

**NO. 13 OF 2007**

**WORK INJURY BENEFITS ACT**

SUBSIDIARY LEGISLATION

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*List of Subsidiary Legislation*

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**CLASSES OF PERSONS DECLARED NOT TO BE WORKMEN,  
UNDER SECTION 2(1), PROVISO (VI)**

[G.N. 1163/1951, L.N. 179/1956, L.N. 273/1967.]

Any person who was in, or was selected for appointment to, the service of the Government before the 13th June, 1950, or the service of the High Commission before the 31st May, 1950, where, in consequence of injury received by such person in the discharge of his duties, a pension or gratuity which would not be payable if such injury were received otherwise is paid to him, or, in the case of his death, to any of his dependants, under any Act or regulation providing for the grant of any such pension or gratuity.

Any person engaged or employed in any of the following undertakings—

- Kenya Police Reserve,
  - Administration Police Reserve,
  - Special Farm Guards,
  - Kikuyu Guard and other Home Guards.
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**OTHER COURTS IN WHICH PROCEEDINGS MAY BE BROUGHT,  
UNDER SECTION 3(1) (PROVISO TO THE DEFINITION OF "COURT")**

[L.N. 236/1964.]

In the North-Eastern Province, and the Marsabit, Isiolo, Tana River, Samburu and Turkana Districts proceedings under the Act may be brought in a subordinate court of the second class.

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**WORKMEN'S COMPENSATION (COMPULSORY INSURANCE) ORDER**

ARRANGEMENT OF ORDERS

*Order*

1. Citation.
  2. Application.
  3. Employers to insure.
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[Subsidiary]

**Orders under section 26****WORKMEN'S COMPENSATION (COMPULSORY INSURANCE) ORDER**

[L.N. 213/1974, L.N. 223/1976.]

**1. Citation**

This Order may be cited as the Workmen's Compensation (Compulsory Insurance) Order.

**2. Application**

This Order shall apply to any employer in any undertaking or part of any undertaking which consists in the carrying on, for gain or reward, of one or more of the following activities, that is to say—

- (a) the construction, structural alteration, maintenance or repair of any building, the demolition of any building and the preparation for, and laying the foundation of, any intended building;
- (b) the construction of any railway line or siding, and the construction, structural alteration or repair or the demolition of any airfield, dock, harbour, wharf, quay, pier, in-land navigation works, road tunnel, bridge, viaduct, waterworks, dam, reservoir, pipeline, aqueduct, sewer, sewage works or latticework structure designed solely for the support of electric lines;
- (c) the carriage of passengers and goods, or either of them, by any motor vehicle whether or not required to be licensed as a public service vehicle under the Traffic Act (Cap. 403) or a road service licence, or public carriers licence or a limited carriers licence, under the Transport Licensing Act (Cap. 404):

Provided that this Order shall not apply to—

- (i) the Government of Kenya;
- (ii) any employer who provides and maintains in force a security consisting of an undertaking by a surety, approved by the Minister, to make good, subject to any conditions specified in such undertaking and up to an amount approved by the Minister, any failure by the employer to discharge any liability which he may incur under the Act to any workmen employed by him.

**3. Employers to insure**

Every employer to whom this Order applies shall insure and keep himself insured with an insurer carrying on business in Kenya as an insurance company, in respect of any liability which he may incur, under the Act, to each workman employed by him either exclusively or in part in any undertaking or in part of any under-taking referred to in paragraph 2.

Regulations under section 42

WORKMEN'S COMPENSATION REGULATIONS

[G.N. 1893/1953, L.N. 63/1956, L/N. 385/1962.]

1. These Regulations may be cited as the Workmen's Compensation Regulations.
2. The notice of an accident required by section 13 of the Act to be given by or on behalf of a workman shall be in the form L.D. Form 105/1 set out in the First Schedule.
3. The notice of an accident causing injury to a workman required by section 14 of the Act to be given by an employer shall be in the form L.D. Form 104/1 set out in the First Schedule.
4. The prescribed amount for the purposes of paragraph (a) of proviso (ii) to section 13 of the Act, and for the purposes of sub-section (1) of section 29 of the Act, shall be six hundred shillings per month.
5. The fees and charges payable for the forms of medical aid described in the second column of the Second Schedule to workmen in Kenya shall be the fees and charges specified in relation to such aid in the third column of that Schedule:

Provided that, where in the case of any form of such aid a fee or charge is described in that Schedule as a maximum fee or charge, such fee or charge only as is reasonable in the circumstances of the case shall be payable, not exceeding the specified fee or charge.

FIRST SCHEDULE

L.D. FORM 105/1

(r. 2)

NOTICE OF ACCIDENT BY OR ON BEHALF OF A WORKMAN

(For use in a claim for compensation on behalf of a workman or the dependants of a deceased workman)

To (1) .....

Address .....

NOTICE IS HEREBY GIVEN that (2) .....

..... Identity No. ....

on the (3) ..... day of ..... 20.....

at (4) ....., met with an accident

causing his (5) .....

and that the cause of the injury/death was (6) .....

AND NOTICE IS HEREBY FURTHER GIVEN that in consequence thereof compensation is claimed from you under the Workmen's Compensation Act.

Dated this ..... day of ..... 20.....

(7) .....

Insert at—

(1) name and address of employer;

(2) full name, address and identity particulars of workman;

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE, L.D. FORM 105/1—continued

- (3) date of accident;
- (4) place of accident;
- (5) whether disablement or death;
- (6) state in plain and ordinary terms the cause of the injury or death;
- (7) signature and address of person giving notice.

L.D. FORM 104/1

(r. 3)

NOTICE BY EMPLOYER OF ACCIDENT CAUSING INJURY TO, OR DEATH OF, A WORKMAN

PART I

1. EMPLOYER—

- (i) Name .....
- (ii) Address .....
- (iii) Industry or Business .....
- (iv) Name and address of insurance company, if insured against accident to workmen .....

2. WORKMAN—

- (i) Name .....
- (ii) Sex .....
- (iii) Age .....
- (iv) Occupation [*Avoid the term "labourer" where possible*] .....
- (v) Address .....
- (vi) Identity Card No. (or other identity particulars) .....

3. ACCIDENT—

- (i) Date and hour .....
- (ii) Place .....
- (iii) Cause of accident .....
- (iv) If caused by machinery—
  - (a) state name of the machine and part causing accident .....
  - (b) state whether it was moved by mechanical power at the time .....
  - (c) state exactly what the injured person was doing at the time .....

4. INJURY—

- (i) Was the injury fatal? .....
- (ii) Particulars (as known to employer) .....
- (iii) To what hospital or medical practitioner was the injured workman sent? .....

5. MONTHLY EARNINGS AT THE DATE OF THE ACCIDENT—

Cash wage (exclusive of overtime, bonus, etc., payments) .....	Sh. ....
Value of rations .....	Sh. ....
Value of housing .....	Sh. ....
Value of fuel .....	Sh. ....
Overtime payment or other special remuneration for work done, whether by way of bonus or otherwise, if of constant character, and for work habitually performed	Sh. ....
Total earnings per month	Sh. ....

Date .....

Signature of employer

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE, L.D. FORM 104/1—continued

Note.—In the case of injury to a workman involving incapacity for work for three or more consecutive days, it is requested that the employer complete Part I in triplicate and then despatch it immediately as follows—

original to the Labour Officer or District Commissioner of the district in which the accident occurred;

duplicate and triplicate to the medical practitioner attending or examining the injured workman.

In the case of an accident causing the death of a workman, Part I should be completed in duplicate and then despatched immediately as follows—

original and duplicate to the Labour Officer or District Commissioner of the district in which the accident occurred.

PART II

(For use by the medical practitioner attending or examining the injured workman)

Date admitted to hospital ..... Discharged .....

In-patient No. ....

Attendance as out-patient from ..... to .....

Out-patient No. ....

Nature of injury .....

.....

.....

\*Permanent incapacity ..... per cent.

\*Temporary incapacity: likely duration of absence from work (from date of accident) .....

weeks/months.\* Is a further examination required before final assessment of permanent incapacity

can be given? .....

If so, when .....

Date .....

Medical Practitioner

Note.—It is requested that this part be completed by the medical practitioner in duplicate, the form then being despatched as follows—

one copy to the employer;

one copy to the Labour Officer or District Commissioner of the district in which the accident occurred.

\* Delete as necessary.

PART III

(For use of Labour Officer/District Commissioner)

Compensation \*is/is not being claimed on behalf of the \*workman/dependants of the deceased workman.

District and Accident Register No. ....

Station .....

Date .....

Labour Officer/District Commissioner

\* Delete as necessary.

Work Injury Benefits

[Subsidiary]

SECOND SCHEDULE

[Rule 5.]

SCALE OF FEES AND CHARGES FOR MEDICAL AID

Item	Service	Fees and Charges	
		Sh.	cfs.
1	Visit of patient to doctor .....	15	00
2	Visit of doctor to patient .....	30	00
The fees for items 1 and 2 are not additional to the fees prescribed in item 3 in so far as the doctor consulted is concerned.			
3	Consultation between doctors .....	60	00
The fees prescribed for item 3 is payable only to the doctor consulted, the consulting doctor being paid as for a visit.			
4	Assistance at major operation, that is any operation for which the fee prescribed in this Schedule is Sh. 600 or more under column 3.	10% of the scheduled fee for the operation with a minimum of Sh. 90	
5	(a) Treatment of simple wounds (not requiring suture of tendons or nerves or ligature of large vessels) and simple burns	22	50
per attendance with a maximum charge of Sh. 60			
	(b) Treatment of second degree burns: maximum charge of .....	150	00
	(c) Treatment of third degree burns: maximum charge of .....	600	00
6	(a) Treatment of wounds involving suture of one or more tendons or ligature of one or more large vessels .....	240	00
	(b) Treatment of wounds involving suture of one or more nerves ..	600	00
7	Treatment of abscess—		
	(a) superficial .....	30	00
	(b) deep .....	180	00
8	Treatment of infections of the hand—		
	(a) pulp infection .....	60	00
	(b) suppuration in tendon sheath .....	240	00
	(c) suppuration (primary or secondary) of thenar, mid-palmar or forearm space .....	300	00
	(d) deep forearm suppuration following (a), (b) or (c) above .....	600	00
When any two or more of the conditions mentioned in this item result, the fee for the final condition only shall be payable.			
9	Removal of bursa .....	120	00
10	Removal of foreign bodies (other than from the eye)—		
	(a) superficial foreign bodies not requiring incision .....	as under items 5 and 6	
	(b) superficial foreign bodies requiring incision .....	60	00
Subject to the provisions of items 6(a) and (b)			
11	Treatment of fractures—		
	(a) simple:		
	(i) bones of the hand and foot except os calcis .....	180	00
	(ii) os calcis .....	480	00

Work Injury Benefits

[Subsidiary]

SECOND SCHEDULE—continued

Item	Service	Fees and Charges	
		Sh.	cts.
	(iii) patella (non-operative treatment) .....	360	00
	(iv) upper arm, forearm, leg .....	480	00
	(v) femur .....	720	00
	(vi) rib or ribs .....	120	00
	(vii) spine .....	720	00
	(viii) pelvis .....	480	00
	(ix) clavicle .....	180	00
	(x) scapula .....	240	00
	(xi) jaw, upper or lower .....	360	00
	(b) compound or complicated .....	the above fees plus 50 per cent of the same	
	(c) open operation, for treatment of fracture and its complications, including operations for mal-union and non-union .....	720	00
	Where the need for open operation super-venes after treatment under (a) or (b) of this item has already been given, the fee thereafter shall be payable in addition to the fee payable for the earlier treatment.		
12	Treatment of head injuries—		
	(a) trephining .....	600	00
	(b) osteoplastic operation .....	900	00
	(c) lumbar puncture .....	60	00
	(d) non-operative treatment .....	300	00
13	Treatment of dislocations—		
	(a) simple—		
	(i) phalanges .....	150	00
	(ii) metacarpal or metatarsal .....	225	00
	(iii) transverse mediotarsal .....	300	00
	(iv) intertarsal .....	300	00
	(v) talus .....	600	00
	(vi) semilunar .....	300	00
	(vii) knee .....	450	00
	(viii) hip .....	450	00
	(ix) elbow .....	225	00
	(x) shoulder .....	225	00
	(xi) wrist .....	225	00
	(xii) clavicle (either end) .....	300	00
	(xiii) patella .....	150	00
	(xiv) lower jaw .....	150	00
	(xv) spine .....	600	00
	(b) compound or complicated .....	the above fees plus 50 per cent of the same.	

Work Injury Benefits

[Subsidiary]

SECOND SCHEDULE—continued

Item	Service	Fees and Charges	
		Sh.	cts.
14	Treatment of joint injuries (other than dis-locations)—		
	(a) ligamentous injuries of large joints .....	180	00
	(b) penetrating wounds of large joints .....	480	00
	(c) operation for internal derangement of knee joint .....	600	00
	(d) aspiration of joint .....	60	00
	(e) mobilization of joint under anaesthetic .....	60	00
15	Amputations—		
	(a) finger or toe .....	120	00
	(b) forearm or arm and partial amputation of hand .....	480	00
	(c) below the knee (including foot at tarso-metatarsal joint) .....	480	00
	(d) through shoulder joint .....	600	00
	(e) through the thigh .....	480	00
	(f) through the hip joint region .....	900	00
16	Paracentesis of chest .....	60	00
17	Intra-abdominal operation .....	900	00
18	Intra-thoracic operation (excluding resection of rib for empyema) .....	900	00
19	Resection of rib for empyema .....	240	00
20	Repair of hernia—		
	(a) single .....	480	00
	(b) double .....	720	00
21	Treatment of injuries to the urinary tract—		
	(a) open operation for rupture of kidney, bladder, urethra or ureter .....	900	00
	(b) treatment of rupture of urethra without open operation .....	360	00
22	Eye—		
	(a) examination per visit, including ordinary treatment .....	30	00
	(b) treatment of corneal ulcer .....	180	00
	(c) operation for traumatic cataract .....	720	00
	(d) intra-ocular magnet operation .....	600	00
	(e) needling .....	360	00
	(f) iridectomy .....	480	00
	(g) enucleation .....	480	00
	(h) paracentesis .....	360	00
	(i) plastic operation .....	480	00
	(f) removal of superficial foreign body .....	30	00
23	Ear, nose and throat—		
	(a) examination, per visit, including ordinary treatment .....	as for items 1 and 2	
	(b) operation for mastoiditis—		
	(i) simple .....	360	00
	(ii) radical .....	900	00
	(c) paracentesis of ear—		
	(i) one ear .....	180	00
	(ii) two ears .....	240	00
	(d) treatment of fracture of nasal bone .....	240	00

SECOND SCHEDULE—*continued*

Item	Service	Fees and Charges	
		Sh.	cts.
	(e) intra-nasal dacryocystotomy .....	600	00
	(f) all other intra-nasal operations .....	300	00
	(g) maxillary antrum—		
	(i) proof puncture .....	120	00
	(ii) radical operation .....	480	00
	(h) external frontal (radical) antrum operation .....	600	00
	(i) tracheotomy .....	480	00
	(j) laryngectomy .....	1,200	00
	(k) oesophagoscopy, including removal of foreign body .....	360	00
	(l) bronchoscopy, including removal of foreign body .....	600	00
	(m) laryngofissure or thyrotomy .....	720	00
	(n) endolaryngeal operation .....	600	00
24	Radiological—		
	(a) for X-Ray examinations, including screening where necessary—		
	(i) screen examination only .....	90	00
	(ii) hand, wrist, forearm, ankle or part of foot .....	45	00
	(iii) shoulder, foot, knee .....	67	50
	(iv) any long bone .....	67	50
	(v) urinary tract .....	67	50
	(vi) urinary tract with uro section .....	135	00
	(vii) skull—		
	fracture of vault .....	67	50
	fracture of base .....	135	00
	foreign bodies in .....	135	00
	(viii) antra .....	67	50
	(ix) pelvic bones .....	90	00
	(x) chest .....	90	00
	(xi) one section of spine .....	90	00
	(xii) whole spine .....	180	00
	(xiii) gall bladder area .....	67	50
	(xiv) gall bladder area with dye .....	135	00
	(xv) stomach with barium meal .....	135	00
	(xvi) gastro-intestinal tract with barium meal .....	225	00
	(xvii) lower bowel with barium meal .....	90	00
	(xviii) eye-localization of foreign body .....	135	00
	(xiv) teeth—		
	one film .....	22	50*
	upper or lower jaw .....	67	50*
	full set, upper and lower .....	90	00*

\* Medical practitioner or dentist

Work Injury Benefits

[Subsidiary]

SECOND SCHEDULE—continued

Item	Service	Fees and Charges	
		Sh.	cts.
	(b) Where, as a result of any one accident X-ray examination of different parts of the body is necessary, the highest prescribed fee for any one of the examinations carried out shall, subject to the provisions of section 32 of the Act be paid in full and the prescribed fee in respect of any other examination shall be reduced by 50 per cent.		
	(c) Where, as a result of any one accident, repeated examination of any part of the body is necessary, examinations subsequent to the first and carried out by the same practitioner, dentist or hospital as the first examination within a period of three months therefrom shall be paid for at the rate of 50 per cent of the prescribed fee.		
25	Administration of anaesthetics: the anaesthetic fee shall be 25 per cent of the scheduled fee for the operation, subject to a minimum of Sh. 90 for a general anaesthetic or Sh. 45 for a local anaesthetic, plus the cost of the anaesthetics if these are supplied by the anaesthetist.		
26	Hospital fees—		
	(a) the charges for services (other than medical or surgical attendance) rendered by any hospital or nursing home to any in- or out-patient shall be at the standard rate: Provided that in any case of doubt the matter shall be referred to the Labour Commissioner for decision by the Director of Medical Services;		
	(b) theatre fee shall be the standard theatre fee of the hospital or nursing home concerned, except that, in the case of Government hospitals, it shall be 10 per cent of the surgical fee, with a minimum charge of Sh. 25;		
	(c) special drugs and dressings at prevailing prices.		
27	Charges for skilled nursing outside hospitals will not be payable unless the attending practitioner can satisfy the Labour Commissioner that treatment, including nursing outside a hospital was essential for the patient's proper care, and will cease to be payable as soon as conditions permit. When payable the fee shall be: per visit per hour .....	12	50
	Visits in excess of 4 hours and up to 12 hours day duty .....	60	00
	Visits in excess of 4 hours and up to 12 hours night duty .....	66	00
28	Physiotherapy—		
	(a) superficial therapy: per treatment .....	22	50
	(b) massage combined with electrical treatment: per treatment .....	30	00
	(c) electrical reactions of muscles: per investigation .....	45	00
	(d) half the fees mentioned in this item shall be payable for all treatments in excess of 20 .....		
	(e) the fees prescribed herein in respect of treatment administered by a hospital shall be payable solely in those cases where the workman has been referred for such treatment by a medical practitioner .....		
29	Treatment of scheduled diseases—		
	(a) visit of patient to doctor .....	as for item 1.	
	(b) visit of doctor to patient .....	as for item 2.	
	(c) electro-therapeutic treatment: per treatment .....	30	00
	(d) surgical treatment of primary epithelioma .....	450	00

Work Injury Benefits

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SECOND SCHEDULE—continued

Item	Service	Fees and Charges	
		Sh.	cts.
30	Dentistry—		
	(a) examination where no subsequent dental treatment is given ... Where subsequent dental treatment is given, the fee for examination is to be regarded as being included in the fee for such treatment;	15	00
	(b) extractions		
	(i) one .....	22	50
	(ii) each additional extraction .....	15	00
	(iii) full upper or lower jaw .....	150	00
	(iv) maximum fee for extractions .....	225	00
	(c) fillings, permanent: plastic, porcelain amalgam or synthetic porcelain .....	30	00
	(d) crowns .....	150	00
	(e) bridge work (per tooth) .....	150	00
	(f) devitalization and root fillings .....	60	00
	(g) dentures (acrylic only)		
	(i) full upper and lower jaw .....	900	00
	(ii) full upper or lower jaw .....	450	00
	(iii) partial (one tooth) .....	90	00
	(iv) each additional tooth .....	45	00
	(v) maximum charge .....	450	00
	(vi) repairs		
	per denture .....	37	50
	for each new tooth added .....	15	00
	maximum charge for one repair .....	60	00
	(h) other charges—		
	(i) scaling .....	30	00
	(ii) gum treatment .....	15	00
	(iii) minor surgical operations .....	30	00
		to	
		150	00
31	Drugs and dressings—		
	Where drugs or dressings are necessarily and actually supplied by the attending private practitioner, they may be paid for at prevailing prices; but subject in special cases to the provisions of item 36		
32	(a) Vaccine and sera— .....		
	Where, in the course of the treatment of any injury or scheduled disease, it is necessary to administer vaccines or sera, the net cost thereof may be added to any fees payable under this Schedule.		
	(b) Intravenous infusions—		
	(i) blood transfusion .....	150	00
	(ii) other intravenous infusions .....	60	00

Work Injury Benefits

[Subsidiary]

SECOND SCHEDULE—continued

Item	Service	Fees and Charges	
		Sh.	cts.
33	<p>Travelling—</p> <p>(a) a fee of Sh. 2 for each mile travelled shall be allowed to a medical practitioner called upon to travel to a place more than three miles from his surgery; no fee shall be payable where the place visited is not more than three miles from the surgery; no detention fee shall be payable in respect of such a journey;</p> <p>(b) a medical officer, when called upon to attend an injured workman in the capacity of a private practitioner, shall not receive mileage allowance in cases where a Government car has been used;</p> <p>(c) transport of an injured workman by ambulance: at the standard rate.</p>		
34	<p>Attention subsequent to item for which fee is prescribed—</p> <p>the cost of all necessary attention sub-sequent to any operation, in respect of which a fee is prescribed in this Schedule, for a period of six weeks after the operation shall be regarded as being included in such fee, but this does not apply to additional special treatment;</p> <p>if attention or treatment is given after the period mentioned above, the case may be referred to the Labour Commissioner for assessment by the Director of Medical Services.</p>		
35	<p>Multiple operations and treatment—</p> <p>(a) where, as a result of any one accident, more than one operation or treatment, for which a special fee in respect of each is prescribed in this Schedule, is performed or carried out by the same medical practitioner during the same session, the highest prescribed fee for any such operation or treatment shall, subject to the provisions of section 32 of the Act be paid in full and the other prescribed fees shall be reduced by 50 per cent; .....</p> <p>(b) where secondary operations are performed at a date subsequent to the primary operation, the prescribed fee shall be as originally charged.</p>		
36	<p>Fees for services not specified in this Schedule, and fees for specially complicated or prolonged treatment, may be referred to the Labour Commissioner for assessment by the Director of Medical Services.</p>		
37	<p>Where a fee for any service is prescribed in this Schedule, the medical practitioner shall not be entitled to payment calculated on a basis of visits or examinations made where such calculation would result in the prescribed fee being exceeded.</p>		
38	<p>Laboratory fees—</p> <p>Payable at prevailing rates.</p>		

**Rules of Court under section 43****WORKMEN'S COMPENSATION RULES**

[G.N. 1139/1950, L.N. 538/1958.]

1. These Rules may be cited as the Workmen's Compensation Rules.
2. The forms contained in the First Schedule shall, where applicable, be used in matters or proceedings under the Act, with such variations and modifications as the circumstances may require.
3. The court shall, upon request—
  - (a) give information as to matters of form or procedure to any party to any proceedings under the Act, and supply to any such party who is not legally represented any form required by these Rules for use in matters or proceedings before a court;
  - (b) fill in and make copies of any necessary forms whenever a party who is not legally represented is unable to do so owing to illiteracy, blindness or other physical cause;
  - (c) issue all necessary process.
4. The first document lodged by a party with the court shall bear such party's full name and such address as will enable service of notices and documents to be effected on him either by delivery or through the post; a post office box alone shall not be a sufficient address for the purposes of this Rule.
5. The court shall mark with a separate number the first document lodged with the court by an applicant, and any document lodged subsequently by any party in relation to that application shall first be marked with the same number by the party lodging it and, unless so marked, may be refused by the court.
6. The court shall file under their respective numbers and keep separate the records of all applications made under the Act.
7. The court shall keep a book, to be called the Application Record Book, which shall be in Form No. 12 in the First Schedule.
8. The court shall, within two weeks after the end of March, June, September and December in each year, furnish to the Labour Commissioner a return of all determinations made by the court during the preceding three months, and shall state in such return the nature of each application, the names of the applicant and the respondent and the order made.
9. Any minute of any order or appointment made by the court and any receipt to be given by the court may be signed by the magistrate.
10. Any change of such address shall forthwith be notified, by the party making such change, to the court and to the other party or parties to the proceedings.
11. Any address lodged by a party in pursuance of rule 4 shall remain an address for service of such party from the date of lodging such address until forty-eight hours after change thereof has been notified as prescribed in rule 10.
12. Save as is otherwise specially provided in the Act or these Rules, the following provisions shall apply to service of applications, answers, orders, notices and other documents which, by the Act or any rules made thereunder, are required to be served on any person who resides in Kenya, or who has an address for service in Kenya, or who has authorized a person resident in Kenya to accept service on his behalf—
  - (a) service may be effected by sending a copy thereof by prepaid registered post to the party to be served at his address for service; every copy so sent shall,

*Work Injury Benefits*

[Subsidiary]

until the contrary is proved or unless and until the copy is returned by the postal authorities, be deemed to have been served on the person to whom it was so addressed at the time at which it would be delivered in the ordinary course of post;

- (b) where a party to an application employs an advocate for the purposes of the application, service upon that party may be effected by delivery of the document at the office of such advocate;
- (c) service may also be effected through any messenger of the court in the manner provided by the rules governing service of summons in civil cases;
- (d) service may be effected in any other matter, provided that a receipt, stating the date and hour of service signed by the person to be served or by a person entitled to give such receipt on his behalf, is endorsed on the document or on a copy, thereof.

**13.** Where any respondent to an application either does not come within the provisions of rule 12 or cannot be served in any of the manners provided in that rule, the court may, upon application *ex parte* supported by an affidavit stating the circumstances, direct in what manner service shall be effected upon him, including service by newspaper advertisement; and service in accordance with such directions shall be valid and effectual.

**14.** Save where other provision is made, service shall be effected by the parties or, at the instance of the parties, by the court.

**15.** (1) A workman or an employer who desires the determination of any question arising out of an accident in which compensation is or might be claimed shall lodge with the court a written application in the prescribed form accompanied by particulars containing—

- (a) a concise statement of the circumstances under which the application is made and the relief or order which the applicant claims, or the question which he desires to have determined;
- (b) the full name and address of the applicant, and the name and address of the respondent.

(2) If the application is made by an employer, it shall be accompanied by a statement 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; in the case of a denial of liability, the grounds shall be stated.

**16.** (1) As soon as an application, together with the accompanying particulars and statements prescribed by these Rules, has been lodged, the court shall cause a copy thereof to be served upon the respondent in the manner prescribed, together with a notice informing the respondent that he must lodge with the court such an answer as is prescribed by paragraph (2), within the period therein prescribed, and that in default of his complying with such notice or in default of his appearing at a time and place fixed in the notice such order may be made as the court deems just and expedient; and, save with the written consent of the respondent communicated to the court, not less than fourteen clear days shall elapse between the date of the service of the notice upon the respondent and the date fixed for hearing the application.

(2) If the respondent intends to oppose an application he shall, within seven days after service of the notice, or within such extended period as the court may upon special request allow, lodge with the court a written answer containing a concise statement of the extent and grounds of his opposition.

(3) The court may, at any time before the determination of the question in dispute and upon such terms as to adjournment or as to costs as may be deemed just, allow an application, or any particulars or statement accompanying the same, or any answer thereto, to be amended; and any such amendment shall be lodged with the court, who shall forthwith cause it to be served upon the opposite party in manner prescribed.

**17.** (1) The respondent may, not later than seven days after he has received notice of application, serve upon the applicant a request in writing for further particulars of the grounds upon which the application is made, specifying in such request the questions as the which he desires to have information; and the applicant may, not later than seven days after he has received the answer to the application, serve on the respondent a request in writing for similar particulars of the grounds upon which the application is opposed.

(2) A copy of any such request shall forthwith be lodged with the court by the party making the request, and a copy of any reply thereto shall forthwith be lodged with the court by the party make the reply.

(3) If the party so requested to furnish particulars fails to do so within seven days from the date of service of the request aforesaid and in consequence of such failure it is necessary to adjourn the hearing of the application, the court may order that the costs occasioned by such adjournment shall be paid by the party so in default.

(4) The court may disallow, with costs, any request for particulars which appears to the court to be unnecessary or vexatious.

(5) The court may award against the party making a request for particulars the costs of the replies thereto.

**18.** Where an applicant wishes to amend his application or any particulars or statement accompanying it, or where a respondent wishes to amend his answer to an application, the party wishing to make such amendment shall forthwith lodge with the court a statement in writing of such amendment, and shall at the same time serve a copy thereof upon the other party or parties to the proceedings.

**19.** (1) A respondent from whom compensation is claimed may pay into court a sum which is considered by him to be sufficient to cover his liability.

(2) If no greater compensation be awarded than the sum of money which the respondent has paid into court, the court may order that any costs incurred by such respondent, after payment by him into court of the said sum of money, shall be paid by the applicant.

**20.** Every party shall lodge with the court such copies of documents as are required to be served, by the court, on the other party to the application or to be sent to him.

**21.** (1) Where a principal has given notice to a contractor of claim or application for compensation made against the principal, and the contractor desires to intervene, he shall forthwith lodge with the court a notice that he so intervenes and shall forthwith serve copies of such notice of intervention upon the applicant and the principle the contractor shall thereupon be entitled to make copies of the application and of any other document then lodged with the court in connexion with the application.

(2) A contractor who has so lodged with the court notice that he intervenes shall lodge an answer to the application within seven days after service upon him of the said notice given by the principal, or within such further time as the court may on application allow.

(3) The court may, on the hearing of the application, either order that such person be made a respondent if the court is satisfied that he, is entitled so to intervene, or may refuse to make him a respondent and order him to pay the costs incurred by his intervention if satisfied that he is not entitled so to intervene.

**22.** If any person served with a notice as a contractor desires to dispute the applicant's claim or his own liability to the principal, he shall appear before the court; and in default of his so doing he shall be deemed to admit the validity of any order made against the principal, whether such order is made by consent or otherwise, and his own liability to indemnify the principal to the extent claimed in the notice served on him by the principal.

**23.** The court may, at any stage of the proceedings, upon request made to it in writing or of its own motion, order that any person appearing to be interested be joined in the proceedings.

*Work Injury Benefits*

[Subsidiary]

**24.** (1) An application to determine what sum is payable in respect of medical attendance on or the burial of a deceased workman who leaves no dependants shall be made by the personal representative, if any, of the deceased workman, or, if there is no such personal representative, or he fails to make such application, by any person to whom any such expenses are due; and in the latter case any other person known to the applicant to be a person to whom any such expenses are due shall be joined in the application either as applicant or as respondent.

(2) Where the amount awarded by the court on any such application is insufficient to pay such expenses in full, it shall be apportioned between the persons to whom such expenses are payable in such manner as the court shall direct.

**25.** (1) When a court submits any question of law for the decision of a judge of the High Court, the case shall be divided into paragraphs numbered consecutively, and shall state concisely such facts and refer to such documents as may be necessary to enable the judge to decide the questions of law raised thereby.

(2) The case shall be signed and sent to the Registrar of the High Court, who shall forthwith transmit the same to a judge, who shall appoint a day, hour and place for hearing the case.

(3) The Registrar shall forthwith cause due notice of the day, hour and place appointed for hearing the case to be given to the parties; and such notice shall be not less than fourteen clear days before the date of the hearing, unless the judge, with the consent of all parties, fixes an earlier day.

(4) Any party shall be entitled, on payment of the prescribed fees, to obtain from the Registrar a copy of the case.

(5) After deciding the question submitted to him, the judge shall remit the case with a memorandum of his decision to the court.

(6) The judge may remit the case to the court for re-statement or further statement.

(7) The costs of the hearing of a case shall be in the discretion of the court, and shall form part of the proceedings before the court.

**26.** The fees payable in respect of proceedings under these Rules shall be those set out in the Second Schedule:

Provided that no fees shall be payable under this Rule by any workman or by the dependants of any workman.

**27.** Appeals under section 22 of the Act shall be made in accordance with the rules relating to appeals from magistrates in civil matters and the fees chargeable shall be the same:

Provided that no fees shall be payable under this Rule by any workman or by the dependants of a deceased workman.

**28.** Where any matter or thing is not specially provided for under these Rules, the same procedure shall be followed and the same provisions shall apply, as far as practicable, as in a similar matter or thing under the Civil Procedure Act (Cap. 21) and the rules made thereunder:

Provided that the magistrate may at any time direct that an infant shall appear as an applicant or respondent in the same manner as it he were of full age.

**29.** Costs shall be paid in respect of proceedings under these Rules according to Part III of the Remuneration of Advocates Order (Cap. 16. Sub. Leg.).

Work Injury Benefits

[Subsidiary]

30. Notwithstanding anything contained in these Rules, no costs shall be paid by a workman in any proceedings in which such workman's monthly earnings do not exceed two hundred shillings:

Provided that the court may, if in its opinion any application made by a workman is frivolous or vexatious, award costs against such workman.

FIRST SCHEDULE

[Rule 2.]

FORM No. 1

APPLICATION BY INJURED WORKMAN WITH RESPECT TO THE COMPENSATION PAYABLE TO HIM

The ..... Court of .....

Case No. ....

In the matter of an application between—

....., Applicant

And

....., Respondent

1. On the ..... day of ....., 20..... personal injury by accident arising out of and in the course of his employment was caused to .... a workman employed by ..... [or by ..... a contractor with ..... for the execution of work undertaken by him].
2. A question has [or questions have] arisen [state the questions, specifying only those which have arisen, e.g.]—
  - (a) whether the said ..... is a workman to whom the Act applies;
  - (b) as to the liability of the said ..... to pay compensation under the Act in respect of the said injury;
  - (c) as to the amount of the compensation payable by the said ..... to the said ..... under the Act in respect of the said injury [or as the case may be];
  - (d) [such other question as may have arisen].
3. An application under the Act is hereby made by the said .....

for the determination of the said question [or questions] and for the following relief or order [state shortly the relief or order which the applicant claims].

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE, FORM No. 1—continued

- 4. Particulars are hereto appended [or annexed]—
    - 1. Name and address of applicant .....
    - 2. Name, place of business and nature of business of respondent .....
    - 3. Nature of employment of applicant at time of accident and whether employed under respondent or under a contractor with him [if employed under a contractor who is not a respondent, name and place of business of contractor also to be stated] .....
    - 4. Date and place of accident, nature of work on which workman was then engaged, and nature of accident and cause of injury .....
    - 5. Nature of injury .....
    - 6. Particulars of incapacity for work, whether temporary or permanent, and, if permanent, whether total or partial, and, if temporary, estimated duration of incapacity .....
    - 7. Average monthly earnings of the workman with the employer at the time of the accident causing incapacity or death, or, if by reason of the shortness of the time during which the workman has been in the employment of the employer it is impracticable to compute the average monthly earnings, then the amount which the workman claims should be taken as his average monthly earnings and the grounds upon which that amount is claimed .....
    - 8. Average monthly amount which the applicant is earning or is able to earn in some possible employment after the accident .....
    - 9. Payment, allowance or benefit received from employer during the period of incapacity .....
    - 10. Amount claimed as compensation .....
    - 11. Date of giving of notice of accident to respondent [a copy of any notice in writing, if available, to be annexed] .....
    - 12. If notice not given, reason for omission to give such notice .....
    - 13. The names and address[es] of the applicant [and his advocate] are—
      - of the applicant .....
      - of his advocate .....
    - 14. The name and address of the respondent to be served with this application are .....
- Dated this ..... day of ....., 20 .....

Applicant [or his advocate]

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE—continued

FORM No. 2

APPLICATION ON BEHALF OF DEPENDANTS OF DECEASED WORKMAN, WITH RESPECT TO THE COMPENSATION PAYABLE TO SUCH DEPENDANTS WHERE DEATH HAS RESULTED FROM THE INJURY TO THE WORKMAN

The ..... Court of .....

Case No. ....

In the matter of an application between—

....., Applicant

and

....., Respondent

- 1. On the ..... day of ....., 20..... personal injury by accident arising out of and in the course of his employment was caused to .... late of ....., deceased, a workman employed by ..... [or by ..... a contractor with ..... for the execution of work undertaken by him], and on the ..... day of ....., 20....., the death of the said ..... resulted from the injury.
2. A question has [or questions have] arisen [state the questions, specifying only those which have arisen, e.g.]—
(a) whether the said ..... was a workman to whom the Act applied;
(b) as to the liability of the said ..... to pay compensation under the Act to the dependants of the said ..... in respect of the loss caused to them by the death of the said .....;
(c) as to the amount of compensation payable by the said ..... to the dependants of the said ..... under the Act in respect of the loss caused to them by the death of the said .....;
(d) [such other questions as may have arisen].
3. An application under the Act is hereby made by ..... the representative of the said ....., deceased, acting on behalf of the dependants of the said ..... against the said ..... for the determination of said question [or questions], and for the following relief or order [state shortly the relief or order which the applicant claims].
4. Particulars are hereto appended [or annexed].

PARTICULARS

- (i) Name and late address of deceased workman .....
(ii) Name, place of business and nature of business of respondent from whom compensation is claimed .....
(iii) Nature of employment of deceased at time of accident and whether employed under respondent or under a contractor with him (if employed under a contractor who is not a respondent, name and place of business of contractor also to be stated) .....

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE, FORM No. 2—continued

- (iv) Date and place of accident, nature of work on which deceased was then engaged, and nature of accident and cause of injury .....
  - (v) Nature of injury to deceased and date of death .....
  - (vi) Average monthly earnings of the workman with the employer at the time of the accident causing disablement or death, or, if by reason of the shortness of the time during which the workman has been in the employment of the employer it is impracticable to compute the average monthly earnings, then the amount claimed as his average monthly earnings and the grounds upon which that amount is claimed .....
  - (vii) Amount of monthly payments (if any) made to the deceased under the Act .....
  - (viii) Name and address of applicant .....
  - (ix) Particulars as to dependants of deceased by whom or on whose behalf the application is made, giving their names and addresses, and descriptions and occupations (if any), and their relationship to the deceased and, if infants, their respective ages, and stating whether they were wholly or partially dependent on the earnings of the deceased at the time of his death .....
  - (x) Amount claimed as compensation .....
  - (xi) Date of giving of notice of accident to respondent from whom compensation is claimed (a copy of the notice to be annexed) .....
  - (xii) If notice not given, reason for omission to give same .....
  - (xiii) Names and addresses of the applicant and his advocate—  
of the applicant .....  
of his advocate .....
  - (xiv) Name and address of the respondent to be served with this application .....
- Dated this ..... day of ....., 20 .....
- .....  
*Applicant [or his advocate]*

FORM No. 3

GENERAL APPLICATION

The ..... Court of .....

Case No. ....

In the matter of an application between—  
....., Applicant  
and  
....., Respondent

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE, FORM 3—continued

Application is hereby made by (1) ..... against (2) .....

The circumstances under which the application is made are shortly as follows: (3) .....

The relief or order which the applicant claims is shortly as follows: (4) .....

The full names and addresses of the applicant and his advocate are— of the applicant .....

of his advocate .....

The name and address of the respondent to be served with this application are: .....

Dated this ..... day of ....., 20 .....

Applicant [or his advocate]

N.B.—Where the application is made by an employer, and any question of his liability to pay compensation is involved, it must be accompanied by a statement 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. In the case of a denial of liability, the grounds must be stated.

Notes.—

- (1) Name and address of applicant.
(2) Name and address of respondent.
(3) State concisely in numbered paragraphs in chronological order the circumstances under which the application is made.
(4) State concisely the relief or order which the applicant claims.

FORM No. 4

NOTICE TO RESPONDENT AS TO APPLICATION

The ..... Court of .....

Case No. ....

In the matter of an application between—

....., Applicant

and

....., Respondent

To .....

of .....

Take notice that, if you intend to oppose the application, of which a copy is served upon you herewith, you must lodge with me, within seven days after the service of this notice upon you, a written answer thereto containing a concise statement of the extent and grounds of your opposition.

And further take notice that ..... the ..... day of ....., 20 ....., at ..... o'clock in the ..... noon, or so soon thereafter as the application can be heard, at the ..... at ..... has been fixed as the time and

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE, FORM 4—continued

place for the hearing of the application, and that in default of your lodging with me within the time aforesaid a written answer as herein required, or of your appearing at the said time and place fixed for the hearing of the application, such order may be made as the court deems just and expedient.

Dated this ..... day of ..... 20.....

Magistrate.

FORM No. 5

RESPONDENT'S ANSWER TO NOTICE

The ..... Court of .....

Case No. ....

In the matter of an application between—

....., Applicant

and

....., Respondent

To the Court,

.....

The respondent intends to oppose the above application.

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

Respondent [or his advocate]

Date .....

Place .....

FORM No. 6

REQUEST FOR PARTICULARS

The ..... Court of .....

Case No. ....

In the matter of an application between—

....., Applicant

and

....., Respondent

To (1) .....

Take notice that you are hereby requested to furnish me with answers in writing to the following question: (2) .....

Dated this ..... day of ..... 20.....

(3) .....

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE, FORM 6—continued

Notes.—

- (1) Name and address of workman, applicant, or respondent to whom request is made.
- (2) State shortly and clearly under consecutive numbers the questions to which answers are requested.
- (3) Signature and address of persons making the request.

FORM No. 7

ORDER FOR PERIODICAL PAYMENTS

The ..... Court of .....

Case No. ....

In the matter of an application between—

....., Applicant

and

....., Respondent

It is ordered that (1) .....

do forthwith pay to (2) .....

at (3) ..... the taxed costs of an application heard on the ..... day of ....., 20...., and the sum of £ ....., being the amount now due from the said (1) ..... to the said (2) .....

in respect of a monthly payment of ..... from the ..... day of ....., 20 ....., being the date of the injury, to the date of this order; and do further pay at the same place on every ..... day from the date of this order until otherwise ordered, the sum of .....

Dated this ..... day of ....., 20.....

Magistrate

Notes.—

- (1) Employer's name and address.
- (2) Workman's name and address.
- (3) Place where payment is to be made.

FORM No. 8

APPLICATION FOR THE REVISION OF A PERIODICAL PAYMENT

The ..... Court of .....

Case No. ....

In the matter of an application between—

....., Applicant

and

....., Respondent

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE, FORM No. 8—continued

An application is hereby made by ..... against ..... with respect to the revision of the order made by the court on the ..... day of ..... 20..... [or the agreement arrived at between the said parties on the ..... day of ..... 20 ..... ], and for the termination [or suspension or diminution or increase, as the case may be] of the monthly payment payable to the said ..... under the said order [or agreement] in respect of personal injury which arose out of and in the course of his employment.

Particulars are hereto appended [or annexed].

PARTICULARS

- 1. Name and address of injured workman .....
2. Name and place of business of employer by whom compensation is payable .....
3. Date and nature of accident, and injury .....
4. Date of order or agreement fixing monthly payment, amount of such payment, and date from which it commenced .....
5. Relief sought by applicant [whether termination, suspension, diminution or increase] .....
6. Grounds on which [termination or suspension or diminution or increase] is claimed .....
7. Name and addresses of the applicant and his advocate— of the applicant ..... of his advocate .....
8. Name and address of the respondent to be served with this application .....

Dated this ..... day of ..... 20 .....

Applicant [or his advocate]

FORM No. 9

ORDER ON REVISION OF ORDER OR AGREEMENT FOR PERIODICAL PAYMENTS

The ..... Court of .....

Case No. ....

In the matter of an application between—

..... Applicant

and

..... Respondent

Before .....

on ..... day, the ..... day of .....

20.....

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE, FORM No. 9—continued

Upon revision of the order for periodical payment made ..... on the ..... day of ....., 20..... [or the agreement arrived at between the said parties on the ..... day of ....., 20..... ] and upon hearing the evidence given by ..... and Mr. .... for the applicant and Mr. .... for the respondent.

It is hereby ordered that the said order [or agreement] be varied in the following manner—

.....  
.....  
.....  
.....

and that the costs of the said ..... of and incidental to this application and order be taxed and paid by the said ..... to the said .....

Dated this ..... day of ....., 20.....

.....  
Magistrate

FORM No. 10

NOTICE BY PRINCIPAL TO CONTRACTOR

The ..... Court of .....  
Case No. ....  
In the matter of an application between—

....., Applicant  
and  
....., Respondent

To (1) .....

Notice is hereby given to you that an application/a claim for compensation is made against (2) .... by (3) ..... who alleges that the said (4) ..... is liable to pay him compensation in respect of an accident which occurred at (5) ..... on the ..... day of ....., 20.....

Dated this ..... day of ....., 20.....

(6) .....  
.....  
.....

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE, FORM 10—continued

Notes.—

- (1) Name and address of the contractor.
- (2) Name and address of principal.
- (3) Name and address of workman.
- (4) Name of principal.
- (5) Place of accident.
- (6) Signature and address of the person giving the notice.

FORM No. 11

NOTICE OF INTERVENTION BY CONTRACTOR

The ..... Court of .....

Case No. ....

In the matter of an application between—

....., Applicant

and

....., Respondent

To the court  
and to the [*applicant*] and the [*principal*].

Notice is hereby given by (1) .....  
that he intervenes in this application for compensation made by (2) .....  
against (3) .....

The address for service of the said (4) .....  
is .....

Dated this ..... day of ....., 20.....  
(5) .....

Notes.—

- (1) Name and address of the contractor.
- (2) Name of workman.
- (3) Name of principal.
- (4) Name of the contractor.
- (5) Signature and address of the person giving the notice.

Work Injury Benefits

[Subsidiary]

FIRST SCHEDULE—continued

FORM No. 12

APPLICATION RECORD BOOK

The ..... Court of .....

No. of application	Date application lodged	Nature of application	Names and addresses of parties and of their respective advocates		Date application served	Date answer received	Hearing		Remarks
			Applicant	Respondent			Date	Order made	

SECOND SCHEDULE

[Rule 26.]

	Sh.	Cts.
1. On an application for determination of any question by the court by a party other than a workman .....	10	00
2. On lodging a notice of intervention by a contractor .....	10	00
3. On lodging a written answer .....	2	00
4. On lodging any interlocutory application (including the filing of an affidavit in support) .....	6	00
5. On payment into court of a sum by the respondent: 1 per centum of the sum paid in, not exceeding a total fee of Sh. 50.		
6. On any other application .....	10	00
7. On an order or award declaring liability without directing payment of future compensation .....	20	00
8. On an award or on any order directing money to be paid out—		
(a) if for a lump sum: 2 1/2 per centum on any amount not exceeding Sh. 2,000 and thereafter 1 per centum, in no case exceeding a total fee of Sh. 100.		
(b) if for periodical payment with or without a lump sum in respect of arrears: a sum equal to half the amount of the periodical payment.		
9. In every other case the fees payable shall be as laid down in Part IX (Court Fees) of the High Court (Practice and Procedure) Rules (Cap. 8, Sub. Leg.).		