No person other than a legal practitioner shall be entitled to recover any fee or reward, other than necessary out-of-pocket disbursements and expenses, for appearing on behalf of any person before the Tribunal.

(As amended by G.N. No. 499 of 1964 and S.I. No. 156 of 1965)

32. The Tribunal may-

(a) confirm, vary or reverse the decision appealed from as justice may require;

(b) if the record does not furnish sufficient evidence or information for the determination of the appeal, remit the matter to the Commissioner with instructions in regard to the taking of further evidence or the setting out of further information;

(c) order the parties, or either of them, to produce to the Tribunal at some convenient time such further proof as the Tribunal deems necessary or desirable; or

(d) take any other course which may lead to the just, speedy and inexpensive settlement of the matter.

33. (1) The Tribunal shall have the power to summon witnesses, to call for the production of and grant inspection of books, documents and other things, and to examine witnesses on oath, and for such purpose the Chairman is hereby authorised to administer oaths.

(2) A summons for the attendance of witnesses or the production of books, documents or other things shall be signed by the Secretary to the
Tribunal and served in the same manner as if it were a subpoena for the attendance of a witness at a civil trial in a subordinate court.

(3) Any person summoned to give evidence, or to produce any book, document or other thing, or giving evidence, before the Tribunal, shall be entitled to the same privileges and immunities as if he were summoned to attend or were giving evidence in civil proceedings before a subordinate court.

34. (1) If any person who has been summoned under the provisions of section thirty-three, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, or fails to remain in attendance until duly excused by the Tribunal from such further attendance, the Chairman of the Tribunal may, upon being satisfied on oath or by the return of the person charged with the service of such summons that the summons was duly served upon such person, and, in case no sufficient reason for such failure seems to him to exist, issue a warrant, signed by the Chairman, for the apprehension of such person who shall thereupon be apprehended by any police officer to whom such warrant is delivered and shall be brought before the Tribunal to give his evidence or to produce the book, document or other thing, and in addition such person shall be liable to be fined summarily by the Chairman of the Tribunal for his default such amount, not exceeding one penalty unit, as the Chairman may determine.

(2) If any person who has been summoned under the provisions of section thirty-three refuses to be sworn as a witness, or having been sworn, refuses to answer fully and satisfactorily any question lawfully put to him, or refuses or fails to produce any book, document or other thing, and does not excuse his refusal or failure to the satisfaction of the Tribunal, the Chairman of the Tribunal may order that such person be detained in custody as if he were a prisoner awaiting trial for any period not exceeding eight days unless he sooner consents to do what is required of him, and if such person, upon being brought up before the Tribunal at any adjourned hearing, again refuses or fails to do what is required of him, the Chairman may, if he sees fit, again adjourn the proceedings and order that he be detained for a like period, and so again from time to time until such person consents to do what is required of him.

(3) A person mentioned in sub-section (2) shall, in addition to being detained in custody, as in such sub-section provided, be liable to be
fined summarily by the Chairman of the Tribunal such amount, not exceeding one penalty unit, as the Chairman may determine.

(As amended by Act No. 13 of 1994)

35. Any person who knowingly gives false testimony touching any matter which is material to any question then pending in any proceedings before the Tribunal or intended to be raised in such proceedings shall be guilty of an offence and liable to imprisonment for a period not exceeding seven years. It shall be immaterial whether such testimony is given on oath or under any other sanction authorised by law.

36. If any person wilfully insults the Tribunal or any member thereof during any sitting of the Tribunal or wilfully interrupts the proceedings of the Tribunal, or otherwise wilfully disturbs the peace or order of such proceedings, the Chairman of the Tribunal may order that person to be removed and detained in custody until the rising of the Tribunal, and every such person shall be liable, in addition to such removal and detention, to be fined summarily by the Chairman of the Tribunal such amount, not exceeding one penalty unit, as the Chairman may determine.

(As amended by Act No. 13 of 1994)

37. A person summoned under the provisions of section thirty-three may, on the order of the Tribunal, be paid out of the Fund such allowances as may be prescribed.

38. (1) The Tribunal may make such order as to costs as it may deem just having regard to the means of the parties and the merits of the appeal.

(2) Subject to the provisions of sub-section (1), the costs and charges in connection with proceedings before the Tribunal shall be payable in accordance with the scale of costs for the time being in use in subordinate courts in civil cases.

(3) Subject to the provisions of sub-section (1), payment of costs awarded by the Tribunal may not be enforced until they have been taxed by the clerk of a subordinate court of the first class of the District in which the appeal is heard.
39. Any decisions of the Tribunal shall, subject to the provisions of section forty, be final.

40. (1) Any person who-

(a) being a party to any appeal before the Tribunal is dissatisfied-

(i) with the determination of the Tribunal as being erroneous in point of law; or

(ii) with any decision of the Chairman of the Tribunal as to whether the matter for determination by the Tribunal is a matter of fact or a matter of law; or

(b) has been fined summarily by the Chairman of the Tribunal; may appeal therefrom to the High Court within thirty days of such determination, decision or fine or within such further period as the High Court may on good cause shown allow.

(2) Upon the hearing of an appeal under this section, the High Court may-

(a) confirm, vary or reverse the matter appealed against;

(b) remit the matter to the Tribunal with instructions in regard to the taking of further evidence or the setting out of further information;

(c) order the parties or any of them to produce at some convenient time before the High Court such further proof as may seem necessary or desirable;

(d) take any other course which may lead to the just, speedy and inexpensive settlement of the matter;

(e) make such order as to costs as may seem just.

(3) The decision of the High Court in any appeal under this section shall
be final.

(4) Rules of court for regulating appeals to the High Court under this section and for the procedure on such appeals may be made under the provisions of the High Court Act:

Provided that until such rules are so made, the rules governing appeals in civil matters from subordinate courts to the High Court shall, mutatis mutandis, apply and be followed.

PART V

RIGHT TO COMPENSATION

41. (1) If an accident to a worker arising out of and in the course of his employment happens after the date of commencement and results in such worker's disablement or death, he, or if he dies, his dependants, shall become entitled to compensation in accordance with the provisions of this Act.

(2) Notwithstanding the provisions of sub-section (1), no compensation under this section shall be payable-

(a) if the accident is attributable to the serious and wilful misconduct of the worker, unless the accident results in serious permanent disablement, or the worker has died in consequence of the accident, leaving as his dependant his widow or a child or any dependant wholly dependent upon him;

(b) in respect of his death, if the worker 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.

(3) For the purposes of this Act, an accident shall be deemed to arise out of and in the course of his employment notwithstanding that the worker was at the time when the accident happened 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-
(a) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and

(b) the act was done for the purposes of and in connection with the employer's trade or business.

(4) An accident happening while a worker is travelling from his home to his place of work or from his place of work to his home, whether by a vehicle supplied by or on behalf of his employer or by any other means, shall be deemed to arise out of and in the course of his employment if the worker was, in the opinion of the Commissioner, so travelling by a reasonably direct route and with reasonable dispatch.

(5) An accident happening to a worker in or about any premises at which he is for the time being employed for the purposes of his employer's trade or business shall be deemed to arise out of and in the course of his employment if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour, assist or protect persons who are, or are thought to be or possibly be, injured or imperilled, or to avert or minimise serious damage to property.

(6) For the purposes of this Act, an accident arising in the course of a worker's employment shall be deemed, in the absence of evidence of the contrary, also to have arisen out of that employment.

(As amended by No. 37 of 1969 and No. 19 of 1976)

42. When a worker 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

(b) in, at or about any premises other than his employer's while, with the consent of his employer, engaged in any first aid, ambulance, or rescue work; or

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

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

43. (1) If a worker or any of his dependants who is entitled to compensation under this Act has received or will receive in respect of an accident any pension or gratuity from the employer of the worker, then, in determining the amount of such compensation, no reduction shall be made in respect of any amount paid or to be paid by the employer by way of such pension or gratuity.

(2) If a worker or any of his dependants who is entitled to compensation under this Act has received or will receive in respect of an accident any pension or gratuity from a pension, superannuation or provident fund to which the employer has contributed, then, in determining the amount of such compensation, no reduction shall be made in respect of the amount which has been received or will be received by the worker or any of his dependants from that fund.

44. (1) Subject to the provisions of section forty-three, the Commissioner may in his discretion, in awarding or revising the award of any compensation to a worker in respect of permanent disablement or to his dependants, have regard to-

(a) in the case of a worker, any compensation for permanent disablement previously awarded to the worker under the workers' compensation law of any country, whether as the result of one or more than one accident or paid by one or more than one employer, or any benefit granted to the worker under any law on account of permanent disablement;

(b) in the case of dependants, any benefits or settlements granted to them under any law on account of the death of the worker.

(2) The compensation payable to a worker, whether in respect of one or more than one accident, shall not, in any case, exceed the compensation payable in respect of one hundred per centum disablement:

Provided that, in determining such compensation, the calculation shall be based upon the earnings most favourable to the worker at the time of any such accident.
(3) For the purposes of this section, compensation payments made to a worker or his dependants under the provisions of the Pneumoconiosis Act or the Act repealed thereby shall not be deemed to be a benefit on account of permanent disablement or death.

(4) Whenever a worker has received compensation for permanent disablement under this Act and subsequently meets with an accident resulting in further disablement in respect of which compensation is payable under this Act, the Commissioner may, if the worker shows to the satisfaction of the Commissioner that it would be to his advantage to do so, calculate his compensation in respect of the further permanent disablement on the earnings he was receiving when he met with any previous accident in respect of which compensation was paid.

(As amended by S.I. No. 156 of 1965)

45. (1) Save as is specially provided in this Act in respect of agreements, any provision in a contract existing at the commencement of this Act or thereafter entered into, whereby a worker or his dependants relinquish any right to compensation, whether for the worker or for any dependant, shall be null and void.

(2) Notwithstanding anything in this Act contained, where the Commissioner is satisfied that, by reason of old age or serious physical defect or infirmity or any previous injury, a person, if employed as a worker, is specially liable to meet with an accident, or, if he meets with an accident is specially liable to sustain injury, he may, in connection with any contract for such employment, authorise the worker and the employer to enter into an agreement in writing that less than the amount payable under this Act shall be paid in respect of the disablement or death of that person:

Provided that-

(i) such agreement shall be effective only when the old age or serious physical defect or infirmity or previous injury has caused or contributed to the accident; and

(ii) no such agreement shall be valid and effectual unless the amount agreed to be paid in respect of the disablement or death is at least
one-half of the amount that would otherwise be payable as compensation under this Act and has been approved by the Commissioner.

46. (1) Any employer who withholds from any moneys due from him to any of his workers any part of any sum which the employer is or may become liable to pay as compensation or assessment under this Act, or who requires or permits any of his workers 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 of an offence under sub-section (1) may, in addition to imposing any other penalty upon him, order that he shall pay to the worker any sum which he has unlawfully required or permitted the worker to contribute and such order shall have the effect of a civil judgment of the court:

Provided that no order shall be made under the provisions of this sub-section unless and until the employer has been afforded an opportunity to show cause why the order should not be made against him.

47. Where a worker has received medical treatment in consequence of any accident arising out of and in the course of his employment and such treatment, whether through negligence or otherwise, results, through no wilful default on the part of the worker, in the death or disablement, or increased or continued disablement, of the worker, such death or disablement or increased or continued disablement, as the case may be, shall for the purposes of this Act, be deemed to have resulted from the accident, and the compensation payable under this Act shall be assessed accordingly:

Provided that-

(i) where a worker or any dependant of a worker as the case may be, has received any payment, not being compensation payable under this Act, in respect of any disablement, increased or continued disablement or death attributable to such medical treatment, then, in assessing any compensation payable under this Act, regard shall be had to such payment;
(ii) where a worker or any dependant of a worker as the case may be, receives under the provisions of this Act, any compensation or increased compensation in respect of any disablement, increased or continued disablement or death which is attributable to any medical treatment received by the worker, any right of action of such worker or dependant, as the case may be, on account of such treatment shall, if not exercised by the worker or dependant, as the case may be, vest in and be exercisable by the Commissioner or by the employer individually liable.

48. Where under this Act there exists any right to compensation in respect of the death or disablement of any worker as a result of an accident, the Commissioner may in his discretion refuse to award the whole or a portion of such compensation and the Commissioner, or, if authorised thereto by the Commissioner, the employer individually liable, may further refuse to pay the whole or any portion of the cost of medical aid-

(a) if such worker 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, and the accident has been caused by or the death has resulted from or the disablement has resulted from or been aggravated by such injury, disease or illness; 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 worker to submit to medical or surgical treatment in respect of any injury, disease or illness whether caused by the accident or contracted before the accident concerned.

49. Subject to the provisions of section fifty-six, the right to periodical payments shall cease and the worker shall be entitled to compensation for any permanent disablement he may suffer-

(a) when the worker is, in the opinion of the Commissioner, able to resume the work at the which he was employed at the time of the accident or other suitable work having the same or greater emoluments;

(b) when, in the opinion of the Commissioner, the injury causing the disablement has become static and no further medical aid will be required by the worker in respect of the injury before the expiration of eighteen months from the commencement of the disablement:

Provided that the Commissioner may revive the right to periodical
payments if-

(i) the worker suffers further disablement as the result of the same accident; or

(ii) the worker undergoes further medical, surgical or remedial treatment necessitating further absence from work, if, in the opinion of the Commissioner, the treatment will reduce the disablement from which the worker suffers; and any compensation for permanent disablement payable to the worker shall be suspended while the worker is entitled to periodical payments under this proviso.

50. If a worker-

(a) refuses or wilfully neglects to submit himself to medical examination or in any way wilfully obstructs or unnecessarily delays such examination; or

(b) to the prejudice and without the consent of the employer, absents himself in such a manner that any notice under this Act cannot be served upon him;

his right to periodical payments, or the continuance of such payments, shall automatically be suspended during the period that the circumstances exist which gave rise to such suspension, and no payments shall be payable by the Commissioner or an employer individually liable in respect of the period of suspension:

Provided that the Commissioner may, on good cause shown, condone the action of the worker and make or order to be made, such payment or partial payment of a periodical payment to the worker in respect of the period of suspension as in the circumstances he deems just.

51. Save as is provided under this Act, there shall be no abatement of the amount of compensation which the Commissioner or the employer individually liable has to pay under this Act by reason of the fact that, in consequence of the accident causing disablement or death, money has become due to the worker or his dependants under an accident or life insurance policy effected by himself or by any other person.

52. An employer shall not, without the consent of the Commissioner, terminate his contract of service with a workman who has suffered disablement in circumstances which entitle him to compensation under the provisions of this Act until either-

(a) the worker has been certified by a medical practitioner to be fit
to resume the work for which he was employed at the time of the accident; or

(b) compensation for permanent disablement becomes payable to the worker under the provisions of this Act.

53. Notwithstanding any term, express or implied, in the contract under which a worker is employed that the worker is required to do an entire work for an entire sum, the worker shall, if he is disabled by an accident arising out of and in the course of his employment, be entitled to payment from his employer of such part of the entire sum as bears the same proportion to the entire sum as the work done up to the time of the disablement bears to the entire work.

54. Where an employer, during the time a worker employed by him is disabled by accident arising out of and in the course of his employment, pays to the worker his full earnings, the worker shall not be entitled to any periodical payments and the employer shall be entitled to be reimbursed from the Fund to the extent of the periodical payments to which the worker would otherwise have been entitled:

Provided that an employer shall not be entitled to be reimbursed as aforesaid if he is-

(i) an employer individually liable;
(ii) an employer who at the date of the accident was in default in complying with the provisions of section one hundred and six;
(iii) an employer who at the date of the accident was in default in the payment of his assessment.

PART VI

LIABILITY FOR COMPENSATION AND AMOUNT AND PAYMENT OF COMPENSATION

55. Compensation shall be paid by either-

(a) the employer individually liable; or
(b) the Commissioner.
56. (1) Compensation in the case of total disablement shall be made by periodical payments during the period of disablement and shall be calculated at fifty per centum of the assessed earnings of the worker.

(2) Periodical payment shall be made once a month:

Provided that, by agreement or by order of the Commissioner, such payments may be made at shorter intervals than one month, subject in such case to a proportionate reduction in the amount of such payments.

(3) (Repealed by 27 of 1994)

(As amended by Act No. 27 of 1994).

57. (1) Compensation in the case of partial disablement shall bear the same proportion to the periodical payments prescribed in section fifty-six as the partial disablement bears to total disablement.

(2) Where a worker who has been receiving compensation for total disablement returns to work with the employer for whom he was working at the time of the accident at a lower rate of earnings than he was receiving at the time of the accident, such employer shall forthwith notify the Commissioner of such fact and of the earnings at the time of the accident and the present earnings of the worker.

(3) The provisions of sub-section (2) of section fifty-six shall apply in respect of periodical payments for partial disablement.

(4) Subject to the provisions of section fifty-eight, periodical payments for partial disablement shall not be made for more than eighteen months.

(As amended by Act No. 27 of 1994)

58. If as a result of an accident a worker has received periodical payments for total disablement or partial disablement or total and partial disablement for a period of eighteen months from the date of the commencement of the disablement, then at the end of such period such payments shall cease.
worker shall no longer be entitled to periodical payments for total or partial disablement and shall be deemed to have suffered permanent disablement unless the contrary is proved, in which case the Commissioner may, in his discretion, direct the continuance of periodical payments during the continuance of any such disablement for a period not exceeding six months.

59. (1) Compensation in the case of permanent disablement shall be according to the degree of disablement, and shall be calculated as follows:

(a) where the degree of disablement is one hundred per centum, a monthly pension calculated at fifty per centum of the assessed earnings of the worker;

(b) where the degree of disablement is under one hundred per centum but exceeds ten per centum, a monthly pension bearing the same proportion to the pension calculated in accordance with paragraph (a) as the degree of such disablement bears to one hundred per centum;

(c) where the degree of disablement does not exceed ten per centum, a lump sum so calculated on such basis as the Ministry may prescribe:

Provided that in any case where the lump sum so calculated exceeds thirty-one thousand kwacha, compensation shall not be payable as such a lump sum, but shall be payable in accordance with paragraph (b), as though that paragraph applied to every degree of disablement under one hundred per centum.

(2) Repealed by Act No. 27 of 1994).

(3) Where a worker has sustained an injury specified in the First Schedule, he shall be regarded for the purposes of this Act as being permanently disabled at least to the degree set out for such injury in the said Schedule.

(4) Where the injury (including any injury to genital parts) is not specified in the First Schedule, a percentage of disablement which is not inconsistent with the provisions of such Schedule shall be regarded as the minimum degree of permanent disablement for the said injury.
(5) From any compensation payable under this section no deduction shall be made on account of any periodical payments in respect of total or partial disablement under section fifty-six or fifty-seven.

(6) In this section, "monthly pension" means a pension payable monthly during the lifetime of the worker.

(As amended by No. 22 of 1965, No. 37 of 1969 and 27 of 1994)

60. Notwithstanding anything in this Act contained, if a worker who is in receipt of a pension, after a period of eighteen months from the commencement of the disablement had expired, undergoes further medical, surgical or remedial treatment necessitating further absence from work and which, in the opinion of the Commissioner, will reduce the disablement from which the worker suffers, the Commissioner may suspend the entitlement to the pension and any children's allowances for such period as he considers equitable and in lieu thereof the worker shall be entitled to payments calculated in the same manner as periodical payments.

61. (1) Where a worker dies as a result of an accident, compensation shall be determined as follows:

(a) if the worker leaves as a dependant a widow or invalid widower and no dependent children, there shall be paid to such widow or invalid widower a monthly pension equal to four-fifths of the monthly pension which the deceased worker had been receiving under paragraph (a) of sub-section (1) of section fifty-nine, or would have received if he had been entitled to a monthly pension under the said paragraph, in respect of such accident;

(b) if the worker leaves as dependants a widow or invalid widower and one or more children, there shall, subject to the provisions of sub-section (3) of section seventy-one, be paid to such widow or invalid widower the monthly pension mentioned in paragraph (a), and there shall be paid in the manner provided in sub-section (3) of section seventy-one in respect of such children a monthly allowance in accordance with the Third Schedule based on the monthly pension
which the deceased worker had been receiving under paragraph (a) of sub-section (1) of section fifty-nine, or would have received if he had been entitled to a monthly pension under the provisions of paragraph (a) of the said sub-section (1) in respect of such accident;

(c) if the worker leaves no dependent spouse but one or more children as dependants, or if the widow or invalid widower referred to in paragraph (b) dies leaving dependent children of the worker, a monthly allowance in respect of the children shall be payable in accordance with the Fourth Schedule based on the monthly pension which the deceased worker had been receiving under paragraph (a) of sub-section (1) of section fifty-nine, or would have received if he had been entitled to a monthly pension under the said paragraph (a) in respect of the accident;

(d) if the worker leaves no dependants of any class referred to in paragraph (a), (b) or (c), an amount not exceeding three years' earnings or thirty thousand kwacha whichever is the less, shall be paid to any other dependant wholly dependent upon him;

(e) if the worker leaves no dependants of any class referred to in paragraph (a), (b), (c) or (d), but leaves a dependant partly dependent upon him, a sum equal to three times the amount or value of the benefits received by such dependant from the worker during the twelve months immediately preceding the accident, or which could, but for the death, have been reasonably expected to be received by such dependant from the worker during the twelve months immediately succeeding the accident, whichever can better be calculated to give the amount or value of the benefits:

Provided that the aggregate amount payable to dependants under this paragraph shall not exceed three years' earnings or thirty thousand kwacha, whichever is the less;

(f) if the worker does not leave as a dependant a widow or invalid widower, but leaves as dependants one or more children to whom an allowance is payable under paragraph (c) and other dependants, and the total amount of the capitalised value of the allowances likely to be payable under paragraph (c) will be less than three years' earnings of the worker or thirty thousand kwacha, whichever is the less, then additional compensation shall be payable not exceeding the likely excess of the three years' earnings or thirty thousand kwacha, whichever is the less, over the total amount of the allowances likely to be payable under paragraph (c) and such additional compensation shall be paid to such other dependants in such proportions as the Commissioner may
determine:

Provided that no dependant who was not wholly dependent upon the worker shall be entitled to receive a greater payment than that to which he would have been entitled under paragraph (e).

(2) The total compensation payable in respect of the death of a worker in accordance with the provisions of paragraphs (d), (e) and (f) of sub-section (1) shall in no case exceed thirty thousand kwacha or three years' earnings of the worker whichever is the less.

(3) Save as is provided in section forty-four, no deduction shall be made from the compensation awarded under this section in respect of any compensation awarded to the worker for the same accident.

(4) The right to any pension or allowance in respect of a deceased worker shall vest on the date of his death, and the amount of such pension or allowance shall be calculated from such date.

(5) Where a worker dies as a result of an accident and the funeral expenses of such worker have been or are to be paid by any dependant of such worker, there shall be paid to such dependant the total amount of the funeral expenses or ten thousand kwacha whichever is the less.


62. (1) If a worker who is in receipt of a pension under section fifty-nine, or who would have been entitled to a pension under that section but for his death, dies not as the result of the accident in respect of which he was receiving or would have been entitled to receive such pension, the widow or invalid widower of such deceased worker, if married to or living with such worker, as the case may be, at the time of the accident in respect of which he was receiving a pension and dependent on him at the time of his death, shall be paid a monthly pension equal to four-fifths of the monthly pension payable to the deceased worker at the time of his death, plus a monthly allowance for any dependent children of such deceased worker who were born or adopted before the time of such accident, or born within ten months after the time of such accident, calculated in accordance with the Third Schedule and based on the monthly pension payable to such deceased worker.
worker at the time of his death.

(2) If a worker who is in receipt of a pension under section fifty-nine, or who would have been entitled to a pension under that section but for his death, dies not as the result of the accident in respect of which he would have been entitled to such pension, and leaves no widow or invalid widower entitled to a pension under sub-section (1), but leaves one or more children, born or adopted before the time of such accident, or born within ten months after the time of such accident, there shall be paid for the benefit of such child or children a monthly allowance in accordance with the Fourth Schedule based on the monthly pension that would have been payable to such deceased worker.

(3) If a widow or invalid widower who is in receipt of a pension under sub-section (1) dies and leaves dependent children of the worker born or adopted before the time of the accident or born within ten months after the time of the accident, there shall be paid for the benefit of such children the allowances prescribed under sub-section (2).

(As amended by No. 22 of 1965, No. 37 of 1969 and No. 27 of 1994)

63. If owing to age, marriage or death any child ceases to fall within the definition of the term "child", the allowance for children prescribed in this Part shall, subject to the provisions of section sixty-four, be diminished or cease accordingly.

Diminution of children's allowances

64. If, in the opinion of the Commissioner, any son or daughter of a deceased workman or a pensioner who does not fall within the definition of the term "child" is unable by reason of mental or physical disability to earn an income, or is attending a full-time educational course, he shall, upon the application of any interested person, declare that such son or daughter shall be deemed to be a child for the purpose of determining the allowances for children under the provisions of this Part for so long as it might reasonably have been expected that the worker would have continued to contribute towards his or her support.

(As amended by No. 19 of 1976)

Child over seventeen may continue to receive allowances

65. (1) If any worker who is in receipt of a pension under this Act resides outside the Commonwealth or such other states and territories as the Commissioner may from time to time prescribe without the written

Pensioner absent from or resident out of
permission of the Commissioner, or outstays the period laid down in such permission, the worker 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 other particulars as the Commissioner may require, and, if he fails to do so, the Commissioner may discontinue, suspend, or reduce the pension.

(2) If a dependant of a worker resides outside the Commonwealth or such other states and territories as the Commissioner may from time to time prescribe at the time of the death of such worker and continues so to reside without the written permission of the Commissioner, or if any such dependant is absent from the Commonwealth without the written permission of the Commissioner, or outstays the period laid down in any 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.

(As amended by S.I. No. 156 of 1965)

66. (1) If a widow or invalid widower who is receiving a pension under the provisions of this Act as a dependant marries, the pension payable to her or him shall cease with effect from the date of her or his marriage: Provided that any allowance payable in respect of children of the deceased worker to whom such widow or widower was married shall continue to be payable.

(2) Where the pension payable to a widow ceases by virtue of the provisions of sub-section (1), there shall be paid to her an amount equal to twenty-four times the amount of her monthly pension.

66A. (1) On the death of a pensioner, his widow or her widower shall, within one month of such death notify the Commissioner thereof.

(2) If a widow or widower who receives or is entitled to receive a
pension in respect of the death of her husband or wife marries, such widow or widower shall, within one month of the date of such marriage, notify the Commissioner thereof.

(3) Any person who receives an allowance in respect of any son, daughter or other child of a deceased worker or of a pensioner shall, within fourteen days of the happening of any of the following events, notify the Commissioner thereof:

(a) the death of such son, daughter or other child;

(b) the marriage of such son, daughter or other child;

(c) the cessation of the conditions in respect of which the Commissioner has made a declaration under section sixty-four.

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

(As amended by Act No. 19 of 1976)

67. (1) (a) For the purpose of this Act, the earnings of a worker shall be computed in such manner as is best calculated to give the monthly rate at which such worker was remunerated by his employer at the time of the accident concerned, disregarding temporary absence from work during sickness, holiday, leave or unemployment. Such earnings shall also include twelve and one half per centum of the worker's basic wages or basic salary but shall not include any-

(i) remuneration of intermittent overtime;

(ii) casual payments of a non-recurrent nature;

(iii) sum paid by an employer to a worker to cover any special expenses incurred by the worker on account of the nature of his work;

(iv) ex-gratia payments, whether made by the employer or other person,

(v) sum paid under any provident fund;
(vi) payment by way of pension;

(vii) special cash payment, other than normal leave pay made when the worker is going on leave;

(viii) housing allowance or the cost of any food or quarters supplied by the employer; or

(ix) cost of living allowance.

(b) Any employer who supplies food or quarters or both food and quarters to a worker is entitled to receive periodical payment and shall be entitled to be refunded by the worker the cost, as determined by the Commissioner, of such food or quarters or food and quarters; and the Commissioner may deduct from any moneys payable to the worker an amount equal to such cost and pay such amount to the employer.

(As amended by Act No. 19 of 1976)

(2) Where a worker's remuneration is fixed at a rate calculated upon work performed or is subject to fluctuation by reason of the terms or nature of the employment, his earnings shall be taken to be his average monthly remuneration for similar work upon the same terms of remuneration for as long a period as possible before the accident but not exceeding twelve months.

(3) Where, by reason of the shortness of time during which a worker has been in the employment of his employer, it is impracticable to arrive at a fair computation of his average monthly earnings in such employment, the earnings shall be computed, if possible, upon the basis of the amount which the worker earned at work on the same terms of remuneration with another employer during the twelve months immediately preceding the accident concerned or upon the basis of the amount which, during the twelve months immediately preceding such accident, has been earned by other worker with the worker's employer at similar employment on the same terms of remuneration or would have been earned by the worker during such preceding twelve months had he been so employed.

(4) Where a worker 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.

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

(As amended by Act No. 19 of 1976)

68. Where a worker who has suffered permanent disablement was, at the date of the accident concerned, under twenty-one years of age or was employed under a contract of apprenticeship or learnership, the amount of his compensation for such permanent disablement 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 three years after the accident, or as a journeyman or operator upon completion of his apprenticeship or learnership, whichever calculation is more favorable to the worker.

69. (1) Where a pension under section fifty-nine does not exceed such amount as may be prescribed, the Commissioner may, in his discretion, upon the application of the worker, pay or order the payment of a lump sum in lieu of a portion or the whole of such pension.

(2) Where such pension exceeds the prescribed amount, the Commissioner may, in his discretion, on the application of the worker, in lieu of a portion of such pension, pay or order the payment of a lump sum not exceeding the maximum sum which, in the opinion of the Commissioner, would have been payable under sub-section (1) had the pension not exceeded the prescribed amount:

Provided that if the balance of the pension payable is less than three hundred kwacha per month, the Commissioner may pay or order the payment of a lump sum in lieu of the whole of such pension.

(3) Any lump sum under this section shall be calculated on a basis prescribed by the Minister and payment thereof shall be subject to the control of the Commissioner as provided in section seventy-one.
(4) Where the Commissioner pays or orders the payment of a lump sum in lieu of the whole of a pension he may also, in his discretion, pay or order the payment of a lump sum in lieu of any children's allowances which the Commissioner has, under the provisions of sub-section (3) of section seventy-one, determined shall be paid to the pensioner.

(As amended by No. 19 of 1976 and 27 of 1994)

70. (1) Where the injury in respect of which compensation is payable causes disablement of such a nature that the worker is unable to perform the essential actions of life, without the constant help of another person, the Commissioner may from time to time in his discretion grant an allowance in addition to any other benefits under this Act, or require an employer individually liable to pay such an allowance, towards the cost of such help as may be required for a specified period.

(2) The Commissioner may in his discretion revise any order made under the provisions of sub-section (1).

71. (1) Where compensation is payable in the form of a lump sum by an employer individually liable, such sum shall, unless the Commissioner otherwise directs, be paid to the Commissioner to be dealt with by him in the manner provided in this section and the receipt of the Commissioner shall be a sufficient discharge in respect of the amount paid.

(2) Any compensation payable in the form of a lump sum to a worker or dependant may, in the discretion of the Commissioner and for reasons deemed by him to be sufficient, be-

(a) paid to the worker or dependant in the form of a lump sum or in instalments, or to or on behalf of persons dependent for maintenance on such worker or dependant;

(b) invested or applied from time to time, as the Commissioner may deem to be to the advantage of the worker or dependant, or those dependent on either of them for maintenance;

(c) paid to a trustee or other person to be used subject to such conditions as may be imposed by the Commissioner;
(d) dealt with partly in one and partly in another or in more than one of the ways mentioned in paragraphs (a), (b) and (c), as the Commissioner may determine.

(3) Any children’s allowance payable under the provisions of this Act shall be paid to the parent, step-parent, adoptive parent or such other person on behalf or for the benefit of the child as the Commissioner may determine, and where a children’s allowance is payable in respect of both legitimate and illegitimate children, the Commissioner shall determine how such allowance shall be apportioned.

(4) Where a worker dies leaving dependants and there remains unpaid to him any amount due under the provisions of this Act, the provisions of section one hundred and sixteen shall apply and the Commissioner shall distribute the amount concerned among the dependants of such deceased worker, in such proportions as he may deem fit, and if such worker dies otherwise than as a result of the accident concerned, the Commissioner may pay the funeral expenses of the deceased worker from such unpaid amount.

(5) Where a dependant dies and there remains unpaid to him any amount due to such dependant under the provisions of this Act, such amount shall not form part of the estate of the deceased dependant, but shall be paid to the Commissioner for distribution or shall be distributed by him amongst such other dependants in such proportions as he may deem fit, and the Commissioner may pay the funeral expenses of the deceased dependant from such unpaid amount, and, where there are no such dependants, any unpaid amount remaining after the payment of the funeral expenses, if any, shall in the case of an amount paid to him by an employer individually liable be repaid by the Commissioner to the employer individually liable.

72. Where a pension or children’s allowances are payable by an employer individually liable, the payments shall be made—

(a) by such employer; or

(b) by agreement with the Commissioner, by the Commissioner from funds furnished by such employer for this purpose.

73. In anticipation of the award of compensation, the Commissioner may, where, in his opinion, the interest or pressing need of the worker or advances against
of a dependant warrants it, make an advance not exceeding twenty thousand kwacha to or on behalf of the worker or a dependant on such conditions as the Commissioner may determine:

Provided that any moneys so advanced shall be recovered, in such instalments and in such manner as the Commissioner may decide, from any amounts awarded as compensation to the worker or his dependants.

(As amended by Act No. 27 of 1994)

73A. With the consent of the Minister, the Board may, not more than once in each calendar year, review any amount payable under this Part as pension or children's allowance and may increase such amount so as to compensate fully or partly for the increase in the cost of living according to the official cost of living index of the Republic.

(As amended by Act No. 19 of 1976)

PART VII
PROCEDURE FOR OBTAINING COMPENSATION

74. (1) In order that compensation may be obtained under this Act-

(a) notice of an accident causing disablement or death of a worker shall be given by or on behalf of the worker, or a dependant of such worker, as soon as reasonably possible after the happening of the accident, to the employer;

(b) save as is otherwise provided in this Act, a claim for compensation shall, in the case of disablement, be lodged with the Commissioner or the employer individually liable, within twelve months after the date of the accident or, in the case of death, within twelve months after the date of the death:

Provided that where a worker has been receiving periodical payments, a claim for compensation for permanent disablement in respect of the same accident shall be lodged within twelve months after the date on which such periodical payments finally cease to be payable.

(2) The provisions of paragraph (b) of sub-section (1) shall not be

Review of pensions or allowances

Notice of accident to be given
construed as enabling a claim to be made for compensation in respect of a death which occurred more than twelve months after an accident causing injury, if no claim for compensation has been made by the worker within twelve months after the date of such accident.

(3) Notwithstanding anything contained in this section-

(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;

(b) failure to give such notice or to make a claim within the period of twelve months mentioned in this section or any defect or inaccuracy therein shall not bar the right to compensation if, in the opinion of the Commissioner-

(i) the Fund or the employer individually liable is not or would not be, if notice or an amended notice were then given, seriously prejudiced by such failure, defect or inaccuracy; or

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

(4) No claim for compensation under this Act shall be considered unless it is lodged with the employer individually liable or the Commissioner in the manner prescribed within twelve months after the date of the accident or, in the case of death, within twelve months after the death:

Provided that the provisions of paragraph (b) of sub-section (3) shall apply mutatis mutandis to this sub-section.

75. (1) Every employer shall, within three days after having- Employer to give notice of accident to Commissioner

(a) gained knowledge of the happening of an accident to a workman, report such accident to the Commissioner in such form as may be prescribed; and

(b) received written notice of an accident to a worker, forward such written notice to the Commissioner;
and any employer who fails without reasonable excuse to comply with the provisions of this sub-section shall be guilty of an offence.

(2) A report made by an employer to the Commissioner under the provisions of sub-section (1) shall constitute a claim for compensation by the worker notwithstanding that it may contain information which, if correct, would negative such claim.

(3) Notwithstanding the provisions of sub-section (1), an employer may, if specially authorised by the Commissioner, report accidents at such intervals and in such manner as the Commissioner may approve.

(4) Every employer shall keep a register in such form as may be prescribed, or in such other form as the Commissioner may, in any particular case, allow, in which he shall, within three days of the happening of an accident, record the happening thereof.

(5) For the purposes of this section, "accident" includes any personal injury sustained by a worker and damage to or destruction of any artificial aid used by him and reported by him to his employer, if in making the report the worker alleges that such injury, damage or destruction arose out of and in the course of his employment.

76. (1) A worker shall supply such further particulars of any accident and any injury to such worker arising therefrom as his employer, whether individually liable or not, or the Tribunal or the Commissioner, may require.

(2) An employer shall supply such further particulars as the Tribunal or the Commissioner may require of any accident to any worker, the injuries and earnings of such worker and such other matters as are within the knowledge of the employer concerning such worker and such accident.

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

76A. (1) Where an employer is convicted of the contravention of Entry of
sub-section (1) of section seventy-five or sub-section (2) of section seventy-six, the court before which such employer is convicted shall, on the application of the Commissioner and in addition to imposing any penalty, enter judgment, and civil jurisdiction is hereby conferred upon it for that purpose, in favour of the Commissioner for a sum equal to the loss suffered by the Board on account of such employer's default:

Provided that such sum shall not exceed the full amount of the compensation payable on account of the accident in respect of which such employer was in default.

(2) Any sum ordered by the court under sub-section (1) shall be recoverable by the Commissioner as a civil debt.

(3) In this section "compensation", in the case of a continuing liability, includes any sum determined by the commissioner as the capitalised value of the pension (whether or not a lump sum is paid at any time in lieu of the whole or part of such pension), periodical payment or allowance, as the case may be, which constitutes liability.

(As amended by Act No. 19 of 1976)

77. (1) A worker who claims compensation shall, when so required by the Commissioner or employer individually liable, furnish a certificate from a medical practitioner or dentist, according to the nature of the injury, showing the nature and extent of the worker's injury or illness, whether or not he is fit for work and the reason for such unfitness, if any, and the period of likely temporary disablement.

(2) Where any such certificate is forwarded to an employer, he shall forthwith forward such certificate to the Commissioner.

78. The Commissioner may at any time require any worker who has suffered any injury to obtain and furnish to the Commissioner such medical reports concerning the condition of, and the extent of the injury to, such worker, and any other matter as may be necessary to enable the Commissioner to carry out his functions in respect of such worker, and any fee payable for any such report shall be payable out of the Fund.

79. In the case of the death of a worker as a result of an accident or
where any person who is in receipt of compensation dies, the Commissioner may call for such evidence of the death of such worker or person as he may require for the purposes of this Act.

80. (1) A worker who claims compensation or to whom compensation has been paid or is payable shall, when so required by written notice given by his employer individually liable or the Commissioner, and after reasonable notice, submit himself for examination by a medical practitioner nominated by such employer or the Commissioner, as the case may be, at the time and place notified, provided such time and place are reasonable, and any necessary expenses incurred by the worker in complying with the provisions of this section as determined by the Commissioner shall be paid by the employer or by the Commissioner, as the case may be.

(2) In the event of a worker being, in the opinion of any medical practitioner, not in a fit state to attend on the medical practitioner named in any notice given under sub-section (1), such worker, or some person on his behalf, shall notify the employer or the Commissioner, as the case may be, of the fact, and may require the medical practitioner so named to attend on the worker at a reasonable time and place to be agreed upon.

(3) A worker shall be entitled, at his own expense, to have a medical practitioner nominated by himself present at any examination made under the provisions of this section.

81. Whenever it comes to the notice of the Commissioner that an accident has happened to a worker which might result in a claim under this Act, the Commissioner shall-

(a) make or cause to be made such inquiry or take or cause to be taken such other steps as he may deem necessary to enable him to decide on any claim or question of liability under this Act;

(b) at the request of an injured worker or of his employer, supply such information as the Commissioner considers necessary to enable the worker or his employer to comply with the requirements of this Act.

82. (1) Upon receipt of any claim for compensation the Commissioner shall, after making or causing to be made such inquiries as he may deem necessary, determine such claim in part or in whole as is appropriate at the time.
(2) Where it appears to the Commissioner from any certificate submitted to him that the worker has suffered permanent disablement and that the worker's injury is static, the Commissioner shall determine the degree of disablement of such worker in relation to all the circumstances of the case.

(3) The Commissioner shall, as soon as he has made a determination under the provisions of this section, by notice in writing, inform the claimant and the employer individually liable, if such employer is concerned, of the result of the determination.

83. Notwithstanding anything contained in this Act, the Commissioner may authorise an employer individually liable, subject to such conditions as the Commissioner may determine, to make provisional settlements of claims for compensation with a worker:

Provided that such employer 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 confirm any such provisional settlement or proceed to determine such claim in the manner provided in this Part as if such provisional settlement had not been made.

84. (1) The Commissioner may require an employer, other than an employer individually liable, to make periodical payments of compensation in cash or in kind or both in cash and in kind to a disabled worker.

(2) The Commissioner shall refund to an employer such periodical payments as the employer has made to a worker under the provisions of sub-section (1):

Provided that, before making any refund in respect of payments in cash, the Commissioner may require the transmission to him of a certificate, in the form prescribed, of such payment.
PART VIII

MEDICAL AID

85. (1) An employer shall provide and maintain such appliances and services for the rendering of first aid to his workers in case of any accident to them as may be prescribed in respect of the trade or business in which he is engaged:

Provided that this sub-section shall not apply in any case where appliances and services for the rendering of first aid are provided and maintained in accordance with the provisions of any other law.

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

86. (1) In the event of an accident happening to a worker in the course of his employment which necessitates his removal to a hospital or his residence, the employer of such worker shall forthwith provide the necessary conveyance therefor.

(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 an employer or any other person in complying with the provisions of sub-section (1).

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

87. (1) Subject to the provisions of this section, the Commissioner or an employer individually liable, as the case may be, shall defray any expenses reasonably and necessarily incurred by a worker as the result of an accident arising out of and in the course of his employment in respect of the following matters, that is to say:

(a) dental, medical, surgical or hospital treatment;
(b) skilled nursing services;

(c) the supply of medicines and surgical dressings;

(d) travelling and subsistence in connection with the worker's journey to and from and treatment in a place either within or outside Zambia where he was directed by his medical practitioner to go for treatment; or for the obtaining of any artificial limb or apparatus referred to in paragraph (e);

(e) the supply, maintenance, repair and renewal of artificial limbs and apparatus necessitated by the accident and the repair or replacement of artificial limbs or apparatus used by a worker in the course of his employment and damaged or destroyed as the result of an accident.

(2) The liability of the Commissioner or an employer individually liable, as the case may be, shall be limited-

(a) in the case of the matters mentioned in paragraphs (a) to (d) inclusive of sub-section (1), to an amount not exceeding thirty thousand kwacha; and

(b) in the case of the matters mentioned in paragraph (e) of sub-section (1), to an amount not exceeding twenty thousand kwacha:

Provided that if the Commissioner is satisfied on a medical certificate that the injury to the worker was of a serious nature, the Commissioner may determine that such additional amount as he considers just in the circumstances shall be paid by him or the employer individually liable, as the case may be.

(3) The Commissioner or an employer individually liable shall only be liable in respect of travelling and subsistence expenses in connection with a worker's journey to and from and treatment in a place outside Zambia if the Commissioner has approved of such journey.

(4) For the purposes of this section, hospital treatment shall include the maintenance of a worker detained in hospital.
88. All disputes as to liability for or the necessity for or the character or sufficiency of any medical aid provided or to be provided under this Part shall be determined by the Commissioner.

89. The fees and charges for medical aid to workers shall be in accordance with such scale as the Minister may prescribe after consultation with such associations or bodies representing medical practitioners or dentists entitled to practise in Zambia as the Minister may think fit, and no claim for an amount in excess of a fee in accordance with that scale shall lie against any worker, the Commissioner or an employer individually liable in respect of any such medical aid.

90. (Repealed by No. 19 of 1976)

PART IX

DISEASES

91. (1) Where a medical practitioner grants a certificate-

(a) that a worker is suffering from a scheduled disease causing disablement or that the death of a worker was caused by a scheduled disease; and

(b) that such disease was due to the nature of the worker's employment;

the worker or, if he is deceased, his dependants shall be entitled to claim compensation under this Act 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 Part, mutatis mutandis, apply unless at the time of entering into the employment the worker wilfully and falsely
represented in writing in reply to a specific question that he had not
previously suffered from the disease:

Provided that-

(i) where the worker 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 worker shall be calculated on the basis of his
earnings when he was last employed in such occupation; and

(ii) in no case shall the worker or his dependants be entitled to
compensation in respect of any causation or aggravation of the disease
which was due to employment outside Zambia except in the case of a
worker ordinarily resident in Zambia employed outside Zambia by his
employer within Zambia.

(2) If the Commissioner is satisfied that the allegations in a certificate
mentioned in sub-section (1) are correct, the worker or his dependants,
as the case may be, shall be entitled to compensation under this Act, as if
the contracting of the disease were an injury by accident arising out of
and in the course of the worker's employment.

92. Where any of the provisions of this Act relating to an accident are
applied to disablement or death of a worker caused by a scheduled
disease, an accident shall be deemed to have happened-

(a) in the case of a scheduled disease causing disablement, on the
date of the certificate mentioned in section ninety-one;

(b) in the case of death from such disease, on the date of the death of
the worker.

93. If a worker who becomes disabled by or dies of any scheduled
disease was, within the period of twenty-four months immediately
preceding the disablement or death, employed in any occupation
mentioned in the Second Schedule opposite such disease, it shall be
presumed, unless or until the contrary is proved, that the disease was due
to the nature of such employment.

94. The Minister may, by regulation-

(a) amend the description of work in the Second Schedule;
(b) add to the Second Schedule the description of further diseases and, in relation to those further diseases, the description of the work for the purposes of section ninety-three.

95. (1) In relation to pneumoconiosis to which this section applies, the provisions of this section shall prevail over any other provisions of this Act, but such provisions of this Act as are not inconsistent with the provisions of this section shall apply to pneumoconiosis. Special provisions in respect of pneumoconiosis

(2) This section shall apply only in relation to pneumoconiosis in respect of which compensation is not payable under the provisions of the Pneumoconiosis Act. Cap. 217

(3) Where any person has contracted pneumoconiosis in respect of which he is not entitled to compensation under the provisions of this Part and thereafter works in an occupation which may give rise to pneumoconiosis owing to the presence of dust, he shall not be entitled to any compensation under this Act for or by reason of or on account of any work in such occupation.

(4) Any person who has worked or is working in an occupation which, in his opinion, may give rise to pneumoconiosis owing to the presence of dust, and who considers that he is disabled by pneumoconiosis as a result of such work, may apply in person or in writing to the Bureau for an examination to determine whether or not he is suffering from pneumoconiosis and any disablement caused by such pneumoconiosis so as to entitle him to compensation under this Act.

(5) Any person applying for an examination under the provisions of this section shall deliver to the Bureau full and correct particulars of all work performed by him, and on receipt of such particulars the Director, or any person authorised by him in that behalf, shall, if he is of the opinion that the applicant is working or has worked in an occupation which may give rise to pneumoconiosis, notify him of a time and place at which he may present himself for examination.

(6) On presenting himself for examination at the time and place specified under sub-section (5), and on payment of a fee of twenty fee units the applicant shall be clinically and radiologically examined:
Provided that the fee of twenty fee units shall not be payable if the applicant produces before the examination a medical certificate to the effect that the examination is desirable.

(7) After an examination under the provisions of this section, the Director shall provide the person examined, or cause him to be provided, with a certificate stating whether such person is or is not suffering from pneumoconiosis, and, if he or she is so suffering, whether or not such pneumoconiosis results in his or her disablement.

(8) The Director shall, when required by the Commissioner or the Tribunal so to do, and on consideration of all the evidence in his possession, whether submitted to him by the Commissioner or the Tribunal or otherwise, certify-

(a) the amount, expressed as a percentage, of disablement suffered by a claimant by reason of pneumoconiosis;

(b) the proportion of pneumoconiosis suffered by the claimant which is attributable to work entitling such claimant to compensation under the provisions of this Act.

(9) A certificate issued under the provisions of this section shall be accepted by the Commissioner or by the Tribunal, as the case may be, as prima facie evidence of the facts therein certified.

(10) If the claimant is entitled to compensation for pneumoconiosis under this Act, the fee of twenty fee units paid by him for the examination shall be refunded to him by the Commissioner or the employer individually liable, as the case may be.

(11) For the purposes of this section-

"Bureau" means the Pneumoconiosis Medical and Research Bureau established under the provisions of the Pneumoconiosis Act;

"Director" means the Director of the Bureau.

(As amended by No. 27 of 1994 and Act No. 13 of 1994)
96. In the case of an employer individually liable, compensation in respect of a scheduled disease shall be paid by the employer who last employed the worker in the occupation to the nature of which the disease is due:

Provided that, if the Commissioner is satisfied that the worker 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 Fund, as the case may be.

PART X
COMPENSATION FUND

97. (1) There shall, on the commencement of this Act, be established and maintained a fund to be known as the Worker's Compensation Fund which shall be vested in the Board.

(2) The Fund shall consist of-

(a) the assessments paid by employers under this Act;

(b) any moneys paid by employers to the Commissioner under this Act;

(c) any moneys paid as penalties imposed under this Act, other than penalties imposed by a court of law;

(d) interest from investments of the Fund;

(e) any moneys transferred under the provisions of paragraph (c) of section one hundred and twenty-three;

(f) any moneys paid to the Board under the provisions of section ninety-nine;
(g) any payments made to the Commissioner by employers individually liable under the provisions of this Part;

(h) any other sums to which the Fund may become entitled.

98. (1) The moneys of the Fund shall be applied by the Commissioner for the purposes of this Act and in payment of the expenses of the due administration thereof.

(2) Any surplus in the Fund may, with the approval of the Minister after consultation with the Minister responsible for finance, be applied by the Board in the reduction of future assessments or may be transferred to reserves or may be allowed to remain in the Fund, and any deficiency in the Fund may be made good by an increase in the amount of any future assessment.

(3) There may be established within the Fund such reserve funds as the Board, with the approval of the Minister after consultation with the Minister responsible for finance, considers necessary for the purposes of this Act.

99. (1) Save as is provided in sub-section (2), the obligations and liabilities of any insurer under any contract of insurance made in pursuance of sub-section (1) of section ninety of the *Act repealed by this Act shall remain in full force.

*See section 127 of this Act.

(2) Any insurer may, with the approval of the Board, pay to the Board the capitalised value of any pension, or children's allowance, as determined by the Board in respect of which he is liable to indemnify the employer of a worker under a contract of insurance made in pursuance of sub-section (1) of section ninety of the *Act repealed by this Act and, upon such payment, the obligations of the insurer under such contract and the obligations of the employer under the *Act repealed by this Act, other than any obligation arising out of an arrangement made by the employer for furnishing medical aid to his workers under section seventy-two of the repealed Act, shall cease and be transferred to the Board.
(3) Any employer to whom an exemption was granted by the Governor of the former Protectorate of Northern Rhodesia, in the exercise of the powers conferred upon him by sub-section (2) of section ninety of the *Act repealed by this Act, from the operation of sub-section (1) of that section and whose exemption was in force immediately before the commencement of this Act (hereinafter in this section referred to as an exempted employer) may, with the approval of the Board, pay to the Board the capitalised value of any pension or children's allowance as determined by the Board which he is liable to pay to any worker or to the dependants of any worker and, upon such payment, the obligations of that employer under the *Act repealed by this Act shall cease and be transferred to the Board.

(4) Any insurer or exempted employer who has not transferred the obligations referred to in sub-section (2) or (3) to the Board in accordance with the provisions of those sub-sections shall-

(a) furnish to the Commissioner such information as the Commissioner may, from time to time, require in relation to the compensation paid by such insurer or exempted employer;

(b) pay to the Board such amount as may be prescribed not exceeding one per centum of the compensation including medical aid paid by such insurer or exempted employer within the period of twelve months ending on-

(i) the 31st March, 1965; and

(ii) the 31st March in every succeeding year.

*See section 127 of this Act.

Any payments required to be made in terms of paragraph (b) shall be made in the case of payments referred to in sub-paragraph (i) not later than the 1st June, 1965, and in the case of payments referred to in sub-paragraph (ii) not later than the 1st June in every succeeding year:

Provided that in any particular case the Board may on good cause shown extend the time within which the aforesaid payments shall be made.

(As amended by No. 22 of 1965)
100. (1) Where under the provisions of the *Act repealed by this Act a worker has become entitled to compensation from an employer who was required by the repealed Act to be insured, but who was not so insured, and from whom no or insufficient compensation has been recovered by the Commissioner, the Commissioner may, with the approval of the Minister and the Board and notwithstanding anything to the contrary contained in this Act, pay to such worker from the Fund the amount of such compensation or, where insufficient compensation has been recovered, the amount by which such compensation is deficient.

*See section 127 of this Act.

(2) Any sum paid by the Commissioner to a worker under the provisions of sub-section (1) shall be a debt due to the Fund by the employer of such worker and may be recovered from such employer by the Commissioner as a civil debt.

(No. 22 of 1965)

101. The Board may-

(a) with the approval of the Minister responsible for finance, borrow money for all or any of the purposes of this Act, or in order to meet any unforeseen contingency or expenditure incurred in connection with the administration of this Act, or to meet any liquid deficiencies in the Fund;

(b) with the approval of the Minister, purchase or otherwise acquire property required wholly or partly for the purposes of this Act and alienate any property so acquired, and properties so acquired shall be held in the name of the Board in trust for the Fund;

(c) with the approval of the Minister responsible for finance, pledge such portion of the assets of the Board as may be necessary to provide security for loans received.

102. (1) All moneys received by the Board or by the Commissioner on behalf of the Fund shall be paid into a banking account and no money shall be withdrawn therefrom except by means of cheques signed by such person or persons as may be authorised by the Board in that behalf.

*See section 127 of this Act.

(2) A proportion of the Fund shall be held in liquid form and such proportion may be determined and varied from time to time by the
Board, having regard to the due execution of the provisions of this Act, and such liquid portion of the Fund may be held in the banking account or on deposit with banks or registered building societies or in Treasury bills of the Government.

(3) The Board shall hold the remainder of the Fund in investments approved, either generally or specially, by the Minister responsible for finance.

103. (1) The Commissioner shall cause to be kept proper books of account, and other books and records in relation thereto, in which shall be recorded all the financial transactions of the Fund.

(2) The accounts of the Fund shall be audited by such person as the Board, with the approval of the Minister, may appoint.

(3) Such auditor as shall be appointed by the Minister responsible for finance shall at all times have the right to inspect the accounts of the Fund on behalf of that Minister.

(4) The Minister shall, as soon as possible after the completion and auditing of the balance sheet and statements of the transactions of the Fund under this Act, lay copies thereof before the National Assembly.

(As amended by G.N. No. 176 of 1964)

PART XI

ASSESSMENTS

104. Every employer, other than-

(a) the State; and

(b) any employer exempted by the Minister under the provisions of section one hundred and five during the period of such exemption;

shall be liable to assessment under this Part.

(As amended by S.I. No. 156 of 1965)
105. (1) The Minister may, by writing under his hand, exempt from the payment of assessments for such period and subject to such conditions as he may specify, any employer who proves to the Minister's satisfaction that he has established and made provision for the maintenance of a fund for insurance against any liability which may arise under this Act in respect of all workers employed by him, and who has deposited with the Board sufficient security to meet all claims for compensation which may be due or become due under the provisions of this Act:

Provided that the Minister may, after consultation with the Minister responsible for finance, dispense with the obligation of depositing such securities in the case of any body incorporated directly by any law.

(2) Any employer to whom exemption was granted under the provisions of the *Act repealed by this Act, and whose exemption was in force immediately before the commencement of this Act shall be deemed to have been exempted under the provisions of sub-section (1).

*See section 127 of this Act.

(3) The Board may, upon the application of an employer referred to in this section, permit such employer to pay assessments in respect of his workers, and any such employer shall, from a date to be fixed by the Board, cease to be individually liable to pay compensation except in respect of accidents which occurred before such date.

(As amended by No. 37 of 1969)

106. (1) Subject to the provisions of section one hundred and nine, every employer liable to assessment shall, before a date prescribed by the Minister in each year, or if the employer becomes liable to be assessed after that date, within fourteen days 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 earnings of each of his workers during the past financial year;

(b) an estimate of the earnings for which he expects to become liable during the current financial year; and
(c) such other information as may be prescribed, or as the Board may require from him, in respect of his workers or their earnings:

Provided that in any particular case the Commissioner may on good cause shown extend the time within which the aforesaid statement shall be transmitted to him.

(2) Where an employer carries on a business in more than one place or carries on more than one class of business, the Board may require from him a separate statement in respect of each such place or class of business.

(3) If in any statement submitted under the provisions of sub-section (1), the amount of earnings alleged to have been due and paid during any period is less than the amount actually due and paid, the Board may impose upon the employer who transmitted such statement, as a penalty, such proportion, not exceeding ten per centum, of the difference between the amount stated and the correct amount, as the Board may determine.

*See section 127 of this Act.*

(4) If in any statement submitted under the provisions of paragraph (b) of sub-section (1), the estimate of earnings for which the employer expects to become liable during any period is, in the opinion of the Board, too low, the Board may direct the Commissioner to estimate the earnings for which the employer will probably become liable during that period and inform the employer of such estimate.

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

(6) Any employer aggrieved by the imposition of a penalty under the provisions of sub-section (3) may, within twenty-one days of such imposition or within such longer period as the Tribunal may on good cause shown allow, appeal to the Tribunal.

*As amended by No. 4 of 1966*
The Commissioner shall, as soon as practicable after receipt of the statement referred to in section one hundred and six, assess the employer concerned on the basis of the rates fixed under the provisions of sub-section (2) and shall give notice to the employer of such assessment and of the date on or before which such assessment shall be paid.

(a) Save as is otherwise provided under this Act, the rates of assessment payable by any employer or class of employers shall be fixed from time to time by the Board in its discretion according to the estimated requirements of the Fund and to the risk and costs of compensation payable, and the Board may direct that a minimum assessment may be levied on any employer.

(b) The Board shall cause notice of the rate of assessment fixed by it under paragraph (a) to be published in the Gazette.

(c) Any employer who objects to the rates of assessment fixed may, within thirty days of their publication, make representations in writing to the Minister stating his objections.

(d) After considering any such objections as aforesaid, the Minister may confirm, amend or vary such rates of assessment.

*See S.I. No. 222 of 1969.

The rates of assessment fixed in accordance with sub-section (2) shall not have effect unless and until the Minister has confirmed, amended or varied them as aforesaid and the rates of assessment as so confirmed, amended or varied have been published in the Gazette and, unless the Board otherwise specifies, shall apply to assessments in respect of earnings for the financial year in which they are so published.

*See S.I. No. 222 of 1969.

In estimating the rates of assessment deemed to be necessary for the requirements of the Fund, the Board shall make provision for the capitalised values of pensions and other liabilities due or likely to become due in respect of accidents during the year of assessment.
(5) For the purpose of assessment, earnings shall be determined in such manner as may from time to time be prescribed.

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

(7) If the annual assessment is less than the adjusted assessment, the employer shall pay the difference when called upon to do so, 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.

(8) If an employer has failed to transmit before the prescribed date, a statement of wages and earnings as required by section one hundred and six in respect of any period, the Commissioner may estimate the amount of wages paid or payable by such employer and earnings for which such employer will probably become liable and assess him accordingly:

Provided that if it is subsequently ascertained that the amount assessed would have been greater had the employer transmitted the statement before the prescribed date, the employer shall pay to the Commissioner the difference between the amount assessed and the amount which would have been assessed had the statement been available.

(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 one hundred and six has not been assessed in respect of that period, he shall nevertheless be liable at any time thereafter to be assessed.

(10) An employer shall pay his assessment on or before the date specified in the notice of assessment:

Provided that the Commissioner may, on the application of the employer, agree to accept payment by instalments on such conditions as he may specify, and where payment is made by instalments, the instalments shall be paid at the times specified by the Commissioner.
108. (1) If, during any period, the claims and accident experience of an employer are, in the opinion of the Board, more favourable than the claims and accident experience of employers in his class of business, the Board may, in its discretion, award such employer as a bonus a special rebate on any assessment payable or paid by him.

(2) If, during any period, the claims and accident experience of an employer are, in the opinion of the Board, less favourable than the claims and accident experience of employers in his class of business, the Board may, in its discretion, assess such employer at a higher rate than that fixed under section one hundred and seven.

109. (1) This section shall apply to every employer who employs one or more than one private domestic servant whose earnings do not in the aggregate exceed sixty thousand kwacha a year.

(2) The rate of assessment payable by every employer to whom this section applies in respect of private domestic servants employed by him shall be such sum as the Minister may, after consultation with and acting on the advice of the Board, prescribe.

(3) The assessment payable under this section by an employer to whom this section applies shall become due and payable by him on the 30th April in each year, or, if the employer becomes liable to assessment on a later date, within a period of not more than thirty days from such later date.

(4) The provisions of sections one hundred and six, one hundred and seven and one hundred and eight shall not apply to any employer to whom this section applies in relation to any private domestic servant employed by him.

(5) The Minister may, by statutory instrument, make regulations...
prescribing-

(a) the rate of assessment payable under this section;

(b) the procedure to be followed and the form to be used in connection with the payment of such assessment.

(As amended by No. 4 of 1966 and No. 27 of 1994)

110. (1) Notwithstanding anything contained in this Act, an employer individually liable shall, subject to the provisions of sub-section (2), pay annually to the Commissioner in such manner and at such time as the Commissioner may determine and notify to him, such contributions towards the expenses incurred by the Commissioner in the administration of this Act as the Board may deem equitable.

(2) Any employer aggrieved by-

(a) his liability to pay contributions;

(b) the amount of contributions payable by him; or

(c) the manner or time of payment of contributions;

may, within thirty days of the notification to him of the manner and time of payment, appeal to the Minister whose decision shall be final.

PART XII

MISCELLANEOUS

111. (1) Every employer carrying on business in Zambia shall, within fourteen days of the 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 such period as may be fixed by the Commissioner, with such additional particulars as the Commissioner may from time to time require.
(2) The particulars required by sub-section (1) shall be furnished separately in respect of each business conducted by the employer, and every such employer shall inform the Commissioner of any change in such particulars within fourteen days of such change.

(3) The chief representative present in Zambia of any non-resident employer-

(a) shall, within fourteen days after the date of commencement or after the date on which such employer commences business in Zambia, whichever is the later, notify to the Commissioner in writing the following particulars:
   
   i(i) the name and address of such chief representative; and
   
   (ii) the address of the chief office or place of business of such employer in Zambia; and

(b) shall, in the same manner, notify any change in such particulars within fourteen days after such change; and

(c) shall, for all the purposes of this Act, be deemed to be the employer of all workers employed within Zambia by such non-resident employer.

(4) For the purposes of sub-section (3), "non-resident employer" means any person who is not resident or, in the case of a company or other body of persons, whose registered office is not situate in Zambia, and who carries on any business in connection with which any worker is employed in Zambia.

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

(6) Where under the provisions of this section the Commissioner is to be furnished with, informed or notified of any particulars within a fixed time, the Commissioner in any particular case may on good cause shown extend the time so fixed.

112. (1) Every employer shall in respect of all his workers keep records

Employers to
of wages paid, time worked and payment made for piece-work and overtime and of any other particulars prescribed, and he shall at all reasonable times produce such records for inspection on demand by any person authorised thereto under this Act.

(2) An employer who fails to comply with the provisions of sub-section (1) or who knowingly makes a false entry in such records shall be guilty of an offence.

113. Any person who by threat or in any other manner whatever compels or attempts to compel any worker to do or omit to do any act, the doing or omission of which deprives or is intended to deprive him or his dependants of any right to compensation, shall be guilty of an offence and liable to a fine not exceeding two thousand five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

(As amended by Act No. 27 of 1994 and Act No. 13 of 1994)

114. Any person who, in a claim for compensation under this Act, or in any notice, report or statement required to be given, made or furnished under the provisions of this Act, knowingly makes or causes to be made a statement which is false in a material particular shall be guilty of an offence.

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

Provided that the Commissioner, if satisfied that the default was due to inadvertence or to some other cause over which the employer had no control, may waive the provisions of this sub-section in whole or in part or accept payment 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 one hundred and six 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 payable in respect of any accident to a worker 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 capitalised value would be likely to result in the bankruptcy of 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 fails to pay any assessment or any penalty imposed by, or other payment due to, the Commissioner under the provisions of this Act shall be guilty of an offence.

(4) Whenever an employer fails to pay to the Commissioner any money due, the Commissioner may recover such money from such employer as a civil debt.

(5) For the purposes of this section, "compensation" includes, in the case of a continuing liability, also the capitalised value, as determined by the Commissioner, of the pension (irrespective of whether a lump sum is at any time paid in lieu of the whole or a portion of such pension), periodical payment or allowance, as the case may be, which constitutes the liability.

116. (1) Compensation recovered or recoverable in respect of the death of a worker shall not form part of the deceased worker's estate for the purposes of the law relating to the administration of estates or the law relating to estate duty.

(2) Where such compensation is payable by any person other than the Commissioner, it shall, unless the Commissioner otherwise directs, be paid to the Commissioner.

(3) The provisions of section seventy-one shall, mutatis mutandis, apply in respect of any compensation mentioned in sub-section (1).

117. If any benefits have been paid which were not due under the
provisions of this Act, the Commissioner may recover the amount of such benefits by civil action, or by deduction from any benefits to which the worker or any dependant has or may become entitled under this Act.

118. (1) In the event of an employer becoming bankrupt or, if the employer is a company, in the event of the company having commenced to be wound up, the amount of any assessment, penalty or other payment due to the Commissioner as compensation due to any worker or his dependants, by such employer-

(a) at the date of the receiving order; or

(b) at the date of the commencement of the winding-up;

shall, notwithstanding anything to the contrary contained in any other law, be included in the debts which under section three of the Preferential Claims in Bankruptcy Act are in the distribution of the property of a bankrupt and in the distribution of the assets of a company being wound up to be paid in priority to all other debts.

(2) When the compensation is in the form of a pension, children's allowance or periodical payment, the amount thereof shall, for the purposes of this section, be taken to be the capitalised value of such pension, allowance or payment as determined by the Commissioner.

119. 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 by the person entitled to such compensation:

Provided that the Commissioner or the employer individually liable, as the case may be, may, out of any compensation payable to a worker, recover either wholly or partly any amount which, with the approval of the Commissioner or of such employer, has, after the occurrence of the accident in respect of which such compensation is payable, been advanced to such worker subject to repayment out of such compensation.

120. 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.

121. (1) Every insurance company licensed under sub-section (1) of section ninety-one of the *Act repealed by this Act shall, notwithstanding the repeal of the said Act, 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, and such other matters as may be prescribed.

*See section 127 of this Act.

(2) Failure to comply with the provisions of this section shall constitute an offence punishable by a fine not exceeding one thousand penalty units.

(As amended by Act No. 27 of 1994 and Act No. 13 of 1994)

122. (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, in any court, an affidavit purporting to be made by the Commissioner, or by a person to whom powers have been delegated under sub-section (3) of section thirteen, in which it is stated-

*See section 127 of this Act.

(a) that any person or body of persons is an employer, principal, contractor, worker 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 worker or other person named in such affidavit; or
(c) that any amount referred to in paragraph (b) or any portion thereof had or had not been paid on a date specified in such affidavit; or

(d) that any decision has been taken by the Commissioner or by such person in pursuance of the powers so delegated to him, as the case may be;

shall, on its mere production in those proceedings by any person, 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 or affidavit referred to in sub-section (1) or (2) is adduced in evidence, may cause the Commissioner or other person making the affidavit, as the case may be, to be summoned 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.

(As amended by No. 37 of 1969)

123. The President may, by statutory instrument, make rules for the purpose of giving effect to any convention with a foreign state or with the government of any member of the Commonwealth providing for reciprocity in matters relating to compensation to workers for accidents causing disablement or death, and, without prejudice to the generality of such power, such rules may contain provision-

(a) for determining in any case where a worker 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 worker or his dependants shall be entitled to recover compensation;

(b) for conferring on the Commissioner and the Tribunal 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 any such country to persons resident or becoming resident in Zambia may be transferred to and administered by the Commissioner, and whereby compensation awarded under this Act to persons resident or becoming resident in any
such country may be transferred to and administered by a competent authority in that country.

(As amended by G.N. No. 176 of 1964 and S.I. No. 156 of 1965)

124. (1) Every employer, when so required by the Commissioner, shall cause to be affixed and at all times to be kept affixed in a conspicuous place at any place where his workers are employed a clearly printed summary, in such form and language as the Commissioner may require, of the procedure laid down in this Act for the recovery of compensation in the event of an accident.

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

125. The Minister may, by statutory instrument, make regulations as to all or any of the following matters:

(a) the procedure to be followed in connection with claims for compensation of applications under this Act;

(b) the forms to be used in connection with such procedure or which may be used for any other matter dealt with by this Act;

(c) the fees which may be charged by medical practitioners, dentists and technical assessors in respect of anything done under or for the purposes of this Act;

(d) prescribing any matter which by this Act is required or permitted to be prescribed, not being a matter which this Act provides shall be prescribed by a specific person;

and generally for the better carrying out of the objects and purposes of this Act.

126. Any person guilty of an offence under this Act in respect of which no special penalty is provided shall be liable upon conviction to a fine not exceeding one thousand penalty units or to imprisonment for a period not exceeding three months, or to both.

(As amended by No. 27 of 1994 and Act No. 13 of 1994)

(2) A claim for compensation in respect of-

(a) an accident which happened; or

(b) a scheduled disease in respect of which a death occurred or a certificate was granted under the provisions of the Act hereby repealed; before the commencement of this Act shall, except as is otherwise provided in section seven of this Act, be dealt with under the Act hereby repealed as if this Act had not been enacted, and the Commissioner appointed under the provisions of this Act shall be the Commissioner for the purpose of dealing with any such claim or with any question arising therefrom.

128. Notwithstanding anything contained in this Act, the Board may, with the approval of the Minister, enter into arrangement with the Zambia National Provident Fund Board established under section five of the Zambia National Provident Fund Act, under which any or all the functions of the Commissioner or the Board in relation to receipt and disbursement of assessment, and pension or other benefit under this Act may be carried out by the Director of the Zambia National Provident Fund Board as the agent of the Board or the Commissioner, as the case may be.

(As amended by Act No. 19 of 1973).
FIRST SCHEDULE

(Section 59)

MINIMUM DEGREES OF DISABLEMENT

<table>
<thead>
<tr>
<th>Injury</th>
<th>Minimum degree of disablement per centum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss of two limbs.</td>
<td></td>
</tr>
<tr>
<td>Loss of both hands or of all fingers and thumbs</td>
<td></td>
</tr>
<tr>
<td>Total paralysis</td>
<td></td>
</tr>
<tr>
<td>Injuries resulting in being bedridden permanently</td>
<td></td>
</tr>
<tr>
<td>Any other injury causing permanent total disablement</td>
<td></td>
</tr>
<tr>
<td>Loss of remaining arm by one-armed worker</td>
<td></td>
</tr>
<tr>
<td>Loss of remaining leg by one-legged worker</td>
<td></td>
</tr>
<tr>
<td>Loss of arm at shoulder</td>
<td>70</td>
</tr>
<tr>
<td>Loss of arm between elbow and shoulder</td>
<td>68</td>
</tr>
<tr>
<td>Loss of arm at elbow</td>
<td>67</td>
</tr>
<tr>
<td>Loss of arm between wrist and elbow</td>
<td>60</td>
</tr>
<tr>
<td>Loss of hand at wrist</td>
<td>60</td>
</tr>
<tr>
<td>Loss of four fingers and thumb of one hand</td>
<td>60</td>
</tr>
<tr>
<td>Loss of four fingers</td>
<td>35</td>
</tr>
<tr>
<td>Loss of thumb-both phalanges</td>
<td>25</td>
</tr>
<tr>
<td>one phalanx</td>
<td>10</td>
</tr>
<tr>
<td>Loss of index finger-three phalanges</td>
<td>10</td>
</tr>
<tr>
<td>two phalanges</td>
<td>8</td>
</tr>
<tr>
<td>one phalanx</td>
<td>4</td>
</tr>
<tr>
<td>Loss of middle finger-three phalanges</td>
<td>6</td>
</tr>
<tr>
<td>two phalanges</td>
<td>4</td>
</tr>
<tr>
<td>one phalanx</td>
<td>2</td>
</tr>
<tr>
<td>Loss of ring finger-three phalanges</td>
<td>5</td>
</tr>
<tr>
<td>two phalanges</td>
<td>4</td>
</tr>
<tr>
<td>one phalanx</td>
<td>2</td>
</tr>
<tr>
<td>Loss of little finger-three phalanges</td>
<td>4</td>
</tr>
<tr>
<td>two phalanges</td>
<td>3</td>
</tr>
<tr>
<td>one phalanx</td>
<td>2</td>
</tr>
<tr>
<td>Loss of metacarpals-first or second (additional)</td>
<td>3</td>
</tr>
<tr>
<td>third, fourth or fifth (additional)</td>
<td>2</td>
</tr>
<tr>
<td>Loss of leg-at hip joint</td>
<td>75</td>
</tr>
<tr>
<td>below hip with stump not exceeding 13 centimetres in length</td>
<td>70</td>
</tr>
<tr>
<td>below hip with stump exceeding 13 centimetres in length but</td>
<td></td>
</tr>
<tr>
<td>not beyond middle thigh</td>
<td>65</td>
</tr>
<tr>
<td>below middle thigh to 9 centimetres below knee</td>
<td>60</td>
</tr>
<tr>
<td>below knee with stump exceeding 9 centimetres but not</td>
<td></td>
</tr>
<tr>
<td>exceeding 13 centimetres</td>
<td>55</td>
</tr>
<tr>
<td>below knee with stump exceeding 13 centimetres</td>
<td>50</td>
</tr>
<tr>
<td>Loss of foot-result in end bearing stump</td>
<td>45</td>
</tr>
<tr>
<td>above the junction of the foot with the toes</td>
<td>40</td>
</tr>
<tr>
<td>Loss of toes-all</td>
<td>15</td>
</tr>
<tr>
<td>great, both phalanges</td>
<td>5</td>
</tr>
<tr>
<td>great, one phalanx</td>
<td>2</td>
</tr>
<tr>
<td>other than great, if more than one toe lost each</td>
<td>1</td>
</tr>
<tr>
<td>Loss of hearing-both ears</td>
<td>50</td>
</tr>
<tr>
<td>one ear</td>
<td>7</td>
</tr>
<tr>
<td>Injury to eyes:</td>
<td></td>
</tr>
<tr>
<td>1. Total loss of sight</td>
<td>100</td>
</tr>
</tbody>
</table>
2. Loss of remaining eye by one-eyed worker . . . . . . . . 100
3. Loss of one eye, the other being normal . . . . . . . . 30
4. Total loss of vision of one eye, the other being normal . . . . . . . . 30
5. Other degrees of defective vision based on the visual defect as measured after correction with glasses:

<table>
<thead>
<tr>
<th>When best visual acuity is in one eye</th>
<th>Other eye</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/6 or 6/9</td>
<td>6/24</td>
</tr>
<tr>
<td>6/6 or 6/9</td>
<td>6/36</td>
</tr>
<tr>
<td>6/6 or 6/9</td>
<td>6/60</td>
</tr>
<tr>
<td>6/6 or 6/9</td>
<td>3/60</td>
</tr>
<tr>
<td>6/12</td>
<td>nil</td>
</tr>
<tr>
<td>6/18</td>
<td>6/18</td>
</tr>
<tr>
<td>6/18</td>
<td>6/24</td>
</tr>
<tr>
<td>6/18</td>
<td>6/36</td>
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<tr>
<td>6/18</td>
<td>6/60</td>
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<td>6/18</td>
<td>3/60</td>
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<tr>
<td>6/18</td>
<td>nil</td>
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<tr>
<td>6/18</td>
<td>6/24</td>
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<tr>
<td>6/18</td>
<td>6/36</td>
</tr>
<tr>
<td>6/24</td>
<td>6/60</td>
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<tr>
<td>6/24</td>
<td>3/60</td>
</tr>
<tr>
<td>6/24</td>
<td>nil</td>
</tr>
<tr>
<td>6/36</td>
<td>6/36</td>
</tr>
<tr>
<td>6/36</td>
<td>6/60</td>
</tr>
<tr>
<td>6/36</td>
<td>3/60</td>
</tr>
<tr>
<td>6/36</td>
<td>nil</td>
</tr>
<tr>
<td>6/60</td>
<td>6/60</td>
</tr>
<tr>
<td>6/60</td>
<td>3/60</td>
</tr>
<tr>
<td>6/60</td>
<td>nil</td>
</tr>
<tr>
<td>3/60</td>
<td>3/60</td>
</tr>
<tr>
<td>3/60</td>
<td>nil</td>
</tr>
<tr>
<td>nil</td>
<td>nil</td>
</tr>
</tbody>
</table>

6. For the purposes of this Schedule, a one-eyed worker means a workman who has no sight in one eye.

Loss of teeth:

<table>
<thead>
<tr>
<th>1-2</th>
<th>3</th>
<th>4-5</th>
<th>6</th>
<th>7</th>
<th>8</th>
</tr>
</thead>
<tbody>
<tr>
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<tr>
<td>1</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>1/2</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>21/2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>31/2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Thereafter 1/4 per centum for every additional tooth up to a maximum of 10 per centum for thirty-two teeth.

Total permanent loss of use of member shall be treated as loss of member.

The percentage of incapacity for ankylosis of any joint shall be reckoned as from 25 to 100 per centum of the incapacity for loss of the part at that joint, according to whether the joint is ankylosed in a favourable or unfavourable position.

Where there is loss of two or more parts of the hand, the percentage of incapacity shall not be more than for the whole hand.

Where there are two or more injuries, the sum of the percentages for such injuries may be increased, and, where such injuries are to the hand, the following basis of computing the increase shall be adopted, namely:

(a) where two digits have been injured, the sum total of the percentages shall be increased by twenty per centum of such sum total;
(b) where three digits have been injured, the sum total of the percentages shall be increased by thirty per centum of such sum total;
(c) where four digits have been injured, the sum total of the percentages shall be increased by forty per centum of such sum total.

(As amended by No. 37 of 1969)
**SECOND SCHEDULE**

*(Sections 2, 93 and 94)*

**SCHEDULED DISEASES**

<table>
<thead>
<tr>
<th>Description of Disease</th>
<th>Description of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poisoning by:</td>
<td>Any occupation involving:</td>
</tr>
<tr>
<td>1. Lead or a compound of lead</td>
<td>The use or handling of, or exposure to the fumes, dust or vapour of, lead or a compound of lead, or a substance containing lead.</td>
</tr>
<tr>
<td>2. Manganese or a compound of dust or manganese.</td>
<td>The use or handling of, or exposure to the fumes, vapour of, manganese or a compound of manganese, or a substance containing manganese.</td>
</tr>
<tr>
<td>3. Phosphorus or phosphine or poisoning due to the anti-cholinesterase action of organic phosphorus compounds.</td>
<td>The use or handling of, or exposure to the fumes, dust or vapour of, phosphorus or a compound of phosphorus, or a substance containing phosphorus.</td>
</tr>
<tr>
<td>4. Arsenic or a compound of arsenic.</td>
<td>The use or handling of, or exposure to the fumes, dust or vapour of, arsenic or a compound of arsenic, or a substance containing arsenic.</td>
</tr>
<tr>
<td>5. Mercury or a compound of mercury.</td>
<td>The use or handling of, or exposure to the fumes, dust or vapour of, mercury or a compound of mercury, or a substance containing mercury.</td>
</tr>
<tr>
<td>6. Carbon bisulphide</td>
<td>The use or handling of, or exposure to the fumes or vapour of, carbon bisulphide or a compound of carbon bisulphide, or a substance containing carbon bisulphide.</td>
</tr>
<tr>
<td>7. Benzene or a homologue</td>
<td>The use or handling of, or exposure to the fumes of, or vapour containing, benzene or any of its homologues.</td>
</tr>
</tbody>
</table>
| 8. A nitro- or amino- or chloro-derivative of benzene or of a homologue of benzene or poisoning by nitro- benzene or a homologue of benzene or chlorobenzene. | The use or handling of, or exposure to the fumes of, or vapour containing, a nitro- or amino- or chloro-derivative of benzene or chlorobenzene.
9. Dinitrophenol or a homologue or by the use or handling of, or exposure to the fumes of, or substituted dinitrophenols or by the vapour containing, dinitrophenol or a homologue or salts of such substances.

10. Tetrachlorethane The use or handling of, or exposure to the fumes of, or vapour containing, tetrachlorethane.

11. Tri-cresyl phosphate The use or handling of, or exposure to the fumes of, or vapour containing, tri-cresylphosphate.

12. Tri-phenyl phosphate The use or handling of, or exposure to the fumes of, or vapour containing, tri-phenyl phosphate.

13. Diethylene dioxide (dioxan). The use or handling of, or exposure to the fumes of, or vapour containing, di-ethylene dioxide (dioxan).

14. Methyl bromide The use or handling of, or exposure to the fumes of, or vapour containing, methyl bromide.

15. Chlorinated naphthalene The use or handling of, or exposure to the fumes of, or dust or vapour containing, chlorinated naphthalene.


17. Nitrous fumes The use or handling of nitric acid or exposure to nitrous fumes.

18. Gonioma kamassi (African boxwood). The manipulation of gonioma kamassi or any process in or incidental to the manufacture of articles therefrom.

19. Anthrax The handling of wool, hair, bristles, hides or skins or other animal products or residues, or any work in connection with animals, animal carcasses or parts of such carcasses, including the loading, unloading and transport of merchandise.

20. Glanders Contact with equine animals or their carcasses.

21. (a) Infection by leptospira icterohaemorrhagiae. Work in places which are, or are liable to be, infested by rats.

(b) Infection by leptospira canicola. Work at dog kennels or the care or handling of dogs.

22. (a) Ulceration of the corneal surface of the eye.

(b) Localised new growth of the skin, papillomatous or keratotic. The use or handling of, or exposure to arsenic, tar, pitch,
Squamous-celled carcinoma of the skin, due in any case to compound, product, or residue of any of these substances.

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>23. Inflammation, ulceration or malignant disease of skin or subcutaneous tissues or of the bones, or blood dyscrasia, or cataract, due to electro-magnetic radiations (other than radiant heat), or to ionising particles.</td>
<td>Exposure to electro-magnetic radiations other than radiant heat, or to ionising particles.</td>
</tr>
<tr>
<td>24. Heat cataract</td>
<td>Frequent or prolonged exposure to rays from molten or red-hot material.</td>
</tr>
<tr>
<td>25. Decompression sickness</td>
<td>Subjection to compressed or rarefied air.</td>
</tr>
<tr>
<td>26. Cramp of the hand or forearm due to repetitive movements.</td>
<td>Prolonged periods of handwriting, typing or other repetitive movements of the fingers, hand or arm.</td>
</tr>
<tr>
<td>27. Subcutaneous cellulitis of the hand (beat hand).</td>
<td>Manual labour causing severe or prolonged friction or pressure on the hand.</td>
</tr>
<tr>
<td>28. Bursitis, or subcutaneous cellulitis arising at or about the knee due to severe or prolonged external friction or pressure at or about the knee (beat knee).</td>
<td>Manual labour causing severe or prolonged external friction or pressure at or about the knee.</td>
</tr>
<tr>
<td>29. Bursitis or subcutaneous cellulitis arising at or about the elbow due to severe or prolonged external friction or pressure at or about the elbow (beat elbow).</td>
<td>Manual labour causing severe or prolonged external friction or pressure at or about the elbow.</td>
</tr>
<tr>
<td>30. Traumatic inflammation of the tendons in the hand or forearm, or of the associated tendon sheaths.</td>
<td>Manual labour, or frequent or repeated movements of the hand or wrist.</td>
</tr>
<tr>
<td>31. Miner's nystagmus</td>
<td>Work in or about a mine.</td>
</tr>
<tr>
<td>32. Poisoning by beryllium or a compound of beryllium</td>
<td>The use or handling of, or exposure to the fumes, dust or vapour of, beryllium or a compound of beryllium, or a substance containing beryllium.</td>
</tr>
<tr>
<td>33. (a) Carcinoma of the mucous membrane of the nose or associated air sinuses. (b) Primary carcinoma of a bronchus or of a lung.</td>
<td>Work in a factory where nickel is produced by decomposition of a gaseous nickel compound which necessitates working in or about a building where that process or any other industrial process ancillary or incidental thereto is carried on.</td>
</tr>
<tr>
<td>34. Tuberculosis</td>
<td>Close and frequent contact with a source or sources of tuberculosis infection by reason of employment- (a) in the medical treatment or nursing of a person or persons suffering from tuberculosis, or in a service ancillary to such treatment or nursing; (b) in attendance upon a person or persons suffering from tuberculosis where the need for such attendance arises by reason of physical or mental infirmity; (c) as a research worker engaged in research in connection with tuberculosis; (d) as a laboratory worker, pathologist or post mortem worker, where the occupation involves working with material which is a source of tuberculosis infection, or in an occupation ancillary to such employment.</td>
</tr>
<tr>
<td>35. Primary neoplasm of the epithelial lining of the urinary bladder</td>
<td>(a) Work in a building in which any of the following substances is produced for...</td>
</tr>
</tbody>
</table>
(papilloma of the bladder), or of the epithelial lining of the renal pelvis or of the epithelial lining of the ureter.

commercial purposes:

(i) alpha-naphthylamine or beta-naphthylamine;

(ii) diphenyl substituted by at least one nitro or primary amino group or by at least one nitro and primary amino group;

(iii) any of the substances mentioned in sub-paragraph (ii) if further ring substituted by halogeno, methyl or methoxy groups, but not by other groups;

(iv) the salts of any of the substances mentioned in sub-paragraphs (i) to (iii);

(v) auramine or magenta;

(b) the use or handling of any of the substances mentioned in sub-paragraphs (i) to (iv) of paragraph (a), or work in a process in which any such substance is used or handled or is liberated;

(c) the maintenance or cleaning of any plant or machinery used in any such process as is mentioned in paragraph (b), or the cleaning of clothing used in any such building as is mentioned in paragraph (a) if such clothing is cleaned within the works of which the building forms a part or in a laundry maintained and used solely in connection with such works.

36. Poisoning by cadmium

37. Inflammation or ulceration of the mucous membrane of the upper respiratory passages or mouth produced by dust, liquid or vapour.

38. Non-infective dermatitis of external origin (including chrome ulceration of the skin but excluding dermatitis due to ionising particles or electro-magnetic radiations other than radiant heat).

39. Pneumoconiosis

40. Degeneration of eyesight, due to cinders, dust, flying objects, heat, glare and cold.

(As amended by S.I. No. 206 of 1969)

41. Industrial deafness

42. Acid erosion of teeth

(S.I. No. 181 of 1982)
THIRD SCHEDULE

(Section 61 and 62)

MONTHLY ALLOWANCES IN RESPECT OF CHILDREN

<table>
<thead>
<tr>
<th>Percentage of Worker's Pension</th>
</tr>
</thead>
<tbody>
<tr>
<td>In respect of one child</td>
</tr>
<tr>
<td>In respect of two children</td>
</tr>
<tr>
<td>In respect of three children</td>
</tr>
<tr>
<td>In respect of four children</td>
</tr>
<tr>
<td>In respect of five children</td>
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<tr>
<td>In respect of six children</td>
</tr>
<tr>
<td>In respect of seven children</td>
</tr>
<tr>
<td>In respect of more than seven children</td>
</tr>
</tbody>
</table>

(As amended by Act No. 27 of 1994)
FOURTH SCHEDULE

(Section 61 and 62)

MONTHLY ALLOWANCES IN RESPECT OF CHILDREN

<table>
<thead>
<tr>
<th>Percentage of Worker's Pension</th>
</tr>
</thead>
<tbody>
<tr>
<td>In respect of one child</td>
</tr>
<tr>
<td>In respect of two children</td>
</tr>
<tr>
<td>In respect of three children</td>
</tr>
<tr>
<td>In respect of four children</td>
</tr>
<tr>
<td>In respect of five children</td>
</tr>
<tr>
<td>In respect of six children</td>
</tr>
<tr>
<td>In respect of seven children</td>
</tr>
<tr>
<td>In respect of more than seven children</td>
</tr>
</tbody>
</table>

(As amended by Act No. 27 of 1994)
1. These Regulations may be cited as the Workers' Compensation (Private Domestic Servants) Regulations.

2. The rate of assessment payable by an employer in respect of every private domestic servant employed by him shall be ten ngwee for every month during which he employs such domestic servant in his private dwelling house for a period exceeding thirteen days (including Sundays and public holidays).

3. Every employer to whom section one hundred and nine of the Act applies shall pay the assessment with the domestic contribution to the Zambia National Provident Fund in accordance with the provisions of the Zambia National Provident Fund (Domestic Servants) Regulations, 1973.
8. Agreements
9. Prescribed amount of pension
10. Report of accident by employer
11. Register of accidents
12. Prescribed amount of payments to Board
13. Exemption
14. Statement by employer
15. Particulars of business
16. Particulars of employers
17. Early payment to be made

FIRST SCHEDULE-Prescribed forms
SECOND SCHEDULE-Expenses of assessors
THIRD SCHEDULE-Expenses of members of Tribunal

SECTION 125-THE WORKERS' COMPENSATION REGULATIONS

Regulations by the Minister

1. These Regulations may be cited as the Workers' Compensation Regulations.

2. (1) In these Regulations, unless the context otherwise requires-
   "notice" means notice in writing;
   "party" means any person who is a party to any proceedings under the Act, and includes a person appearing for a party;
   "send" means to post by prepaid registered post;
"sign" includes the making by a person of a mark, attested by two competent witnesses testifying that such mark was made by such person in their presence, and "signature" includes a mark so made.

(2) Where in these Regulations reference is made to a particular form or forms, such reference shall be to be the form or forms contained in the First Schedule.

3. An objection, in terms of section nineteen of the Act, shall be in the form and contain the information required in Form 1, and shall be deemed to have been lodged on the date of receipt by the Commissioner of the said form, duly completed in respect of every relevant item.

4. (1) Where it is proposed to hold a formal inquiry to consider and determine an objection, in accordance with the provisions of section twenty-one of the Act, the Commissioner shall ascertain the material questions in dispute, and shall reduce such questions into writing and shall fix a time and place for the holding of a formal inquiry into such questions.

(2) The Commissioner shall thereupon cause a notice in the form and containing the information set out in Form 2 to be sent by prepaid registered post to the parties. Such notice shall state the material questions in dispute and the time and place fixed by the Commissioner for the holding of a formal inquiry.

(3) Every party to a formal inquiry may appear in person or may be represented-

(a) by a legal practitioner; or

(b) by a member of his family; or

(c) by a person in the permanent and exclusive employment of such party; or

(d) in the case of a worker by an officer of a trade union or of an organisation approved by the Minister or, in the case of an employer, by an officer of an employers' organisation; or
(e) by an officer of the Labour Department; or

(f) in the case of a company, by any director, secretary or other officer thereof, and, in the case of a body corporate which is not a company, by an officer thereof; or

(g) by leave of the Commissioner, by any other person.

(4) No person other than a legal practitioner shall be entitled for so appearing to recover any fee or reward except necessary out-of-pocket expenses.

(5) Upon the holding of the inquiry the Commissioner shall receive any evidence presented by the parties which he deems relevant to any question which he has to determine and may call for and receive any evidence which he deems necessary. The Commissioner may receive and have regard to a report of a medical or surgical practitioner registered in the Commonwealth or in the Republic of South Africa as to the mental or physical condition of any person in respect of whom the dispute exists or the application for revision of any award or agreement has been made.

(6) The Commissioner may from time to time adjourn or postpone any inquiry for such periods and for such reasons as he may think fit.

(7) The Commissioner shall keep or cause to be kept a true record of any proceedings before him upon any formal inquiry and upon payment of a fee to be fixed by the Commissioner any person may at any time obtain copies of the record or any part thereof.

(8) The Commissioner may appoint any person to take down in shorthand a note of oral evidence and proceedings; and such appointment may be made either generally for the purposes of all formal inquiries held by the Commissioner or specially for the purposes of any particular formal inquiry. Such person shall take an oath to the satisfaction of the Commissioner for the accurate and faithful recording of such evidence.
(9) The Commissioner shall have the power to award costs at his discretion.

(10) All costs awarded by the Commissioner shall be taxed and recoverable in manner prescribed by the law or rules governing costs in civil actions in the subordinate courts of Zambia. For the purpose of the taxation of costs, the clerk of a subordinate court (Class I) shall be the Taxing Master. Any costs awarded against a worker on any issue on which he has been unsuccessful may be set off by the Commissioner or by the exempted employer, as the case may be, by order of the Commissioner, in paying any compensation awarded to that worker:

Provided that if compensation is payable monthly or weekly the maximum amount that may be set off in respect of any one month or week shall not exceed one-quarter of the monthly or weekly payments due to the worker.

(11) The fees and expenses payable to witnesses in connection with a formal inquiry shall be as set out in the Third Schedule to the Subordinate Courts (Civil Jurisdiction) Rules.

Cap. 28

(12) (a) The findings of the Commissioner shall be pronounced by him either immediately after the conclusion of the inquiry or as soon as is reasonably practicable thereafter at some subsequent date.

(b) As soon as practicable after the conclusion of the formal inquiry the Commissioner shall send by prepaid registered post to the parties a copy of his decision and order, which shall be in the form and contain the information required in Form 3.

(13) If any party does not appear at the time and place fixed for the formal inquiry, the Commissioner may in his discretion proceed with the inquiry and may determine the matters in dispute and make an order, or he may postpone or adjourn the inquiry and cause a notice to be sent by prepaid registered post to the parties notifying them of the postponement or adjournment and of the time and place he had fixed for the holding or continuing of the inquiry:

Provided that, if the Commissioner has in terms of this regulation
determined the matters in dispute and has made an order, he may set aside the order and reopen the inquiry on good cause shown within fourteen days of the date on which the order was made and may make such further orders as he deems fit.

(As amended by No. 381 of 1964 and No. 156 of 1965)

5. The remuneration, travelling and subsistence expenses payable to an assessor appointed in terms of section twenty-six of the Act shall be in accordance with the scale prescribed in the Second Schedule.

6. The remuneration, travelling and subsistence expenses payable to any person chosen as a member of the Workers' Compensation Appeal Tribunal, in terms of section twenty-seven of the Act, shall be in accordance with the scale prescribed in the Third Schedule.

7. The scale of fees and expenses payable to witnesses, in terms of section thirty-seven of the Act, shall be as set out in the Witnesses and Assessors Allowances Rules.

8. (1) Any agreement made, in terms of sub-section (2) of section forty-five of the Act, shall be in writing and signed by the parties thereto, and shall contain the particulars set out in Form 4.

(2) The employer shall submit such agreement not later than fourteen days after the making thereof, together with a registered medical practitioner's certificate containing the particulars set out in Form 5.

9. For the purposes of section sixty-nine of the Act, the prescribed amount shall be one thousand kwacha per month.

(As amended by S.I. no. 31 of 1995)

10. A report of an accident to a worker made by an employer to the Commissioner, in terms of sub-section (1) of section seventy-five of the Act, shall be in the form and contain the information set out in Form 6.

11. The register of accidents which an employer is required to keep, in terms of sub-section (4) of section seventy-five of the Act, shall contain the particulars set out in Form 7.
12. The prescribed amount for the purposes of paragraph (b) of sub-section (4) of section ninety-nine of the Act to be paid by an insurer or exempted employer shall be one per centum of the compensation, including medical aid, paid by such insurer or exempted employer who has not transferred the obligations referred to in sub-section (2) or (3) of section ninety-nine to the Board within the period specified in the said paragraph (b) of sub-section (4) of section ninety-nine.

(No. 230 of 1965)

13. (1) Every employer desiring to be exempted, in terms of section one hundred and five of the Act, from the necessity of paying assessments, shall apply to the Commissioner for a certificate of exemption. The application shall be in the form and contain the information required in Form 8.

(2) Every such employer shall, before a certificate of exemption is granted to him, furnish the Commissioner with full information in regard to the fund to be established and maintained by him, in terms of sub-section (1) of section one hundred and five of the Act.

(3) For a certificate of exemption, or for the renewal thereof, such employer shall pay to the Commissioner before the said certificate is issued, the sum of seventy-five fee units.

(4) Every certificate of exemption shall expire on the 31st March in each and every year.

(5) Should an employer not wish to renew his certificate of exemption after its expiration, he shall give notice to that effect to the Commissioner not later than three months before the date of expiration.

(6) If at any time the Minister is satisfied that an exempted employer has failed to comply with any of the provisions of this regulation, he may cancel the certificate of exemption granted to such employer.

(7) After an employer has ceased to be exempted from the necessity of the payment of assessments, he shall still remain liable in respect of all
Obligations to his workers which have arisen, or which may arise, in respect of the period during which he was so exempt, and the amount of cash or securities deposited by him, in terms of sub-section (1) of section one hundred and five of the Act, will not be released unless in respect of reduction of liability of the employer proved to the satisfaction of the Commissioner. Any balance retained by the Commissioner will be released upon proof that all liabilities of the employer have been discharged.

(8) Whenever compensation is payable by an exempted employer, in terms of sections sixty-one and sixty-two of the Act, he shall forthwith notify the Commissioner of the fact, and shall furnish him with all available information in respect of each such case and shall await his directions in regard to the payment of such compensation.

(9) Every exempted employer shall transmit to the Commissioner on or before the 1st June in each year, a certified copy of his latest duly audited trading account, profit and loss account and balance sheet together with-

(a) a statement of pensions payable by him under the Act as required in Form 9;

(b) a statement of children's allowances payable by him under the Act as required in Form 10;

(c) a statement containing details of outstanding claims as at the 31st March preceding, as required in Form 11;

(d) a statement in the form and containing the information required in Form 12 of wages paid during the previous twelve months ending the 31st March.

(10) Every exempted employer shall transmit to the Commissioner, within thirty days after the end of each month, returns in the manner and containing the information required in Form 13, showing all claim payments made by him during such month.

(11) Should an exempted employer fail to meet any claim for compensation or medical aid for which he may have become liable under the Act, the Commissioner shall have the right to withdraw from
the deposit made by such employer, in terms of sub-section (1) of section one hundred and five of the Act, sufficient money, and shall have the right to sell such securities forming part of the said deposit as will realise sufficient money, for the purpose described in this sub-regulation.

(12) An exempted employer shall not be entitled to a refund of any portion of the fee paid by him under sub-regulation (3) if, in terms of the provisions of sub-regulation (6), the Minister has cancelled the certificate of exemption granted to the employer.

(13) Every exempted employer shall keep all accounts and records of all payments by him in respect of workers' compensation under the Act separate from the records of his other business transactions.

(As amended by Act No. 13 of 1994)

14. A statement transmitted to the Commissioner by an employer in terms of sub-section (1) of section one hundred and six of the Act shall be in the form and contain the information set out in Form 14.

(As amended by No. 143 of 1965)

15. The particulars of business which an employer is required to furnish to the Commissioner, in terms of sub-section (1) of section one hundred and eleven of the Act, shall be in the form and contain the information set out in Form 15.

16. The particulars of employers required to be furnished by an insurance company, in terms of sub-section (1) of section one hundred and twenty-one of the Act, shall be in the form and contain the information set out in Form 16.

17. (1) All moneys payable under the Act to any person shall be paid as soon as possible after the date on which they become payable.

(2) If the Commissioner, or the employer individually liable, as the case may be, is unable to trace the payee, and any such moneys accordingly remain unpaid after the expiration of twelve months of the date on which they became payable, the following procedure shall be adopted:
(a) Details of all such amounts payable to persons other than persons from outside Zambia shall be notified in the Gazette and in a local newspaper by the Commissioner, both in respect of moneys payable from the Fund and moneys payable by employers individually liable, who shall advise and pay to the Commissioner such moneys every quarter. Such notice shall call upon any person claiming payment of any such amount to lodge his claim with the Commissioner within a period of one month of the date thereof. If, at the expiration of the said period, no claim has been lodged, or if any claim has been lodged and rejected by the Commissioner, the amount shall be paid into the reserves of the Fund:

Provided that if at any subsequent date a claim is lodged with the Commissioner and proved to his satisfaction he shall pay the amount of the said claim.

(b) Any such unpaid moneys payable to persons from outside Zambia shall be paid to the government of the country in which such person is domiciled, or to the local representative in Zambia of such government; and any subsequent claim for payment of any such amount shall be referred to the government concerned for consideration.

(As amended by No. 156 of 1965)
FIRST SCHEDULE

PRESCRIBED FORMS

FORM 1
(Section 19)
(Regulation 3)

THE WORKERS' COMPENSATION ACT

This objection must be lodged with the Workers' Compensation Commissioner, P.O. Box 71534, Ndola, within thirty days of the date of the Commissioner's decision.

(NOTE.-"Lodged within thirty days" means that the objection must reach the Commissioner within thirty days of the date of his decision.)

NOTICE OF OBJECTION

   Name of workman
   Name of employer
1. Full name and address of objector

Full name and address of legal practitioner or other representative, if any

2. State whether objector is-

   (a) the worker or
   (b) the employer or
   (c) an employer's organisation or trade union of which the person in respect of whom the decision was given, was at the relevant times a member

   (NOTE.-The word "Yes" should be written against (a), or (b), or (c), whichever is applicable.)

3. Quote the reference number and date of the document containing the Commissioner's decision against which the objection is lodged

4. State fully what portion of the Commissioner's decision you object to

5. Give your reasons in full for lodging the objection

6. State the relief or order which you claim, or the question which you desire to have determined
7. Any documentary evidence (or copies thereof) which you wish to submit in support of your contentions as stated in paragraph 5 should be attached and enumerated hereunder:

<table>
<thead>
<tr>
<th>Number</th>
<th>Title or description of document</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td></td>
</tr>
<tr>
<td>(ii)</td>
<td></td>
</tr>
<tr>
<td>(iii)</td>
<td></td>
</tr>
<tr>
<td>(iv)</td>
<td></td>
</tr>
</tbody>
</table>

8. Give names and addresses of persons whom you wish to be called as witnesses to give evidence in support of your objection:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

9. On what points briefly will they give evidence?

(i) ..............................................
(ii) ..............................................
(iii) ..............................................
(iv) ..............................................

Place ..............................................
Date ..............................................

Signature of Objector

NOTE.-Where the objector is an employer individually liable, this form must be accompanied by a statement as to whether he admits his liability to pay compensation or denies such liability, and whether the admission or denial is total or partial, and if he admits or denies liability partially, a statement of the extent to which he admits or denies liability and, in the case of a denial of liability, the grounds thereof shall be stated.
FORM 2  
*(Regulation 4 (2))*  

THE WORKERS' COMPENSATION ACT  

NOTICE OF THE COMMISSIONER'S INTENTION TO HOLD A FORMAL INQUIRY  

Inquiry No.  
In the matter of the dispute or application between:  

Applicant  

and  

Respondent  

Date .................................................................  
To ........................................................................  

of  

Take notice that the material questions in dispute between the parties are  

The Commissioner will hold a formal inquiry at (time) on  
the ........................................... (date) in the  (place) to determine the  
questions in dispute and you should attend at that time and place together with your  
witnesses, if any, as to such questions.  

Workers' Compensation Commissioner
FORM 3
(Regulation 4 (12) (b))

THE WORKERS' COMPENSATION ACT

NOTICE OF ORDER MADE BY THE COMMISSIONER ON A FORMAL INQUIRY

Inquiry No.

In the matter of the dispute or application between:
    Applicant

and

    Respondent

Date ...........................................................

To ...............................................................

of ...............................................................................................................................

The material questions in dispute between the parties were

The decision of the Commissioner on these questions is

And the Commissioner orders that

Workers' Compensation Commissioner
THE WORKERS' COMPENSATION ACT

AGREEMENT

MEMORANDUM OF AGREEMENT made and entered into between (1) (hereinafter referred to as the employer) of the one part, and (2) (hereinafter referred to as the worker) of the other part.

WHEREAS both the employer and the worker declare that they are acquainted with the liabilities, rights, privileges and benefits contained and set out in the Workers' Compensation Act:

AND WHEREAS the worker is specially liable to meet with an accident or if he meets with an accident, to sustain serious injury in his employment as a (3) by reason of (4) mentioned in the certificate by the registered medical practitioner annexed hereto, it is hereby agreed between the worker and the employer that in the event of the worker meeting with an accident whilst in the employ of the employer the rights of the worker or his dependants to compensation under the Workers' Compensation Act shall be limited to (5) per centum of the compensation which would otherwise be payable under the said Act.

Signed at this ........................................... day of .................................. 19 .............

Witness:

........................................................................

........................................................................

Employer

Witness:

........................................................................

........................................................................

Worker

Approved under section 45 of the Workers' Compensation Act, this day of .................................. 19 .............

Workers' Compensation Commissioner

NOTES

(1) Full name of employer.
(2) Full name of worker.
(3) State nature of work on which worker is engaged.
(4) State "old age", "serious physical infirmity", or "previous injury", as the case may be.
(5) State percentage.
FORM 5
(Regulation 8 (2))

THE WORKERS' COMPENSATION ACT

CERTIFICATE OF REGISTERED MEDICAL PRACTITIONER

IT IS HEREBY CERTIFIED by me, pursuant to section 45 of the Workers' Compensation Act, that I have this day examined (1) and that by reason of (2)-

(a) old age (state age) .........................
(b) serious physical infirmity (state nature of)
(c) previous injury (state nature of)

he is specially (3) liable to meet with an accident or to sustain a serious injury if employed as a

I assess the degree of disability at per centum.

Dated this ...................................................... day of 19 ............

Registered Medical Practitioner

Address ....................................................................
................................................................................

NOTES
(1) Full name of worker.
(2) Strike out words not applicable.
(3) Registered medical practitioners should note that section 45 (2) of the Act has used the words "specially liable" and not merely "more liable" and regard should be had before issuing the certificate, not only to the age, serious physical infirmity or previous injury of the worker, but also to the nature of the work in which he is employed at the time.
FORM 6  
(Section 75)  
(Regulation 10)

THE WORKER'S COMPENSATION ACT

For official use
Claim Number:

EMPLOYER'S REPORT OF AN ACCIDENT TO A WORKER

To be addressed to:
The Workers' Compensation Commissioner  
P.O. Box 71534, Ndola

Employer:
Name under which trade or business is carried on (block capitals):
........................................................................................................................................................................
Address ........................................................................................................................................................................

Worker:
Full name .........................................................................................................................................................  
(block capitals)
Residential address ....................................................................................................................................................  
Occupation ....................................................................................................................................................................

Age Sex

1. (a) How long has he been in your employ?  
   (b) If not in your direct employ, give the name and address of the sub-contractor  
   (c) Prior to this accident had he, to your knowledge, any physical defect or did he suffer from any serious disease? If so, give details.

2. Earnings:  
   (a) Wages (excluding bonus, commission or allowances).  

Per Hour


1. Normal working hours:
   (a) per week
   (b) per shift
2. Monthly cost-of-living allowance
3. Monthly other allowances (specify)
4. Monthly value of free food supplied
5. Monthly value of free quarters supplied

3. (a) Has he previously received compensation for permanent disablement?
   (b) If so, when and by whom employed?

4. Accident:
   (a) Where did it occur?
      (State site, e.g., workshop, underground, etc.)
   (b) When did it occur?
   (c) When did the worker report it?
   (d) If he failed to report it on the same day, what is his explanation?
   (e) What was the worker doing when it occurred?
   (f) Describe cause, mentioning contributory factors and any part of premises, plant or machinery connected with the accident.
   (g) Did it result from action properly within the scope of the worker's duties? If not, please attach explanatory statement.

5. Was the accident caused by-
   (a) deliberate violation of rules?
   (b) drunkenness?
   (c) deliberate contravention of any law made for the purpose of ensuring the safety of workers? (If reply is in the affirmative, please attach explanatory statement.)

6. Give the names and addresses of witnesses to the accident.

7. Was the accident caused by the action of a person other than the worker?
   If so, give his name and address

8. Has notice been received of any magisterial or other official inquiry?
   If accident was investigated by the Police, state name of Police Station

9. Particulars of disablement:
   (a) Describe the nature and extent of the injuries sustained, mentioning parts of the body, and in the case of limb, or eye, stating right or left side.
   (b) When did the employee cease work as a result of the accident?
   (c) State probable period worker will be off duty
   (d) Name and address of doctor attending the
(e) If in hospital, give name and address.

I hereby certify that, to the best of my knowledge and belief, the particulars furnished in this report are true and correct.

Date. ..................................................................................         ...............................................................

......

Employer's Signature

<table>
<thead>
<tr>
<th>Date received</th>
<th>Employer's number</th>
<th>Premium checked by</th>
<th>Claim accepted by</th>
<th>Claim rejected by</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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</table>

For Official Use Only
FORM 7  
*(Section 75)*  
*(Regulation 11)*

THE WORKERS' COMPENSATION ACT

EMPLOYER'S REGISTER OF ACCIDENTS TO WORKERS

<table>
<thead>
<tr>
<th>Accident No.</th>
<th>Date of accident</th>
<th>Name of worker</th>
<th>Residential address of worker</th>
<th>Village/Chief/District of worker if applicable</th>
<th>Cause of accident</th>
<th>Nature of injuries received</th>
<th>Date of reporting accident to Commissioner</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>
THE WORKERS' COMPENSATION ACT

APPLICATION FOR EXEMPTION IN TERMS OF SECTION 105 OF THE ACT

1. Employer's name
2. Postal address
3. Address at which workers are to be engaged
5. SCHEDULE

NOTES

(1) Salaries and wages must include the value of house rent, food, commission, etc., paid or supplied by the employer. (See section 67 of the Act.)
(2) Workers shown in one class must not be shown in another class.
(3) Workers whose basic rate of pay exceeds K4,800 a year must not be included.
(4) This application must be accompanied by a certified copy of the last balance sheet, and of the trading, profit and loss accounts.

<table>
<thead>
<tr>
<th>Classification of Worker</th>
<th>Workers whose basic rate of pay does not exceed K4,800 a year</th>
<th>Estimated annual wages</th>
<th>For official use only</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Engaged with woodworking machinery</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Engaged with machinery other than woodworking</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Not engaged with machinery</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) Engaged with or handling explosives</td>
<td></td>
<td></td>
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<tr>
<td>(e) Workers whose duties involve underground work</td>
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<tr>
<td>(f) Clerical staff</td>
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<tr>
<td>(g) Salesmen (in retail shops only)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(h) Commercial travellers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) Drivers and wagon attendants</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(j) Workers making use of aircraft</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>(k)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>(l)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6. Do you carry on more than one business in any one building? If so, specify .......................................................... ..........................................................
7. (a) Have you any machinery driven by electricity, steam, water, or any other mechanical power? If so, state particulars ..........................................................
(b) Are your machinery, plant, and ways properly fenced and guarded and otherwise in good order and condition? ..........................................................
8. State what acids, chemicals or explosives will be used ..........................................................
9. State number of workers using motor-cycles in connection with your business ..........................................................
10. Has any company refused to accept any proposal for insurance, increased your premium on renewal, refused
renewal, cancelled your policy? Give full particulars ........................................................................

11. Were you insured during the last ten years? State name(s) of companies .................................. ........................................................................

12. Give full particulars of all accidents to your workers during the last ten years; the extent and nature of the injuries and the compensation paid in each case ........................................................................

13. State any special circumstances in connection with your business which tend to make the risk more than usually hazardous ........................................................................

14. (a) What is the amount of the fund at present? ........................................................................
    (b) What will be the initial amount of the fund if exemption is granted? .............................................
    (c) What amount will be added annually? ........................................................................
    (d) In what securities will the fund be invested? ........................................................................

15. (a) What amount do you consider a fair estimate of the average annual expenditure on workers compensation under the Act? ........................................................................
    (b) Please give full particulars of how the estimate has been arrived at .............................................

I certify that the foregoing information is true and correct. Date .......................................................... ..........................................................

Signature of Employer
**FORM 9**  
*(Regulation 13 (9) (a))*

**THE WORKERS' COMPENSATION ACT**

*To be completed by Exempted Employers*

Statement of Capitalised Value of Pensions (1) as at 31st March, 19 ........, by  

<table>
<thead>
<tr>
<th>Claim No</th>
<th>Name of pensioner</th>
<th>State whether pensioner married, widow, widower, single, divorced</th>
<th>If pensioner is a male and has a wife dependent on him, give date of birth of wife</th>
<th>Sex</th>
<th>State whether pensioner is a workman or widow of a worker</th>
<th>Date from which pension is, or will be, payable</th>
<th>Age of pensioner at nearest birthday</th>
<th>Disablement of worker (2)</th>
<th>Monthly earnings of worker on which pension is, or will be, based</th>
<th>Gross annual pension</th>
<th>Amount of annual pension commuted (3)</th>
<th>Net annual pension payable</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

Auditor ................................................................................................................................... Signature  ............................................................  
Date .......................................................................................................................... ............ Address ................................................................  
Date ..................................................................................

**Notes**

This statement must be submitted to the Workers' Compensation Commissioner on or before the 1st June in each year.

Where the pension payable has been commuted in full and paid prior to the 31st March, the pension should not be included in this return.

1. A children's allowance is *not* a pension and a separate statement in respect of children's allowances must be rendered on Form 10.
2. State fatal or permanent. If permanent give degree of disablement. If a permanently injured worker in receipt of a pension dies and his widow becomes the pensioner state degree of disablement of the deceased worker and the date of his death.
3. Where part of a pension has been commuted, the commuted value should not be deducted unless payment thereof was made on or before the 31st March.
### FORM 10
*(Regulation 13 (9) (b))*

**THE WORKERS' COMPENSATION ACT**

*To be completed by Exempted Employers*

Statement of Capitalised Value of Children's Allowances as at 31st March, 19 ...... by ...........................................................................................................................

<table>
<thead>
<tr>
<th>Claim No.</th>
<th>Name of Worker in respect of whom children's allowance is payable</th>
<th>State whether married, widow, widower or divorced</th>
<th>Disable-ment of Worker (1)</th>
<th>Amount of monthly pension on which allowance is based</th>
<th>State whether allowance is payable in accordance with Third or Fourth Schedule to Act</th>
<th>Date from which allowance is, or will be, payable</th>
<th>Names of child or children</th>
<th>Dates of birth of children</th>
<th>Age of child, nearest birthday</th>
<th>Nearest number of years allowance has to run</th>
<th>Annuity value (each child)</th>
<th>Applicable to each child</th>
<th>Annual amount of allowance</th>
<th>Total payable for child of workman</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

Auditor ....................................................................................................................................................

..................................................................................................................................................Signature

Date .......................................................................................................................... .................................. Address

..................................................................................................................................................Date..........................................................................................................................

Notes

This statement must be submitted to the Workers' Compensation Commissioner on or before the 1st June in each year.

(1) State if fatal or permanent. If permanent give degree of disablement. If a permanently injured worker in receipt of a pension dies and his children are in receipt of an allowance state, in addition to the degree of permanent disablement, the date on which the workman died.
FORM 11
(Regulation 13 (9) (c))

THE WORKERS' COMPENSATION ACT

To be completed by Exempted Employers

Statement of Outstanding Claims as at 31st March, 19……
To be completed in duplicate and forwarded to reach the Workers' Compensation Commissioner on or before the 1st June in each year.

Name and Address of Exempted Employer .............................................................................................................................................................

<table>
<thead>
<tr>
<th>Injured or deceased worker</th>
<th>Accident Details (medical certificates must be enclosed showing nature and extent of injuries, probable result of accident, estimated cost of medical aid and estimated duration of disablement)</th>
<th>Dependants (3)</th>
<th>Name</th>
<th>Relationship to workman</th>
<th>Date of birth</th>
<th>Periodical payments</th>
<th>Lump sum</th>
<th>Capitalised pension</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td>Age (1)</td>
<td>Earnings (2)</td>
<td>Date</td>
<td>Name</td>
<td>Date of birth</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Occupation</td>
<td>Date</td>
<td></td>
<td>Relationship to workman</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Earnings (2)</td>
<td>Date</td>
<td></td>
<td>Date of birth</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Details (medical certificates must be enclosed showing nature and extent of injuries, probable result of accident, estimated cost of medical aid and estimated duration of disablement)</td>
<td></td>
<td></td>
<td>Periodical payments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Dependants (3)</td>
<td>Lump sum Capitalised pension</td>
<td></td>
<td></td>
<td>Total .</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I certify that the foregoing particulars are true and correct: From the foregoing information it is considered that an amount of K

Date ......................... Signature of Employer ............................................................... is required in respect of outstanding claims.
(1) If exact age not known, state estimated age.
(2) Specify weekly or monthly earnings and, if food and/or quarters are supplied, the value must be included.
(3) To be completed only in respect of workers fatally injured or permanently disabled.
THE WORKERS' COMPENSATION ACT

ANNUAL RETURN OF WAGES PAID BY EXEMPTED EMPLOYERS

To be completed by Exempted Employers Form 12

Exemption Certificate No. ....................................
Name, Address and Business of Employer ........................................................................................

Notes-(1) Wages and salaries must include the full value of rent, food, etc., paid or supplied by the employer.
(2) This statement, duly completed in duplicate, must reach the Workers' Compensation Commissioner on or before the 1st June in each year.

<table>
<thead>
<tr>
<th>Classification of workers</th>
<th>Number of workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Engaged with woodworking machinery</td>
<td></td>
</tr>
<tr>
<td>(b) Engaged with machinery other than woodworking</td>
<td></td>
</tr>
<tr>
<td>(c) Not engaged with machinery</td>
<td></td>
</tr>
<tr>
<td>(d) Engaged with handling explosives</td>
<td></td>
</tr>
<tr>
<td>(e) Workers whose duties involve underground work</td>
<td></td>
</tr>
<tr>
<td>(f) Clerical staff</td>
<td></td>
</tr>
<tr>
<td>(g) Salesmen (in retail shops only)</td>
<td></td>
</tr>
<tr>
<td>(h) Commercial travellers</td>
<td></td>
</tr>
<tr>
<td>(i) Drivers and wagon attendants</td>
<td></td>
</tr>
<tr>
<td>(j) Amount paid to contractors (2) as wages of workers (see section 10 of the Act)</td>
<td></td>
</tr>
<tr>
<td>(k) Workers making use of aircraft</td>
<td></td>
</tr>
</tbody>
</table>

Workers not included in the above (specify):
(l), (m), (n) ................................................

Totals ................................................................

(1) The number of workers and wages paid in respect of the same class of work must not appear under more than one heading.
(2) If liability for work of contractors has been assumed, then item (j) must be completed, if not, please complete the following particulars:
Name of contractor .................................................................
Address ....................................................................................
Nature of work performed and period ........................................

Amount paid to contractor ....................................................

Date .............................................................  Certified correct ...........................................  Signature
Date .............................................................  Remarks ..................................................  Signature
Date .............................................................  Signature

Amount of licence fee payable
Licence ........................................  on K ......................
Total .............................................................  Date

Amount of licence fee payable
Licence ........................................  on K ......................
Total .............................................................  Date
FORM 13  
*(Regulation 13 (10))*

THE WORKERS' COMPENSATION ACT

To be completed by Exempted Employers

Name and Address of Employer .................................................................

Return of Claim Payments in Respect of Worker During the Month of ......................................................, 19 ........

<table>
<thead>
<tr>
<th>Claim No. (1)</th>
<th>Name</th>
<th>Occupation</th>
<th>Age</th>
<th>Sex</th>
<th>Married or single</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Date .......................................................................................................................... ..............................  Signature .........................................

(1) Claims under which payments have been shown in previous returns should be prefixed by the letter "A" before the claim number, and the month stated in which the first payment under the claim was made.

(2) State whether settlement has been arrived at by Agreement (A), Commissioner (C), or determined by Workers' Compensation Appeal Tribunal (T).
(3) State briefly cause of accident or cause of death naming the object which was the immediate cause of the accident. For example: "Struck by fall of rock", "Run over by cocopan", "Buried by fall of earth", "Slipped and fell from scaffolding", "Spanner slipped", "Splashed by copper", etc.

(4) Nature and location of injury should be described briefly in such terms as will convey full information, using such phrases as amputation, burns, scalds, cuts, lacerations, strain, sprain, fractures, etc. The exact location must be indicated and in cases of all injuries to a member whether it is right or left member. For example: "Fracture of tibia right leg", "Right arm amputated between wrist and elbow", "Amputation two phalanges right index finger and one phalanx middle finger left hand", "Foreign body left eye", "Loss of use of right arm", etc.

(5) State whether fatal, giving date of death; whether permanent, giving percentage of disablement; or total or partial, giving period of disablement.

(6) State site, e.g., workshop, yard, track, etc.

(7) Earnings means salaries, wages, commissions, cost-of-living allowances and other payments, including overtime if of a constant character or for work habitually performed, and must also include the value of food and quarters provided.

(8) This column is to be used to record payments in respect of transportation of injured workers, constant attendance (section 70), etc., and an appropriate suffix should be added to indicate the nature of the payment, i.e., Transport (T); Burial Expenses (B); Constant Attendance (C); etc.

The above statement, duly completed, must reach the Workers' Compensation Commissioner not later than thirty days after the last day of the month in respect of which the return is rendered.
FORM 14

(Section 106 (1))
(Regulation 14)

THE WORKERS’ COMPENSATION ACT

ESTATE AND STATEMENT OF EARNINGS OF WORKERS

This form must be completed and returned to the Workers’ Compensation Commissioner, P.O. Box 71534, Ndola, not later than 19 ........, or within fourteen days of the commencement of business, whichever date is the later.

Separate Forms Must be used for Each Class of Business Carried on by Employer

1. Is your name and address correctly shown above? If so, simply state "Yes"; if not, insert correct name and postal address in block capitals.

2. State names and addresses of all branches, etc., covered by this return. If insufficient space, please answer fully on separate sheet.

3. Has there been any change in the nature of your trade or in the type of work in which your workers are employed since you completed and returned Form 15 ("Particulars of Business")? If so, please detail; if not, simply state "No".

4. Estimate of Earnings
   Give an estimate to the nearest K of the total earnings which you expect to pay during the financial year 1st April, 19 .......... to 31st March, 19 ........ in respect of workers (male and female) whose basic rate of pay does not exceed K ........ per annum.
   (For definition of "earnings", see section 2 of the Act.)

<table>
<thead>
<tr>
<th>Average number of workers likely to be employed per month</th>
<th>Average number of workers likely to be supplied with food and quarters per month</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total earnings of all workers during the year, excluding food and quarters

Total cash value of food to be supplied by the employer to all workers during the year

Total cash value of quarters to be supplied by employer to all workers during the year

Total Earnings for Assessment

<table>
<thead>
<tr>
<th>Average number of workers employed</th>
<th>Average number of workers supplied with food and/or quarters</th>
<th>Total earnings of all workers, excluding food and quarters</th>
<th>Total cash value of food supplied by employer to all workers</th>
<th>Total cash value of quarters supplied by employer to all workers</th>
</tr>
</thead>
</table>
3. Is your name and address correctly shown overleaf? If so, simply state "YES"; if not, insert correct name and postal address in BLOCK CAPITALS.

4. State names and addresses of all branches, etc., covered by this return. If insufficient space, please answer fully on separate sheet.

5. State the precise nature of your trade, work, business or profession.

Notes:
(1) Earnings means salaries, wages, commissions, cost-of-living allowances and other payments (including overtime) if of a constant paid during the financial year. (See section 67 of the Act.)
(2) All earnings paid or to be paid by sub-contractors not otherwise registered as employers with the Workers' Compensation Comm
(3) Intermittent overtime and sums paid or to be paid under any Provident Fund, or by way of pension, are not to be included.

I hereby certify that to the best of my knowledge all particulars in this return are true, correct and complete, and that the estimates are fair and reasonable.

Date ............................................................................................... Sign

(No. 24 of 1970)
FORM 15
(Section 111)
(Regulation 15)

THE WORKERS' COMPENSATION ACT

Financial Year ........................................

PARTICULARS OF BUSINESS

This form must be completed and returned, not later than ................................................................., or within fourteen days of the commencement of business, whichever date is the later, to the Workers' Compensation Commissioner, P.O. Box 71534, Ndola.

SEPARATE FORMS MUST BE USED FOR EACH CLASS OF BUSINESS CARRIED ON BY EMPLOYER

Note.-Replies to Questions 9 and 10 must give full details of all activities carried on, as this information determines the premium rating.

1. Employer's name (in full) (block capitals) .................................................................

2. Employer's postal address and telephone number .................................................................

3. Employer's business (street) address ........................................................................

4. Name under which business is carried on (block capitals) ........................................

5. Names of partners (if any) (block capitals) .................................................................

6. Registered name of company (limited liability companies only) ........................................

7. State whether business commenced before 1st April, 1964 ........................................ Yes/No

8. If business commenced on or after 1st April, 1964, state date on which business commenced .................................................................

9. State the precise nature of your trade, work, business or profession ........................................

10. Give a general description of the various types of work in which your workers will be engaged (e.g., commercial travellers and warehousing; workshop and sales; soft goods only; machinery sales, installation and repairs) .................................................................

11. What type of business licence do you hold? .................................................................

12. State the names of all branches covered by this return, the nature of business of each branch and the town or suburb in which branch is situated. (Note.-Subsidiary limited liability companies must be registered on a separate form.) .................................................................

13. Have you previously been insured against Workers' Compensation risks? If so, state:
   
   (a) under what name ........................................................................................................
   (b) name of insurance company ...........................................................................................

14. I hereby certify that, to the best of my knowledge, all particulars in this return are true.

   Date ........................................................................................................................................

   Signature of employer or his duly authorised agent

(No. 381 of 964)
THE WORKERS' COMPENSATION ACT

be completed by Insurance Companies

PARTICULARS OF EMPLOYERS

<table>
<thead>
<tr>
<th>Policy No.</th>
<th>Employer's name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employer's postal address</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Classification and Code No. of</td>
<td>trade or business carried on by Employer</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Workers employed in such trade or business whose basic rate of pay does not exceed K4,800 (male or female)</th>
<th>Number employed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Earnings exclusive of food and quarters for period 1st April, 1962, to 31st March, 1963. (See Note 1)</td>
<td>Remuneration</td>
</tr>
<tr>
<td>Value of food and quarters supplied by employer for period 1st April, 1962, to 31st March, 1963. (See Note 2)</td>
<td>Estimated earn.</td>
</tr>
<tr>
<td>Estimated earnings inclusive of food and quarters for period from .......... to ............ (See Note 3)</td>
<td></td>
</tr>
</tbody>
</table>

Workers . . . .

Earned premium if wages declaration available . . . . K
If no wages declaration available, premium paid on estimated earnings K
In each case, please state exact period covered by premium paid.

Note-1. If earnings declared do not cover period 1st April, 1962, to 31st March, 1963, please state period to which earnings declared relate.

2. If value of food and quarters supplied have been included in earnings, please so state.
3. Please state period covered by estimated earnings and amount of earnings.
4. If value of food and quarters supplied have been included in estimated earnings, please so state.
SECOND SCHEDULE

(Regulation 5)

EXPENSES OF ASSESSORS

Any person appointed as an assessor, in terms of sub-section (1) of section 26 of the Act, shall, whilst engaged in any sitting or work of a formal inquiry, under the provisions of section 21 of the Act, be paid out of the Fund remuneration and reasonable expenses for travelling and subsistence in accordance with the following tariff:

(a) For every day or part thereof: K8.40 per day.
(b) The cost of his air or train fare.
(c) For each mile of any journey by motor transport, provided that the journey could not conveniently be undertaken by train or air: 15n per mile.
(d) For each day he is absent from his town of residence and incurs expense: K8.00 per day.
THIRD SCHEDULE

(Regulation 6)

EXPENSES OF MEMBERS OF TRIBUNAL

Any person chosen as a member of the Workers' Compensation Appeal Tribunal shall, whilst engaged in any sitting or any work of the Tribunal, receive from moneys appropriated by Parliament, remuneration and reasonable expenses for travelling and subsistence in accordance with the following tariff:

(a) For every day or part thereof: K20.00 per day.
(b) The cost of his air or train fare.
(c) For each mile of any journey by motor transport, provided that the journey could not conveniently be undertaken by train or air: 15n per mile.
(d) For each day he is absent from his town of residence and incurs expense: K8.00 per day.

(As amended by No. 156 of 1965)
NOTICE AND RULES MADE UNDER THE WORKERS' COMPENSATION ACT

(Section 15 of the Interpretation and General Provisions Act)

Exemption

The Railways in Zambia have been exempted from the operation of
*section ninety in Part VII of the Workers' Compensation Act.

*See sections 104 and 105 of the Act.

THE WORKERS' COMPENSATION RECIPROCAL ARRANGEMENTS (ZIMBABWE) RULES

1. These Rules may be cited as the Workers' Compensation Reciprocal Arrangements (Zimbabwe) Rules.

2. In these Rules, unless the context otherwise requires-

"Zimbabwean worker" means a worker ordinarily resident in Zimbabwe

"Zambian worker" means a worker ordinarily resident in Zambia.

(As amended by No. 156 of 1965)

3. In any case where a worker is entitled to compensation both under the law of Zambia and under the law of Zimbabwe, such worker or his dependants shall be entitled to recover compensation under the law of one country only.

(As amended by No. 156 of 1965)

4. In the case of an employer carrying on business in Zambia whose Law of Zambia
Zambian worker is temporarily employed by such employer in Zimbabwe the law in respect of compensation applicable to such worker during the whole of any continuous period not exceeding twelve months during which he is so employed in Zimbabwe shall be the law of Zambia. If the employment in Zimbabwe continues after such period of twelve months, the law applicable after such period shall be the law of Zimbabwe.

(As amended by No. 156 of 1965)

5. In the case of an employer carrying on business in Zimbabwe whose Zimbabwean worker is temporarily employed by such employer in Zambia, the law in respect of compensation applicable to such worker during the whole of any continuous period not exceeding twelve months during which he is so employed in Zambia shall be the law of Zimbabwe. If the employment in Zambia continues after such period of twelve months, the law applicable after such period shall be the law of Zambia.

(As amended by No. 156 of 1965)

6. In the case of an employer who ordinarily carries on business both in Zambia and in Zimbabwe and who transfers a worker temporarily from the one country to the other, the following provisions shall apply:

(a) in the case of a worker temporarily transferred from Zambia to Zimbabwe, the law in respect of compensation applicable to such worker during the whole of any continuous period not exceeding twelve months during which he is so employed in Zimbabwe shall be the law of Zambia. If the employment in Zimbabwe continues after such period of twelve months, the law applicable after such period shall be the law of Zimbabwe.

(b) in the case of a worker temporarily transferred from Zimbabwe to Zambia, the law in respect of compensation applicable to such worker during the whole of any continuous period not exceeding twelve months during which he is so employed in Zambia shall be the law of Zimbabwe. If the employment in Zambia continues after such period of twelve months, the law applicable after such period shall be the law of Zambia.

For the purposes of this rule, a worker shall not be considered to have been temporarily transferred but shall be considered to have been permanently transferred if, in the opinion of the Workers' Compensation Commissioner in Zambia or in Zimbabwe as the case may be, the transfer is made in accordance with the ordinary terms of the employment from a branch of the employer's business in the one country.
to a branch of the employer's business in the other country.

(As amended by No. 156 of 1965)

7. In any proceedings for the recovery of compensation the High Court or the magistrate or the Commissioner, as the case may be, may admit evidence taken in Zimbabwe before a magistrate in regard to any matter relating to compensation if such evidence is taken on oath and is certified by such magistrate as having been duly taken by him. Nothing in this rule contained shall be deemed to prevent the High Court or a magistrate from ordering the taking of evidence in any manner provided under any other law.

8. (1) A magistrate or the Commissioner, as the case may be, shall have the power to procure and take evidence for use in Zimbabwe or otherwise for the purpose of facilitating proceedings for the recovery of compensation under the laws of Zimbabwe.

(2) Whenever such evidence is required from a witness who resides or then is in Zambia and it is certified by the High Court or a Magistrate's Court of Zimbabwe to the Commissioner or, as the case may be, to the magistrate of the district in which such witness resides or then is, that the evidence of such witness is required for use in Zimbabwe for the purpose of facilitating proceedings for the recovery of compensation under the laws of Zimbabwe, and that interrogatories to be put to such witness have been duly framed, it shall be the duty of the Commissioner or, as the case may be, the magistrate of the district in which such witness resides or then is, upon the receipt of such interrogatories together with the reasonable expenses of such witness in accordance with the rates prescribed under the Subordinate Courts Act, to summon such witness to appear before him and upon the appearance of such witness to take his evidence as though such witness were a witness in an application under the Act, and to put to such witness the interrogatories aforesaid and all other questions calculated to obtain full and true answers to such interrogatories, and to take down or cause to be taken down in writing the evidence of such witness and to transmit the same certified as having been duly taken to the High Court or Magistrate's Court, as the case may be, in Zimbabwe.

(As amended by No. 156 of 1965)

9. (1) Compensation awarded in Zimbabwe to any person resident or
becoming resident in Zambia may be transferred to and administered by the Commissioner.

(2) Compensation awarded under the Act to any person resident or becoming resident in Zimbabwe may be transferred to and administered by the Workers' Compensation Commissioner of Zimbabwe.

(3) Where the Commissioner to whom compensation has been transferred in terms of sub-rule (1) is unable for any reason to pay such compensation to the person to whom it has been awarded within a period of twelve months from the date on which it was so transferred, then in such event the Commissioner shall refund such compensation to the Workers' Compensation Commissioner in Zimbabwe.

(As amended by No. 156 of 1965)

10. The obligation in regard to insurance imposed upon employers in regard to the workers to whom the provisions of rules 3, 4 and 5 apply, shall be determined by the law which is applicable to such workers by virtue of the provisions of the said rules.

**SECTIONS 59, 125-THE WORKERS' COMPENSATION (LUMP SUM COMPENSATION CALCULATION BASIS) ORDER**

1. This Order may be cited as the Workers' Compensation (Lump Sum Compensation Calculation Basis) Order.

2. Where a worker suffers permanent disablement but the degree of disablement does not exceed ten per centum, the basis upon which the lump sum compensation payable to such worker shall be calculated shall be such proportion of the capitalised value as determined by the Commissioner of the pension and children's allowances which would have been payable had the worker suffered permanent disablement to a degree of one hundred per centum as the percentage of his permanent disablement bears to one hundred per centum.

**SECTIONS 125 AND 107(5)-THE WORKERS' COMPENSATION (ASSESSMENT OF EARNINGS) REGULATIONS**

**Statutory Instrument 146 of 1977**

**Statutory Instrument 121 of**
1. These Regulations may be cited as the Workers' Compensation (Assessment of Earnings) Regulations.

2. The Commissioner shall not assess an employer for any earnings in excess of K1,200,000 per annum of any worker in respect of the period to which the statement submitted under section one hundred and six relate.

3. The earnings for assessment purposes shall include:
   (a) worker's annual basic wages or salary up to K1,200,000;
   (b) overtime payments;
   (c) shift differential payment;
   (d) leave pay if not included in (a) above;
   (e) payment made to casual workers employed in connection with employer's nature of business; and
   (f) add 12.5 per centum to the total of items (a) to (e) to cover food and quarters.

4. The Workers' Compensation (Assessment of Earnings) Regulations, 1994, are hereby revoked.

CHAPTER 272
THE PUBLIC HOLIDAYS ACT

ARRANGEMENT OF SECTIONS

Section
1. Short title
2. Days in the Schedule to be public holidays
3. Power to declare additional public holidays

SCHEDULE-Public holidays