

BECHUANALAND PROTECTORATE.

No. 38 OF 1949.

(Promulgated 21st October, 1949.)

PROCLAMATION

By His Excellency THE HIGH COMMISSIONER
Entitled the Bechuanaland Protectorate Workmen's
Compensation (Amendment) Proclamation, 1949.

Whereas it is expedient to amend the Workmen's Compensation Proclamation, 1936 (No. 28 of 1936), hereinafter referred to as the "principal law";

Now therefore under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:—

1. Section *three* of the principal law shall be and is hereby amended in respect of the definition of "employer" by inserting after the word "Protectorate" in the third line, the words "the various Native Authorities". Amendment of section 3 of Proclamation No. 28 of 1936.

2. Sub-section (2) of section *nine* of the principal law shall be and is hereby amended by inserting the words "excluding expenses in respect of medical aid under section *nineteen* (a)" after the word "benefit" in the second line. Amendment of section 9 (2) of Proclamation No. 28 of 1936.

3. The principal law shall be and is hereby amended by inserting the following section after section *nineteen*, to be numbered section *nineteen* (A):— Medical Aid, Medical expenses and Medical Treatment.

"19(A). (1) (a) An employer shall furnish and maintain such appliances and services for the rendering of first-aid to his workmen in case of an accident to them as may be prescribed in respect of the class of business in which he is engaged.

(b) Any employer who fails to comply with the provisions of this sub-section shall be guilty of an offence and shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding six months.

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

(b) Any employer who fails to comply with the provisions of this sub-section shall be guilty of an offence and shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding six months.

(3) (a) If in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, for a period not exceeding one year from the date of the accident and up to an amount not exceeding one hundred pounds defray the reasonable expenses in regard to or on behalf of a workman in respect of medical aid.

(b) Where in the opinion of the District Commissioner of the district in which the workman is employed it is in the interest of the workman to provide further or special medical aid to any workman in addition to that referred to in paragraph (a) of this sub-section, the expense of such medical aid shall be defrayed by the employer to the extent to which the said District Commissioner, in his discretion, may determine; provided that the total amount to be paid under paragraph (a) of this sub-section shall not exceed two hundred pounds and the total period in respect of which such expenses are to be defrayed shall not exceed two years.

(c) For the purpose of further or special medical aid under paragraph (b) of this sub-section, the said District Commissioner may place the workman under the treatment of the medical practitioner nominated by him and may give such other directions in regard to the treatment of the workman as he deems expedient.

(d) Any employer who fails to make any payment in respect of medical aid which, under this sub-section he is required to make, shall be guilty of an offence and shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding six months.

(4) All disputes as to the necessity for or the character of or sufficiency of any medical aid provided or to be provided in terms of this section shall be determined by the said District Commissioner.

(5) Payment of medical aid shall be in accordance with the scale prescribed from time to time by the Director of Medical Services after consultation with the Medical Association of South Africa (British Medical Association)

and no claim in excess of that fixed by that scale shall lie against any workman or his employer in respect of any such medical aid.

(6) No employer shall receive from a workman any contribution towards the expense of medical aid rendered or to be rendered to such workman in terms of this section and any employer acting in contravention of this subsection shall be guilty of an offence and shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding six months. In addition such employer shall be ordered by the said District Commissioner to refund to the workman any sum so received.

(7) If any employer makes an arrangement for medical aid to his workmen injured by an accident which, in the opinion of the said District Commissioner is not less favourable to the workmen than that provided for in this section, the said District Commissioner may approve such an arrangement and until such approval is withdrawn, the medical aid under this arrangement may be substituted for the medical aid referred to in this section and in the case of an employer individually liable he shall not be required to provide or pay for medical aid otherwise than in accordance with such arrangement.

(8) The provisions of this section shall not be deemed to be inconsistent or in conflict with the provisions of section *fifteen* of the principal law.

4. Sub-section (1) of section *twenty-six* of the principal law shall be and is hereby amended by the insertion of the words "or medical aid" after the word "compensation" in the first line.

Amendment of section 26 (1) of Proclamation No. 28 of 1936.

5. This Proclamation may be cited for all purposes as the Workmen's Compensation (Amendment) Proclamation, 1949, and shall have force and take effect from the date of its promulgation in the *Gazette*.

Short title and date of commencement.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Eleventh day of October, One thousand Nine hundred and Forty-nine.

E. BARING,
High Commissioner.

By Command of His Excellency
the High Commissioner.

W. A. W. CLARK,
Chief Secretary.