

### HIGH COMMISSIONER'S NOTICE No. 29 of 1935.

It is hereby notified for general information that the under-mentioned Regulations have been made by the Resident Commissioner of the Bechuanaland Protectorate under and by virtue of the powers in him vested by section *thirty-seven* of the Workmen's Compensation Proclamation, 1934 (No. 76 of 1934).

By Command of His Excellency the  
High Commissioner.

H. LESTER SMITH,  
for Acting Administrative Secretary.  
High Commissioner's Office,  
Capetown, 9th February, 1935.

### REGULATIONS.

1. Any expression to which a meaning has been assigned in the "Workmen's Compensation Proclamation, 1934", for the purposes of such Proclamation shall, when used in these regulations, bear that meaning.

And in these regulations, unless inconsistent with the context—

- "clerk of the Court" shall mean the clerk of the Court of the Magistrate;
- "enquiry" shall mean an enquiry held by a Magistrate under the Proclamation;
- "form" shall mean a form set forth in the schedule to these regulations;
- "Proclamation" shall mean the Workmen's Compensation Proclamation, 1934;
- "party" shall mean any person who is a party to any proceedings under the Proclamation and shall include the person appearing for a party;
- "plaintiff" shall, in relation to an enquiry, mean the person who is claiming compensation under the Proclamation; and "defendant" shall mean the person from whom such compensation is claimed;
- "the Territory" shall mean the Bechuanaland Protectorate.

2. The forms set forth in the schedule to these regulations shall, where applicable, be used with such variations and modifications as the circumstances require.

3. (1) The notice of injury prescribed by sub-section (1) of section *four* of the Proclamation shall be given at the residence or the local office or place of business of the employer or principal (as the case may be).

(2) For the purposes of this regulation, employer or principal shall mean and include—

- (a) if the employer or principal be a limited liability company, any director, secretary or manager thereof in the Territory;
- (b) if the employer or principal be a partnership, any member or manager in the Territory;
- (c) if the employer or principal be a local authority or public body, the mayor, chairman, town clerk, secretary or similar officer thereof;
- (d) if the employer or principal be the Government of the Territory, the head of the department in which the workman was working at the time of the injury or on behalf of which the work giving rise to the injury was being performed.

4. (1) An application for the certificate mentioned in sub-section (1) of section *four* of the Proclamation may be made *ex parte* on the applicant lodging with the clerk of the Court an address for service.

(2) Before granting or refusing such certificate, the Magistrate may require that further evidence be brought by the applicant in support of the application. Every such certificate shall be in Form I.

(3) Within forty-eight hours after any such certificate is granted, the clerk of the Court shall hand the same to the workman or to the person appearing for him (in either of which cases he shall take a dated receipt therefor) or send the same to the workman at his address for service.

(4) A workman who has obtained such a certificate shall, when giving notice of injury, exhibit to the employer or principal (as the case may be) such certificate or a copy thereof.

5. Where the employer or principal requires the workman to submit himself to such medical examination as is described in sub-section (2) of section *four* of the Proclamation, he shall give or cause to be given to the workman notice in writing of such requirement. Such notice shall be in Form II.

6. The medical certificate to accompany the notice in accordance with sub-section (3) of section *four* of the Proclamation shall be in Form III. A copy of such notice and of such certificate shall be served upon the defendant.

7. Notice, in accordance with section *five* of the Proclamation, of the date and place at which an enquiry will be held shall be sent by the clerk of the Court not less than ten days before the date fixed for such enquiry. Such notice shall be sent to the plaintiff in Form IV and to the defendant in Form V.

8. Every provisional order shall be in Form VI, and if the defendant has not been present or represented at the enquiry, such order shall be served upon him through the Messenger of the Court.

9. (1) Any party desiring the registration of a memorandum of agreement under sub-section (2) of section *eight* of the Proclamation shall lodge with the clerk of the Court a memorandum and two copies thereof containing the following particulars:—

- (a) The name and address of the workman;
- (b) the name and address of the employer or the principal who has agreed to pay compensation;
- (c) the date and nature of the injury;
- (d) the date on which the agreement was made;
- (e) the amount of each periodical payment and the date on which the first payment is and the intervals at which the subsequent payments are to be made;
- (f) the place at which each periodical payment is to be made;

together with a written request to register such memorandum. Such request shall, together with such memorandum, be signed by such party.

(2) On receipt of such request and the memorandum, the clerk of the Court shall send a copy thereof to the workman and to the employer or principal (as the case may be), together with a notice in Form VII.

(3) If within a period of seven days from the sending of such notice no person to whom it has been sent shall lodge a notice of objection to the registration of such memorandum, it shall be registered by the clerk of the Court without further proof.

(4) The grounds on which such registration may be refused shall be one or more of the following:—

- (a) That such agreement as is alleged in the particulars aforesaid was not in fact made;
- (b) that the agreement was procured by force, fraud, undue influence, or misrepresentation, or is for any reason void or voidable at law;

- (c) that the terms of the agreement are unfair to any party to it who was at the date when it was made under legal disability to contract;
- (d) that the agreement was made before the date of the injury;
- (e) any other ground (except performance) which would be a defence on an action to enforce the agreement.

(5) Any person to whom the clerk of the Court is by sub-section (2) of this regulation directed to send a notice may, within the period of seven days aforesaid, lodge with the clerk of the Court a notice in writing (together with a copy thereof) of objection to the registration, setting forth one or more of the grounds mentioned in sub-section (4) or details of any amendment he desires to have made in the particulars aforesaid.

(6) On receipt of any such notice of objection, the clerk of the Court shall send a copy thereof to the other party.

(7) If any such notice of objection be withdrawn in writing by the person giving the same, the clerk of the Court shall, upon being satisfied of the genuineness of such withdrawal, register the agreement without further proof.

(8) Either party to the agreement may apply to the Magistrate for an order that the agreement be registered.

(9) The Magistrate may, on the hearing on such application, direct registration in terms of the application, or refuse such registration, or direct the registration of an amended memorandum.

(10) The manner of registration shall be by the clerk of the Court entering in a register to be kept in Form VIII the particulars of the memorandum. Such register shall be open to public inspection without fee during the office hours of the clerk of the Court.

10. An application under section *thirteen* of the Proclamation to set aside or vary a provisional order shall set forth every ground upon which the applicant intends to rely.

11. An order made under section *sixteen* of the Proclamation for the further medical examination of a workman shall be in Form IX.

C. F. REY,  
Resident Commissioner.

Mafeking, 12th January, 1935.

---

SCHEDULE.

---

FORM I.

CERTIFICATE OF EXTENSION OF TIME FOR GIVING  
NOTICE OF INJURY.

---

WORKMEN'S COMPENSATION PROCLAMATION, 1934.

District of.....

Whereas it is alleged that on the.....day of  
....., 19....., (1)..... of  
(2).....received an injury at (3).....  
in respect of which compensation will be claimed under the  
above-named Proclamation:

This is to certify that I (4).....  
Magistrate of the above-named district, am of opinion that  
the time of giving notice of injury prescribed by sub-section (1)

of section *four* of the above-named Proclamation should, having regard to all the circumstances of the case, have been extended.

Dated at.....this.....day of.....  
19.....

.....  
Magistrate.

- (<sup>1</sup>) Fill in name of workman.
- (<sup>2</sup>) Fill in address and description of workman.
- (<sup>3</sup>) Fill in place of accident.
- (<sup>4</sup>) Fill in full name of Magistrate.

FORM II.

REQUISITION TO WORKMAN TO SUBMIT TO MEDICAL EXAMINATION.

WORKMEN'S COMPENSATION PROCLAMATION, 1934.

To.....  
(name of workman)

.....  
(address of workman)

With reference to the notice of injury sent (<sup>1</sup>) by you/on your behalf to (<sup>1</sup>) me/us and dated the .....day of .....19....., (<sup>1</sup>) I/we hereby require you to submit yourself for examination by (<sup>2</sup>)....., a registered medical practitioner.

Dated at.....this.....day of.....  
19.....

.....  
Name of employer (or principal) or person representing him/them.

Address of employer or principal:  
.....  
.....

- (<sup>1</sup>) Strike out inappropriate words.
- (<sup>2</sup>) Fill in name of medical practitioner.

FORM III.

CERTIFICATE OF MEDICAL PRACTITIONER UNDER SECTION *FOUR*, SUB-SECTION (3) OF PROCLAMATION.

WORKMEN'S COMPENSATION PROCLAMATION, 1934.

I, (<sup>1</sup>)....., of....., a registered medical practitioner, hereby certify that on the .....day of.....19....., I examined (<sup>2</sup>).....and found that he was suffering from (<sup>3</sup>)....., and that in my opinion such injury (<sup>4</sup>) will necessitate/has necessitated the absence of the said (<sup>2</sup>).....from his work, which I understand to be (<sup>5</sup>)....., for a period longer than one week.

Dated at.....this.....day of.....  
19.....

- (<sup>1</sup>) Full name and address of medical practitioner to be filled in here.
- (<sup>2</sup>) Fill in name and address of injured workman examined.
- (<sup>3</sup>) Fill in nature of injury.
- (<sup>4</sup>) Strike out inappropriate words.
- (<sup>5</sup>) Describe nature of workman's work as understood by practitioner.

FORM IV.  
NOTICE TO PLAINTIFF OF DATE AND PLACE OF  
INQUIRY.

WORKMEN'S COMPENSATION PROCLAMATION, 1934.

In the matter of  
....., Plaintiff,  
and  
....., Defendant.

To (1).....  
.....

Take notice that the Magistrate of the above-named district will hold an inquiry into the circumstances of the accident notified (2) by you/on your behalf at (3)....., on the.....day of.....19....., at..... o'clock in the.....noon, or so soon thereafter as the matter can be heard.

Dated at.....this.....day of.....  
19.....

.....  
Clerk of the Court.

- (1) Fill in name and address for service of plaintiff.  
(2) Strike out inappropriate words.  
(3) Fill in place of inquiry.

FORM V.  
NOTICE TO DEFENDANT OF DATE AND PLACE OF  
INQUIRY.

WORKMEN'S COMPENSATION PROCLAMATION, 1934.

In the matter of  
....., Plaintiff,  
and  
....., Defendant.

To. (1).....  
.....

Take notice that the Magistrate of the above-named district will hold an inquiry into the circumstances of the accident (particulars of which are annexed) at.....on the.....day of.....19....., at..... o'clock in the.....noon, or so soon thereafter as the matter can be heard.

If you do not appear at the time and place above mentioned, by yourself or by some person authorized to appear for you, such order may be made against you as the Magistrate may think fit.

Dated at.....this.....day of.....  
19.....

.....  
Clerk of the Court.

- (1) Fill in name and address of defendant.

FORM VI.  
PROVISIONAL ORDER.

WORKMEN'S COMPENSATION PROCLAMATION, 1934.

In the matter of ....., Plaintiff,  
and ....., Defendant.

It is ordered that <sup>(1)</sup>.....  
do forthwith pay to <sup>(2)</sup>.....  
at <sup>(3)</sup>.....the taxed costs of an inquiry  
held on the.....day of.....19....., and do  
further pay on <sup>(4)</sup> every Monday/the first day of every month  
from the <sup>(5)</sup>.....day of.....19....., until  
the expiration of six months from such date (save as otherwise  
provided in the Proclamation) the sum of.....

Dated at.....this.....day of.....  
19.....

.....  
Magistrate.

- (<sup>1</sup>) Fill in defendant's name, address and description.  
(<sup>2</sup>) Fill in plaintiff's name, address and description.  
(<sup>3</sup>) Fill in place where payment to be made.  
(<sup>4</sup>) Or as the case may be.  
(<sup>5</sup>) Fill in date of injury.

FORM VII.

NOTICE BY CLERK OF COURT THAT REQUESTS FOR  
REGISTRATION OF MEMORANDUM HAS BEEN  
MADE TO HIM.

WORKMEN'S COMPENSATION PROCLAMATION, 1934.

To <sup>(1)</sup>.....

Take notice that a memorandum of agreement, particulars  
of which are hereto annexed, has been sent to me for registra-  
tion.

If you object to its registration, you must lodge with me,  
within seven days from the date of this notice, notice in  
writing (together with two copies thereof) of your objection,  
setting forth one or more of the grounds mentioned in sub-  
section (4) of section nine of the regulations framed under  
the "Workmen's Compensation Proclamation, 1934", or  
details of any amendment you desire to have made in the  
particulars contained in the memorandum.

If you do not lodge such notice of objection within the  
seven days mentioned, I shall register the same without  
further proof, and you will be deemed to have agreed to the  
same.

Dated at.....this.....day of.....  
19.....

.....  
Clerk of the Court.

- (<sup>1</sup>) Fill in the name and address of the party to whom  
notice sent.

FORM VIII.  
FORM OF REGISTER OF MEMORANDA OF  
AGREEMENTS.

WORKMEN'S COMPENSATION PROCLAMATION, 1934.

Application for Registration.										Objection.			
Name of Applicant.	Date of Application.	Workman's Name and Address.	Employer's or Principal's Name and Address.	Date and Nature of Injury.	Date of Agreement.	Amount of Periodical Payment.	Date on which first Payment to be made.	Interval of Subsequent Payments.	Place where Payments to be made.	Date of Registration.	Name of Objector.	Date of Objection.	Order made, and Date.

FORM IX.  
ORDER FOR FURTHER MEDICAL EXAMINATION ON  
APPLICATION TO VARY OR SET ASIDE PROVI-  
SIONAL ORDER.

WORKMEN'S COMPENSATION PROCLAMATION, 1934.

To (1).....

Under the powers vested in me by section *sixteen* of the above-named Proclamation, I do hereby require you to examine (2).....at (3)....., for the purpose of ascertaining whether he is sufficiently recovered from (4).....to resume work at (5).....and if so, how long he has been sufficiently recovered to do so. And I do further require you to attend before me at (6).....to give evidence on the said matter on the.....day of.....19....., at .....a.m./p.m.

.....  
Magistrate.

- (1) Insert name and address of medical practitioner.
- (2) Insert name of workman.
- (3) Insert place of examination.
- (4) Insert nature of injury.
- (5) Insert nature of work.
- (6) Insert place of attendance.