

STATUTORY RULES.

1918. No. 163.

REGULATIONS UNDER THE SEAMEN'S COMPENSATION ACT 1911.

I, THE GOVERNOR-GENERAL, in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations, under the *Seamen's Compensation Act* 1911, to come into operation forthwith.

Dated this twenty-sixth day of June, 1918.

R. M. FERGUSON,
Governor-General.

By His Excellency's Command.

J. A. JENSEN,
Minister of State for Trade and Customs.

SEAMEN'S COMPENSATION REGULATIONS.

PART I. PRELIMINARY.

1. These Regulations may be cited as the *Seamen's Compensation Regulations* 1918. Short title.

2. These Regulations are divided into Parts as follows:— Parts.

PART I.—Preliminary.

PART II.—Application for and Procedure on Arbitration—

Division 1.—Applications for Arbitration.

Division 2.—Proceedings in Arbitration before Judge.

Division 3.—Proceedings before Arbitrator appointed by County Court.

Division 4.—General provisions as to Arbitration.

Division 5.—Detention of ships.

Division 6.—Appointment of new Arbitrator.

Division 7.—Registration, Reference and Removal of Memoranda and Agreements.

Division 8.—Payment and Investment of Moneys and Suspension of Payments.

Division 9.—Miscellaneous.

PART III.—Times for examination of seamen by a medical practitioner paid by employer.

C.7957.—PRICE 1s. 9d.

PART IV.—Duties and remuneration of medical referees under provisions of First and Second Schedules of the Act.

Division 1.—General.

Division 2.—References under Schedule I, paragraph (13).

Division 3.—References under Schedule I, paragraph (19).

Division 4.—References under Schedule II, paragraph (12).

PART V.—Miscellaneous.

Definitions. 3. in these Regulations, unless the contrary intention appears—

“Agreed Arbitrator” means a single arbitrator agreed on by the parties to settle any matter which, under the *Seamen's Compensation Act 1911*, is to be settled by arbitration.

“Appointed Arbitrator” means a single arbitrator appointed by the judge.

“Committee” means a committee representative of an employer and his seaman, with power to settle matters under the *Seamen's Compensation Act 1911*, in the case of employer and seamen :

“County Court” means a County Court, District Court, or Local Court of any State, or any Court exercising in any part of the Commonwealth a limited civil jurisdiction and presided over by a judge, or a police, stipendiary, or special magistrate :

“Dependants” means such of the members of the seaman's family as were wholly or in part dependent upon the earnings of the seaman at the time of his death, or who would, but for the incapacity due to the accident, have been so dependent, and where the seaman—

(a) being the parent or grandparent of an illegitimate child, leaves the child so dependent upon his earnings, or

(b) being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings,

includes such an illegitimate child and parent or grandparent respectively :

“Employer” includes any body of persons corporate or unincorporate, and the legal personal representative of a deceased employer, and, where the services of a seaman are temporarily lent or let on hire to another person by the person with whom the seaman has entered into a contract of service or apprenticeship, the latter shall for the purposes of these Regulations, be deemed to continue to be the employer of the seaman whilst he is working for that other person :

“ Judge ” means the Judge of a County Court as defined in this Regulation :

“ Medical Referee ” means a medical practitioner appointed by the Minister to act as medical referee for the purposes of the *Seamen's Compensation Act 1911* :

“ Prescribed Authority ” means the Collector of Customs for the State in which the proceedings are commenced, the High Commissioner for the Commonwealth and any officer of his staff thereto authorized in writing by him :

“ Reference ” means —

(a) in Regulations in Division 2 of Part IV., the appointment of a medical referee by the prescribed authority, to give a certificate, in accordance with the provisions of paragraphs (13), (14), and (15) of the First Schedule to the *Seamen's Compensation Act 1911*, as to the condition of the workman and his fitness for employment, or as to whether or to what extent the incapacity is due to the accident.

(b) In Regulations in Division 3 of Part IV., the appointment of a medical referee by the prescribed authority to give a certificate, in accordance with the provisions of paragraph (19) of the First Schedule to the *Seamen's Compensation Act 1911*, as to whether the incapacity resulting from the injury is likely to be of a permanent nature.

(c) In Regulations in Division 4 of Part IV., the appointment of a medical referee by a committee, arbitrator, or judge, to report on any matter material to any question arising in an arbitration under the *Seamen's Compensation Act 1911*.

“ Registrar ” means a Registrar, Deputy Registrar, or Assistant Registrar of a County Court as defined by this Regulation :

“ Seaman ” includes master, officer, apprentice, pilot, or other person employed or engaged in any capacity on board a ship in connexion with the navigation or working of the ship :

“ Ship ” includes every vessel used in navigation not ordinarily propelled by oars :

“ The Act ” means the *Seamen's Compensation Act 1911* :

“ The Schedule ” means the Schedule to these Regulations :

“ Vessel ” means any ship, boat, or any other description of vessel for any purpose on the sea or in navigation.

PART II. APPLICATION FOR AND PROCEDURE ON
ARBITRATION.

Division 1.—Applications for Arbitration.

Parties to
arbitration.
Eng. r. 2 (1).

4. (1) When application is made for the settlement of any matter which under the Act is to be settled by arbitration the party making such application shall be called the "Applicant," and, subject to these Regulations, all other persons whose presence at the arbitration may be necessary to enable the judge or arbitrator effectively and completely to adjudicate upon and settle all the questions involved shall be made parties to the application, and shall be called the "Respondents."

Cf. Eng. r. 2 (2).

(2) In any case in which both the principal contractor and a contractor with him are alleged to be liable to pay compensation under the Act, all persons may be joined as respondents against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative.

Joinder of
several
applicants.
Cf. Eng. r. 3.

5. More persons than one may be joined as applicants in one arbitration in any case in which any right to any relief arising out of the same injury to the same seaman is alleged to exist, whether jointly, severally, or in the alternative, provided that the judge or arbitrator upon the application of any respondent, if it appear to him that the joinder may embarrass or delay the proceedings, may order separate hearings.

Applications by
dependants for
settlement of
compensation.
Eng. r. 4 (1).

6. (1) An application on behalf of the dependants of a deceased seaman for the settlement by arbitration of the amount payable as compensation to such dependants may be made by the legal personal representative (if any) of the deceased seaman on behalf of the dependants or by the dependants themselves, and in either case the particulars to be filed as hereinafter mentioned shall contain particulars as to the dependants on whose behalf the application is made:

Eng. r. 4 (2).

Provided that, if there be any conflict of interest between the dependants themselves or if any dependants neglect or refuse to join in an application, the application may be made by or on behalf of some only of the dependants, the other dependants in either case being named as respondents.

Eng. r. 4 (3).

(2) In the construction of this regulation the term "dependants" shall include persons who claim or may be entitled to claim to be dependants but as to whose claim to rank as dependants any question arises.

Application by
dependants
under Act, First
Schedule,
paragraph (8).
Where amount
of compensation
agreed upon or
ascertained.
Eng. r. 5 (1).

7. (1) In any case in which the amount payable as compensation to the dependants of a deceased seaman has been agreed upon or ascertained, but any question arises as to who are dependants, or as to the amount payable to each dependant, an application for the settlement of such question by arbitration may be made either by the legal personal representative (if any) of the deceased seaman on behalf of the dependants or any of them, or by the dependants or any of them, against the other dependants, and the persons claiming or who may be entitled to claim to be dependants, but as to whose claim to rank as such a question arises; or such application may be made

by the persons claiming to be dependants, but as to whose claim to rank as such a question arises, or any of them, against the legal personal representative (if any) of the deceased seaman and to dependants, and such of the persons claiming or who may be entitled to claim to be dependants as are not applicants.

(2) In any such case, if the employer has paid the agreed or ascertained amount of compensation, it shall not be necessary to make him a respondent, but if the compensation or any part thereof is still in his hands he shall be made a respondent. Eng. r. 5 (2).

(3) The employer, if made a respondent, may pay the amount of compensation in his hands into the County Court in the place in which the proceedings have been commenced, to be dealt with as the judge or arbitrator direct, and thereupon further proceedings against him shall be stayed. Eng. r. 5 (3)

8. (1) An application for the settlement by arbitration of the sum payable in respect of medical attendance on and the burial of a deceased seaman, who leaves no dependants, shall be made by the legal personal representative (if any) of the deceased seaman. Parties to arbitration as to sum payable for medical attendance and burial. Act, First Schedule, par. (1) (a) (iii.)

(2) If there is no legal personal representative, the application may be made by any person to whom any such expenses are due, and any other person known to the applicant as a person to whom any such expenses are due shall be joined in the application, either as an applicant or respondent. Eng. r. 6.

(3) In any case in which application is made for the settlement by arbitration of the amount payable in respect of medical attendance on and the burial of a deceased seaman, the amount awarded, if insufficient for the payment of the expenses in full, shall be apportioned between the persons to whom the expenses are due in such manner as the judge or arbitrator directs. Apportionment of such sum.

9. The provisions of the Rules for the time being of the County Courts of the places in which the proceedings have been commenced as to parties suing or defending on behalf of other persons having the same interest, and the provisions of those Rules as to persons under disability and partners suing and being sued shall, with the necessary modifications, apply to proceedings by way of arbitration under the Act. Rules of Court to apply to arbitration proceedings.

10. (1) Where any question has arisen and has not been settled by agreement, an application for the settlement of the matter by arbitration shall be made by the applicant filing with the Registrar a request for arbitration, intitled in the matter of the Act and in the matter of the arbitration, which request shall state concisely the subject matter of the claim. Requests for arbitration. Eng. r. 8.

(2) Particulars shall be appended or annexed to the request containing-- Particulars.

(a) A concise statement of the circumstances under which the application is made, and the relief or order which the applicant claims :

(b) The date of service of notice of the accident on the employer, or, if such notice has not been served, the reason for such omission :

(c) In cases of a seaman lost with his ship the date on which the ship was lost or is deemed to have been lost :

(d) The full names and addresses of the respondents and of the applicant and of his solicitor, if the proceedings are commenced through a solicitor.

Forms of
request and
particulars.
Eng. r. 9.

11. (1) The request and particulars may be in accordance with such one of the forms in the Schedule as shall be applicable to the case, with such modifications as the nature of the case requires.

(2) A copy of the notice of the accident shall be appended or annexed to the particulars, and if a copy of such notice is not so appended or annexed the reason for the omission shall be stated in the particulars.

Application by
employer.
Eng. r. 10.

12. (1) Where an employer on whom a claim for compensation has been made desires to make an application for the settlement of any matter by arbitration, he shall file with the Registrar a request for arbitration in accordance with regulation 10, to which the seaman or the legal personal representative (if any) and the persons claiming or who may be entitled to claim to be dependants of a deceased seaman, or the other person (as the case may be) on whose behalf the claim was made, shall be respondents.

(2) Particulars shall be appended or annexed to the request containing—

(a) a concise statement of the circumstances under which the application is made ;

(b) a statement whether the applicant admits his liability to pay compensation, or denies such liability, wholly or partially with (in the latter case) a statement of the grounds on and extent to which he denies liability ;

(c) a statement of the matters which the applicant desires to have settled by arbitration ; and

(d) the full names and addresses of the respondents and of the applicant, and of his solicitor, if the proceedings are commenced by a solicitor.

Copies for
judge or
magistrate and
for respondents.
Eng. r. 11.

13. The applicant shall deliver to the Registrar with the request and particulars a copy thereof for the judge or arbitrator and a copy for each respondent to be served.

Where applicant
illiterate.
Eng. r. 12.

14. Where the applicant is illiterate and unable to furnish the required information in writing, the request and particulars and copies shall be filled up by the Registrar or his clerk.

Division 2. Proceedings in Arbitration before Judge.

Fixing day and
place for
arbitration.
Eng. r. 13.

15. (1) On the filing of a request for arbitration, the Registrar shall transmit a copy of the request and particulars to the Judge, who shall as soon as conveniently may be appoint the place of hearing and the day and hour for proceeding with the arbitration.

(2) The day shall be so fixed as to allow the copies and the request and particulars to be served on the respondents at least twenty clear days before the day so fixed.

16. (1) On the day for proceeding with an arbitration being fixed, the Registrar shall give or send by post notice in writing to the applicant stating the place at which and the day and hour when the arbitration will be proceeded with, and shall issue the copies and the request and particulars for service on the respondents, together with notices stating the place at which and the day and hour on and at which the arbitration will be proceeded with, and that if the respondents do not attend in person or by their solicitors such order will be made and proceedings taken as the judge thinks just and expedient.

Notice to parties.
Eng. r. 14.

(2) Where the request is filed by an employer, the notice to be served on the respondents shall be modified by the omission of the words therein relating to denial or admission of liability or compensation.

17. (1) The copies and notices mentioned in the last preceding regulation shall be served on the respondents at least twenty clear days before the day fixed for proceeding with the arbitration.

Service on respondents.
Eng. r. 15.

(2) The copies and notices mentioned in the last preceding Regulation may be served—

- (a) by a bailiff of a court ;
- or, at the request of the applicant or his solicitor,
- (b) by the applicant, or some clerk or servant in his permanent and exclusive employ ; or
- (c) by the applicant's solicitor, or a solicitor acting as agent for such solicitor, or some person in the employ of either of them, or some person employed by either of them to serve such copies and notices.

(3) Service may be effected by delivering the copy and notice to the person on whom it is to be served, or by sending it by post in a registered letter addressed to him at his residence or place of business in accordance with the provisions of sub-sections (3) (4) and (5) of section 6 of the Act.

(4) Where service is effected otherwise than by a bailiff, a copy of the document served, with the date and mode of service indorsed thereon shall, within three clear days next after the date of service, or such further time as may be allowed by the Registrar of the court issuing such document, be delivered or transmitted to the Registrar by the applicant. The applicant shall also (unless the respondent files an answer) after the time limited for filing an answer, deliver or transmit to the Registrar an affidavit of the service of such according to Form 10 in the Schedule with such variations alterations and additions as the circumstances of the case require.

Where service effected otherwise than by bailiff.

(5) Where a document is served by post it shall, unless the contrary be proved, be deemed to have been served at the time when the letter containing the same would have been delivered in the ordinary course of post, and in proving the service of the document it shall be sufficient to prove that the same was properly addressed and registered.

Service by post.

(6) Subject to the provisions of section 6 of the Act as to the service of the notice of accident and the claim for compensation, any document, notice, or proceeding to be served on the owners or charterers of a ship shall be deemed to be sufficiently served if served on the managing owner or charterer or the manager for the time being of the ship, or (except where the master is claiming compensation) on the master of the ship.

Stay of
proceedings.

18. Where several requests for arbitration are filed by different applicants against the same respondent in the same court in respect of matters arising out of the same circumstances, the respondent may, on filing an undertaking to be bound, so far as his liability to pay compensation is concerned, by the award in such one of the arbitrations as may be selected by the judge, apply to the judge under the Rules of the County Court relating to a stay of proceedings for an order to stay proceedings in the arbitration other than the one so selected until an award is made in the selected arbitration; and the Rules relating to a stay of proceedings shall, with the necessary modifications, apply accordingly.

Answer by
respondent.
Reg. r. 17.

19. (1) If any respondent desires to disclaim any interest in the subject-matter of an arbitration, or considers that the applicant's particulars are in any respect inaccurate or incomplete, or desires to bring any fact or document to the notice of the judge, or intends to rely on the fact that notice of the accident, or of death, disablement, or suspension, was not given as required by the Act, or that the claim for compensation was not made within the time limited by the Act, or intends to deny (wholly or partially) his liability to pay compensation under the Act, he shall, ten clear days at least before the day fixed for proceeding with the arbitration, file with the Registrar an answer, stating his name and address, and the name and address of his solicitor (if any), and stating that he disclaims any interest in the subject-matter of the arbitration, or stating in what respect the applicant's particulars are inaccurate or incomplete, or stating concisely any fact or document which he desires to bring to the notice of the judge, or on which he intends to rely, or the grounds on and extent to which he denies liability.

(2) The respondent shall with the answer file copies thereof for the applicant and the judge, and one copy for each of the other respondents and the Registrar shall within twenty-four hours after receiving the copies transmit the same by post to the applicant and the other respondents respectively, and may post or deliver a copy to the judge.

(3) Subject to any answer so filed the applicant's particular and, in the case of a claim for compensation, the liability to pay compensation under the Act, shall be taken to be admitted:

Provided that in case of non-compliance with this regulation, and of the applicant not consenting at the arbitration to permit a respondent to avail himself of any matter of which he should, pursuant to this regulation have given notice by filing an answer, the judge may on such terms as he thinks fit, either proceed

with the arbitration and allow the respondent to avail himself of such matter, or adjourn the arbitration to enable the respondent to file such answer.

(4) The provisions of this regulation shall, with the necessary modifications, apply to a case in which a request for arbitration is filed by an employer; but a respondent who fails to file an answer shall not be taken to admit the truth of any statement in the applicant's particulars in which he denies, wholly or partially, his liability to pay compensation.

20. (1) Where a respondent from whom compensation is claimed admits liability, he may at any time before the day fixed for proceeding with the arbitration --

Submission to
award or
payment into
court by
respondent.
Eng. r. 18.

(a) where the application is made by an injured seaman -- file with the Registrar a notice that the respondent submits to an award for the payment of a weekly sum, to be specified in the notice; or

(b) where the application is made on behalf of the dependants of the deceased seaman, or for the settlement of the sum payable in respect of medical attendance on and the burial of a deceased seaman who leaves no dependants -- pay into the County Court in the place in which proceedings have been commenced such sum of money as the respondent considers sufficient to cover his liability in the circumstances of the case.

(2) The Registrar shall within twenty-four hours from the time of any notice filed or payment made, pursuant to the last preceding sub-regulation, send notice thereof (with, where notice is filed, a copy of the notice) to the applicant and to the other respondents (if any).

(3) If the applicant is a seaman, and elects to accept in satisfaction of his claim the weekly payment specified in the respondent's notice, he shall send to the Registrar and to the respondent by post, or leave at the Registrar's office and at the residence or place of business of the respondent, a written notice according to Form 15 in the Schedule stating such acceptance, within such reasonable time before the day fixed for proceeding with the arbitration as the time of filing of notice of submission by the respondent has permitted.

Acceptance
of weekly
payment
offered.

(4) If the application for arbitration is made on behalf of the dependants of the deceased seaman, or for the settlement of the sum payable in respect of medical attendance and burial as aforesaid, and the applicant is willing to accept the sum paid into court in satisfaction of the compensation payable to the dependants, or in respect of such medical attendance and burial (as the case may be) he shall send to the Registrar and to the respondent by post, or leave at the Registrar's office and at the residence or place of business of the respondent, a written notice of such willingness, according to Form 15 in the Schedule within such reasonable time before the day fixed for proceeding with the arbitration as the time of payment into court by the respondent has permitted.

Acceptance of
sum paid into
court.

If there be any other respondents, the applicant shall in like manner give notice of such willingness to such respondents; and if any of such respondents are willing to accept the sum paid into court in satisfaction of the compensation as aforesaid they shall in like manner give notice of their willingness to the registrar and to the applicant and other respondents.

Procedure if
weekly payment
offered or sum
paid in is
accepted.

(5) If the applicant is a seaman and elects to accept in satisfaction of his claim the weekly payment submitted to by the respondent, or if in any other case the applicant and all the respondents give notice of their willingness to accept the sum paid into court, the following provisions shall apply:—

(a) Where the respondent submits to an award for the payment of a weekly sum, the judge may, on an application made to him forthwith, make an award directing payment of the weekly sum accordingly.

(b) Where the respondent has paid money into court, further proceedings against such respondent shall be stayed, except as hereinafter mentioned; and

(i) if the applicant and the other respondents agree as to the apportionment and application of the sum, the judge may on application made to him on behalf of or with the consent of all such parties, forthwith make an award for the apportionment and application;

(ii) in any other case the arbitration may proceed as between the applicant and the other respondents.

Costs payable
by respondent.

(c) The judge may, in his discretion, by his award order the respondent filing notice of submission to an award or paying money into court to pay such costs as the applicant and the other respondents, or any of them, may have properly incurred before the receipt of notice of submission to an award or payment into court, and his or their costs properly incurred in relation to notice of submission to an award or payment into court and of the notice of acceptance, including, if the judge on consideration of the facts of the case shall so order, any items which might have been allowed by order of the judge at the hearing of the arbitration.

(d) If the applicant or any respondent intends to apply for costs, he shall give notice of his intention in his notice of acceptance according to Form 15 in the Schedule; or where the time of filing notice of submission to an award or the time of payment into court by a respondent does not permit of notice on acceptance being given, the applicant or any respondent may apply for costs without giving notice.

(6) Where any party has not given notice of acceptance in accordance with this regulation, he may nevertheless accept the weekly payments which the respondent has submitted to pay, or the sum paid into court, at any time before the arbitration is called on and opened subject to the payment of any costs which may have been reasonably incurred by the respondent since the date of filing notice of submission or the date of payment into court, and which may be allowed by the judge, and the judge may order any costs so allowed to be paid by the parties so accepting, and may order the costs to be set off against any costs payable to such party, or to be deducted from any weekly payments or compensation awarded to such party.

Acceptance at any time before arbitration opened.

(7) In default of notice of acceptance by the applicant and all the respondents, the arbitration may proceed, but if no greater weekly payments or compensation is awarded than that which the respondent has submitted to pay or has paid into court, the respondent shall not be liable to pay any further costs than such as he might have been ordered to pay if the weekly payment offered or sum paid into court had been accepted, and the judge may order any costs incurred by the respondent after notice of submission to an award or payment into court to be paid by any party who has not given notice of acceptance of such weekly payment or sum, and may order the costs to be set off against any costs payable to such party, or to be deducted from any weekly payment or compensation awarded to such party. The judge may also order any costs incurred after notice of payment into court by any party who has given notice of acceptance to be paid by any other party who has not given such notice, and to be deducted from any compensation awarded to the last-mentioned party.

Procedure and costs if weekly sum offered or sum paid in is not accepted.

(8) The provisions of this regulation shall, with the necessary modifications, apply to a case in which an employer who has filed a request for arbitration admits liability to pay compensation.

Submission to award or payment into court where employer admits liability

(9) Where in the case of an injured seaman an employer admits liability, he may, at any time before the time fixed for proceeding with the arbitration, instead of filing a notice that he submits to an award for the payment of a weekly sum, file a notice that he submits to an award for the payment of a lump sum to be specified in the notice which he considers to be sufficient to cover his liability in the circumstances of the case, and may thereupon pay the sum into the County Court in which proceedings have been commenced, and the provisions of this regulation shall, with the necessary modifications, apply to a case in which an employer files a notice and pays money into court under this sub-regulation.

Payment into court in case of injury to seaman.

(10) An employer who denies liability may file a notice of submission to an award or pay money into court in accordance with this regulation, accompanied by a notice stating his name and address, and further stating that, notwithstanding such submission or payment, he denies his liability, together with as many copies of the notice as there are parties to whom notice of the submission or payment is to be sent, and the provisions of

Submission to award or payment into court with denial of liability.

this regulation shall, with the necessary modification, apply to a case in which an employer files a notice of submission to an award or pays money into court under this sub-regulation, and a copy of the notice denying liability shall be sent by the Registrar to every person to whom notice of submission to an award or payment into court has to be sent.

Notice of claim
to indemnity
under section 7.
Eng. r. 19.

21. Where a respondent claims to be entitled under section 7 of the Act to indemnity against any person not a party to the arbitration, he shall ten clear days at least before the day fixed for proceeding with the arbitration, file with the Registrar a notice of his claim and serve a copy of the same, together with a copy of the applicant's request and particulars and of the notices served on the respondent under regulations 16 and 17, upon the person against whom such claim is made.

Appearance
by third party.
Eng. r. 20.

22. If any person served with a notice under the last preceding regulation (hereinafter called the "Third Party") desires to dispute the applicant's claim in the arbitration as against the respondent on whose behalf the notice has been given, or his own liability to such respondent, he must appear before the judge on the day fixed for proceeding with the arbitration, or on any day to which he may have received notice from the Registrar that the arbitration has been adjourned or postponed, and in default of his so doing he shall be deemed to admit the validity of any award made against such respondent as to any matter which the judge has jurisdiction to decide in the arbitration as between the applicant and the respondent, whether the award is made by consent or otherwise, and his own liability to indemnify the respondent to the extent claimed in the notice served on him by the respondent:

Provided that if it appears to the judge before or at the arbitration that the notice of claim has not been served on the third party in time to enable him to appear on the day hereinbefore mentioned, or that for any other sufficient cause the third party is unable to appear on that day, the judge may adjourn the proceedings in the arbitration on such terms, as to costs or otherwise, as are just.

Proceedings in
default of
appearance by
third party.
Eng. r. 21:

23. If the third party fails to appear on the day mentioned in the last preceding regulation, or, if the proceedings are adjourned under that regulation, on the day to which the proceedings are adjourned, then if the arbitration results in an award in favour of the applicant, or the arbitration is finally decided in favour of the applicant otherwise than by an award, the judge may on the application of the respondent make such award as the nature of the case may require in favour of the respondent against the third party; but execution thereon shall not issue without leave of the judge until after satisfaction by the respondent of the award or the amount recovered against him:

Provided that the judge may set aside or vary any award made by him against the third party under this regulation upon such terms as are just.

24. The third party or the respondent may apply before or at the arbitration to the judge for directions: and the judge upon the hearing of the application may, if satisfied that there is a question proper to be determined as to the liability of the third party to make the indemnity claimed, in whole or in part, order the question of such liability as between the third party and the respondent giving the notice to be determined at or after the arbitration; and if not so satisfied may make such award as the nature of the case requires in favour of the respondent giving the notice against the third party: or the judge may, if it appears desirable so to do, give the third party leave to resist the claim of the applicant against the respondent upon such terms as are just, or to appear at the arbitration and take such part therein as is just, and generally may give such directions as he thinks proper for having the question most conveniently determined, and as to the mode or extent in or to which the third party shall be bound or made liable by the award in the arbitration.

Application for direction may be given.
Eng. r. 22.

25. The judge may decide all questions of costs as between a third party and the other parties to the arbitration, and may order any one or more to pay the costs of any other or others, or give such direction as to costs as the justice of the case requires.

Costs.
Eng. r. 23.

26. (1) Where the respondent claims that if compensation is recovered against him he will be entitled under section 10 of the Act, or otherwise than under section 7 to indemnify against any person not a party to the arbitration, he shall file and serve a notice of his claim in accordance with regulation 21.

Notice of claim to indemnity under section 10 or otherwise than under section 7.
Eng. r. 24.

(2) If any person served with a notice under the last preceding sub-regulation (hereinafter called the "Third Party") desires to dispute the applicant's claim in the arbitration as against the respondent on whose behalf the notice has been given, he must appear before the judge on the day fixed for proceeding with the arbitration, or on any day to which he may have received notice from the Registrar that the arbitration has been adjourned or postponed; and in default of his so doing he shall be deemed to admit the validity of any award made against such respondent as to any matter which the arbitrator has jurisdiction to decide in the arbitration as between the applicant and the respondent, whether the award is made by consent or otherwise:

If person served makes default he is to be deemed to admit validity of award against respondent.

Provided that if it appears to the judge before or at the arbitration that the notice of claim has not been served on the third party in time to enable him to appear on the day hereinbefore mentioned, or that for any other sufficient cause the third party is unable to appear on such day, the judge may adjourn the proceedings in the arbitration on such terms, as to costs or otherwise, as are just.

Where notice not served in due time.

(3) The third party or the respondent may apply before or at the arbitration to the judge for directions, and the judge upon the hearing of the application, may, if it appears desirable so to do, give the third party leave to resist the claim of the applicant against the respondent upon such terms as are just,

Application to judge for directions as to conduct of arbitration.

or to appear at the arbitration and take such part therein as is just, and generally may give such directions as he thinks proper.

Costs.

(4) If the third party obtains leave to resist the claim of the applicant against the respondent, the provisions of regulation 25 as to costs shall apply.

Judge how far
empowered
to decide
questions as to
liability of
third party.

(5) Nothing in this regulation shall empower the judge to decide (otherwise than by consent) any question as to the liability of the third party to indemnify the respondent; or to make any award in favour of the respondent against the third party, or to make any further or other order than that the third party shall not be entitled in any future proceedings between the respondent and such third party to dispute the validity of the award as to any matter which the judge has jurisdiction to decide in the arbitration as between the applicant and the respondent:

Provided that with the consent of the respondent and the third party—

- (a) if the arbitration results in an award in favour of the applicant, or is finally decided in favour of the applicant otherwise than by an award, and the third party admits his liability to indemnify the respondent, the judge may, on application made to him at or after the hearing of the arbitration or the final decision thereof, make such award as the nature of the case requires in favour of the respondent against the third party; but execution thereon shall not issue without leave of the judge until after satisfaction by the respondent of the award against him or the amount recovered against him; or
- (b) the judge may, on an application for directions, order any question, as to the liability of the third party to make the indemnity claimed, to be settled, as between the respondent and the third party by arbitration after the arbitration between the applicant and the respondent, and may on the subsequent arbitration make such award as the nature of the case requires in favour of either party against the other.
- (c) the judge may decide all questions of costs as between the respondent and the third party and may order either of the parties to pay the costs of the other (including any costs payable by such party to any other party to the arbitration) or give such directions as to such costs as the justice of the case requires.

Third party
procedure where
employer is
applicant.
Reg. r. 25.

27. The provisions of regulations 22 to 26 shall, with the necessary modifications, apply to a case in which an employer who has filed a request for arbitration claims to be entitled to indemnity against any person not a party to the arbitration.

28. (1) Where a respondent claims to be entitled to indemnity against any other respondent, a like notice shall be issued and the like procedure shall thereupon be adopted for the determination of questions between the respondents as might be issued and adopted against such other respondent if such last-mentioned respondent were a third party.

Claim to indemnity as between respondents.
Reg. r. 26.

(2) Nothing herein contained shall prejudice the rights of the applicant against any respondent.

29. The judge may, for good cause shown, enlarge or abridge the time fixed by these regulations for service of a request for arbitration on any respondent, or the time for filing an answer, or serving a third party notice, or for taking any step, or filing any document, or giving any notice in any matter; and, if an order is made to that effect, a copy of the order shall be annexed to and served with the notice to be served on the respondent or applicant as the case may be.

Abridgment of time for service, answer, &c.
Reg. r. 26A.

30. (1) Subject to the special provisions of these Regulations, the procedure in an arbitration shall be the same as the procedure, including the power to grant adjournments, in an action commenced in the County Court by plaint and summons in the ordinary way, and shall be determined by the judge without a jury in so far as such procedure is applicable to proceedings by way of arbitration; and the statutory provisions and rules for the time being in force relating to actions shall, with the necessary modifications, apply to the arbitration accordingly; and in the application of such provisions and rules the applicant's request for arbitration shall be deemed to be a summons with particulars annexed, the day fixed for proceeding with the arbitration shall be deemed to be the return day, and the applicant and respondents shall be deemed to be plaintiff and defendants respectively:

Procedure on arbitration.
Reg. r. 27.

Provided that the burden of proof of any facts which are not admitted shall be the same, whoever the party may be by whom the request for arbitration is filed.

31. (1) When the judge has drawn up, signed, and made his award, he shall cause it to be filed at the office of the Registrar, who shall prepare copies sufficient for service on all persons affected thereby, and forthwith send one copy of the same by post or otherwise to each of such persons.

Award.

(2) The judge shall have power at any time to correct any clerical mistake or error or any admitted error or mistake in the award arising from any accidental slip or omission.

(3) The award shall be enforceable in the same manner as a judgment or order of the court.

Division 3.—Proceedings before Arbitrator appointed by County Court.

32. With respect to the appointment of an arbitrator by a County Court, the following provisions shall apply:—

Appointment of arbitrator.
Cf. Reg. r. 29.

(a) On an application being made for the settlement by arbitration of any matter, a judge of the County Court may (if, from the state of the business of the

court, or for any other reason, a judge is unable to settle the matter within a reasonable time) appoint, by writing under his hand, and filed in the court, an arbitrator to settle the matter.

- (b) In case of the death or refusal or inability to act of an arbitrator appointed under this regulation, the judge may, on the application of any party, appoint a new arbitrator in accordance with this regulation.

Fixing day for
arbitration.
Of. Eng. r. 30.

33. (1) Where any matter is to be settled by an arbitrator, the judge shall return the copy of the request for arbitration to the Registrar, with the appointment of the arbitrator, to be transmitted to the arbitrator.

- (2) The Registrar shall transmit the copy of the request and of the appointment to the arbitrator, who shall, as soon as conveniently may be, appoint a day and hour for proceeding the arbitration, in accordance with regulation 15.

Procedure
before
arbitrator.
Of. Eng. r. 31.

34. On the day for proceeding with an arbitration being fixed, the Registrar shall proceed according to regulation 16, and thenceforward the arbitration shall proceed in the same manner as an arbitration before a judge, and these Regulations shall apply and the officers of the court shall act accordingly, with the substitution of the arbitrator for a judge :

Provided that—

- (a) In any case coming within the provisions of paragraph (a) or paragraph (b) (i) of sub-regulation (5) of regulation 20, or in any other case in which, after an arbitrator has been appointed, but before the day fixed for proceeding with the arbitration, the parties agree upon an award, a judge may, on application made to him in or out of court on behalf of or with the consent of all parties, settle the matter himself; and thereupon the functions of the arbitrator as to the matter shall cease, and the Registrar shall forthwith inform him that the matter has been settled; and
- (b) Any application for the enforcement of or for staying proceedings on an award, which would in the case of an award made by the judge be required to be made to the judge shall, in the case of an award made by an arbitrator, be in like manner made to the judge.

Submission of
question of law
by committee
or arbitrator
to judge.
Of. Eng. r. 32.

35. (1) Where a committee or an arbitrator (whether agreed on by the parties or appointed by a County Court) submits any question of law for the decision of a County Court under paragraph (3) of the Second Schedule to the Act, the submission shall be in the form of a special case.

(2) The case shall be intitled in the matter of the Act and of the arbitration, and shall be divided into paragraphs numbered consecutively, and shall state concisely such facts and documents as are necessary to enable the court to decide the questions of law raised thereby. Upon the hearing of the case the court

and the parties shall be at liberty to refer to the whole contents of the documents, and the court shall be at liberty to draw from the facts and documents stated in the case any inference, whether of fact or of law, which might have been drawn therefrom if proved at the hearing of an arbitration.

(3) The case shall be signed by the chairman and secretary of the committee or by the arbitrator, and sent to the Registrar, and the court shall, as soon as conveniently may be, appoint a day and hour for hearing the case, and instruct the Registrar to give notice forthwith to the parties.

(4) The day shall be so fixed as to allow notice to be given ten days at least before the day fixed for the hearing, unless the court shall, with the consent of all parties, fix an earlier day.

(5) The Registrar shall, on the application and at the cost of any party, furnish him with a copy of the case.

(6) On the hearing of the case the court may, after deciding the question submitted, remit the case with a memorandum of its decision to the committee or arbitrator, for them or him to proceed thereon in accordance with the decision; or if the decision of the court on the question submitted disposes of the whole matter, the court may make an award in the arbitration in accordance with the decision.

(7) The court may remit the case to the committee or arbitrator for restatement or further statement.

(8) The court shall have the same power over the costs of a typical case as a judge has over the costs of an arbitration, or may direct that the costs shall be dealt with as costs attending the arbitration; and the provisions of the Act and these Regulations as to costs shall apply accordingly.

36. (1) An appeal under paragraph (3) of the Second Schedule to the Act may be instituted by notice of appeal in accordance with this regulation.

Appeal to High Court or Supreme Court from decision of County Court.

(2) The party appealing shall, within twenty-one days after the decision or order appealed against is made, serve the notice of appeal on the opposite party, and shall file a copy of the notice of appeal in the County Court and in the Registry of the High Court in the State or the Supreme Court of the State, as the case may require.

(3) The notice of appeal must state the grounds of appeal, and must state the court to which the appeal is made.

(4) The Registrar or other proper officer of the County Court in which the notice of appeal is filed shall, forthwith after the notice is filed, send to the Registrar or other proper officer of the court to which the appeal is made, all such proceedings in the County Court as are necessary to the hearing of the appeal.

37. The Rules of the High Court or the Rules of the Supreme Court, as the case requires, shall, subject to these Regulations, apply to appeals under paragraph (3) of the Second Schedule to the Act as far as such Rules are applicable.

Application of Rules of High Court or Supreme Court.

Division 4.—General Provisions as to Arbitration.

Appearance of
parties.
Eng. r. 33.

38. (1) A party to any arbitration may appear—

- (a) in person;
- (b) by solicitor;
- (c) by counsel;

or, by leave of the judge or arbitrator, a party may appear—

- (d) by a member of his family;
- (e) by a person in the permanent and exclusive employment of the party;
- (f) in the case of a company or corporation, by any director of the company or corporation, or by the secretary or any other officer or any person in the permanent and exclusive employment of the company or corporation;
- (g) by any officer or member of any society or other body of persons of which the party is a member or with which he is connected, or, where death results from the injury, by any officer or member of any society or other body of persons of which the deceased seaman was a member or with which he was connected; or
- (h) under special circumstances, by any other person.

(2) No person other than a solicitor who appears or acts on behalf of any party in any arbitration under the Act shall be entitled to have or recover any fee or reward for so appearing or acting, other than such travelling expenses, and (in the case of a seaman or a member of his family) allowance for time (if any) as is allowed by the judge or arbitrator:

Provided that nothing in these Regulations shall affect the right of counsel to appear or act in any arbitration, or the right of any solicitor to recover costs in respect of his employment of counsel to appear or act as aforesaid.

Note to be
taken of
questions of
law raised, &c.,
and copy
furnished.
Eng. r. 34.

39. At the hearing of any arbitration the judge shall make a note of any question of law raised, and of the facts in evidence in relation thereto and of his decision thereon and of his decision in the arbitration, and he shall, at the expense of any party to such arbitration, furnish a copy of the note so taken or allow a copy of the same to be taken by or on behalf of such party, and shall sign such a copy, whether a notice of motion by way of appeal has been served or not.

Claims for
compensation.

40. (1) In the case of the death of a seaman the claim for compensation shall state the date on which news of the death was received by the claimant.

(2) The claim for compensation on behalf of the dependants of a seaman lost with his ship shall state the date on which the ship was lost or is deemed to have been lost.

Description of
owners or
charterers in
documents and
proceedings.

41. In any document, notice, or proceeding it shall be sufficient to describe the owners or the charterers of the ship as "the owners (or "charterers") of the ship," and the provisions of the County Court Rules for the time being

of the place where the proceedings have been commenced as to the disclosure of the names of partners shall with the necessary modifications apply to the disclosure of the names of the owners or charterers.

Division 5.—Detention of Ships.

42. (1) An application for an order for the detention of a ship under section 13 of the Act shall be made in accordance with this regulation. Detention of ships.
Of. Eng. r. 87.

(2) The application may (subject to the provisions of sub-regulation 9 of this Regulation) be made *ex parte* either in or out of court, according to Form 19 in the Schedule, and shall be supported by affidavit or other evidence showing, to the satisfaction of the judge, the grounds on which the application is made.

(3) The judge may, before granting the application, require the applicant to give or procure an undertaking, to the satisfaction of the judge, to abide by any order as to damages and costs which may be thereafter made, in case any person affected by the order for detention shall sustain any damages by reason of the order which the applicant ought to pay.

(4) An order for detention shall specify the amount for which security shall be given, and may be in accordance with Form 21 in the Schedule, and shall be issued in triplicate; one copy shall be delivered to the applicant, and the other two copies to the officer named by the judge; and one of the last-mentioned copies shall be delivered by the officer to the person who is at the time of the execution of the order apparently in charge of the ship, or, if there is no person apparently in charge, shall be affixed on the main mast or on the single mast of the ship; and the other copy shall be retained by the officer.

(5) The judge may at any time on good cause shown rescind any order for detention made by him.

(6) The provisions of any Act regulating the procedure of, and the Rules of, the Court in which the proceedings have been commenced as to security shall, with the necessary modifications, apply to the giving of security under this regulation; and the approval by the judge of any security shall be signified in writing signed by him.

(7) Where security is given by bond, the bond may be in accordance with Form 22 in the Schedule.

(8) If the judge rescinds any order for detention, or is satisfied that satisfaction has been made, or when security has been given and approved, or in any other case if the applicant so requires, the judge shall deliver, to the party applying for the same, an order according to Form 23 in the Schedule, directed to the officer named in the order for detention, authorizing and directing him, upon payment of all costs, charges, and expenses attending the custody of the ship, to release it forthwith.

(9) Notwithstanding anything contained in this regulation, a person intending to apply for an order for detention shall, if the name and address of an agent in the Commonwealth for

the owners of the ship, or of a solicitor in the Commonwealth authorized to act for the owners, agent, master, or consignee of the ship, are known to him, give to the agent or solicitor such notice of the time and place at which the application for the order of detention is intended to be made as may be practicable in the circumstances of the case.

(10) If a solicitor in the Commonwealth represents that he is authorized to act for the owners, agent, master, or consignee of the ship, and signs an undertaking in accordance with Form 24 in the Schedule, to put in or give security for an amount agreed on between the parties or fixed by the judge, then, on the undertaking being filed in court—

- (a) the judge may in his discretion refuse to make an order for detention; or
- (b) if an order for detention has been made, but not executed, the judge may rescind it; or
- (c) if an order for detention has been made and executed, the judge may deliver to the party applying for the same an order of release in accordance with sub-regulation (8) of this regulation.

(11) An undertaking given in accordance with the last preceding sub-regulation shall be filed in the court in which the application for an order of detention is made or is intended to be made.

(12) A solicitor who fails to put in or give security in pursuance of his undertaking shall be liable to attachment.

(13) Where proceedings by way of arbitration for the recovery of compensation are taken against the persons giving security, the request for arbitration and particulars shall state concisely the circumstances under which the persons giving security are made respondents.

(14) Where proceedings are commenced in any court in the Commonwealth other than that in which the order for detention was made or applied for, the Registrar of the court in which the order was made or applied for shall, on request, transmit to the Registrar of the court in which the proceedings are commenced all original documents filed in the matter, and a certified copy of all records made with reference to the matter, and any bond by way of security given in the matter, and shall transfer to the last-mentioned court any money paid into court by way of security in the matter; and the provisions of the Rules of Court as to the costs of copies and the costs of transmission shall apply to any transmission under this regulation.

(15) The costs incurred by any party in relation to an application for an order of detention and any proceedings consequent thereon may in any subsequent proceedings by way of arbitration be allowed as costs of the arbitration.

(16) For the purposes of this Regulation "Judge" means a justice of the High Court or a judge of the Supreme Court of a State.

Division 6.—Appointment of New Arbitrator.

43. (1) In case of the death or refusal or inability to act of an arbitrator agreed on by the parties, any party to the arbitration who desires to make an application to the judge to appoint a new arbitrator shall apply in writing to the Registrar to fix a time and place for the hearing of the application.
- (2) The Registrar shall send the notice of the application to a judge, who shall, as soon as conveniently may be, fix a time and place for the hearing of the application:

Appointment of arbitrator by judge in place of arbitrator agreed on by the parties under Schedule II., paragraph (7).
Cf. Reg. r. 40.

Provided that the time shall not, except by consent, be less than seven days from the date of the application to the Registrar.

(3) On the time and place for the hearing of the application being fixed, the Registrar shall issue to the applicant a summons under the seal of the court in accordance with Form 26 in the Schedule, addressed to the other party to the arbitration, and requiring him to attend on the hearing of the application.

(4) The summons shall be served by the applicant on the other party in accordance with regulation 17 not less than four clear days before the day fixed for the hearing, unless the other party agrees to accept shorter service.

(5) On the day fixed for the hearing the judge shall dispose of the application on hearing the parties, or on hearing the applicant and on proof of service of the summons on the other party, if that party does not appear.

(6) Before appointing any person to act as arbitrator, the judge shall ascertain whether the person is willing to serve if appointed.

(7) The appointment may be made by endorsement on the summons, or by a separate order.

(8) The costs of the application shall be in the discretion of the judge, who may order the same to be paid by one party to the other, or to be dealt with as costs attending the arbitration.

(9) The costs, if allowed, shall be taxed at such scale as the judge directs.

Division 7.—Registration, Reference, and Removal of Memoranda and Agreements.

44. (1) Where the amount of compensation under the Act has been ascertained or any weekly payment varied or any other matter decided under the Act either by a committee or by an arbitrator or by agreement, the memorandum, which is by paragraph (8) of the Second Schedule to the Act required to be sent to the prescribed authority, shall be in accordance with such one of the Forms in the Schedule as is applicable to the circumstances of the case, and shall be left at the office of the prescribed authority or sent by post by registered letter addressed to the prescribed authority at his office as soon as may be after the matter has been decided.

Memorandum to be sent to prescribed authority.
Act, Second Schedule, paragraph (8).
Reg. r. 41.

(2) Where the matter is decided after a medical referee has been appointed to report on any matter under paragraph (12) of the Second Schedule to the Act, a copy of the report of the referee shall be annexed to the memorandum and recorded therewith; and if the referee attended any proceeding in the arbitration, it shall be so stated in the memorandum.

(3) In case of an agreement as to any matter referred to in sub-regulation (1) of regulation 52 a separate statement as required by that paragraph shall be left or sent with the memorandum of the agreement.

(4) In the case of an agreement between an employer and a workman, the employer shall, within thirty days after the date of the agreement, cause the memorandum of the agreement to be left with or sent to the prescribed authority. Penalty: Five Pounds.

(5) Nothing in this regulation shall prevent any party interested from forwarding a memorandum of an agreement to the prescribed authority.

Authentication
of memorandum
of agreement.
Eng. r. 42.

45. (1) If the matter is decided by a committee or an arbitrator, the memorandum shall be authenticated by the signatures of the chairman and secretary of the committee, or by the signature of the arbitrator; and it shall be the duty of the committee or arbitrator, as soon as may be after the decision, to draw up the memorandum and to sign the same and to leave or send the same as aforesaid or to deliver the same to some party interested to be by him so left or sent.

(2) If the matter is decided by agreement, the memorandum shall be authenticated by the signatures or signature of the parties to the agreement, or one of them, or in the case of employers, by the signature of some official or other person in their employ duly authorized to sign on their behalf, or in the case of persons under disability by the signature of their next friend on their behalf.

(3) There shall be left or sent with the memorandum a copy thereof for every party interested, other than the party (if any) by whom the memorandum is left or sent.

(4) Where the matter is decided by agreement, the prescribed authority may, if the original agreement is in writing, and is not left or sent to be recorded, require such original agreement to be produced; but he shall not be entitled to retain the same where a memorandum thereof is left or sent to be recorded.

(5) An agreement or memorandum of an agreement may be left with or sent to the prescribed authority by insurers on behalf of the parties interested.

(6) An agreement made by or on behalf of any person under any legal disability shall be conditional only unless and until a memorandum thereof has been recorded in accordance with the Act and these Regulations.

Notice to
parties
interested of
memorandum
having been
received.
Eng. r. 43.

46. On receipt of the memorandum the prescribed authority shall send one of the copies thereof to every party interested, with a notice, in accordance with Form 29 in the Schedule, requesting the party to inform him within seven days from the date of the notice whether the memorandum is genuine, or whether he disputes it, and if so in what particulars, or objects to its being recorded, and if so, on what grounds.

Recording of
memorandum
if not disputed.
Eng. r. 44.

47. If all the parties interested admit the genuineness of the memorandum, or do not within such period of seven days dispute it or object to its being recorded, the prescribed authority shall subject to proviso (d) to paragraph (8) of the Second Schedule to the Act, and to regulation 52, record it without further proof.

48. If any party interested disputes the genuineness of the memorandum, or if, where a seaman seeks to record a memorandum of agreement between his employer and himself, the employer alleges that the seaman has in fact returned to work and is earning the same wages as he did before the accident, and objects to the recording of the memorandum, the party or employer shall within seven days from the date of the notice mentioned in regulation 46 file with the prescribed authority a notice, according to Form 30 in the Schedule, that he disputes the genuineness of the memorandum or that he objects to its being recorded, and shall with such notice file a copy thereof for each of the other parties interested.

Where memorandum disputed or employer objects to its being recorded.
Act, Second Schedule, paragraph (8) (b).
Eng. r. 45.

49. On the receipt of the notice mentioned in the last preceding regulation, the prescribed authority shall send a copy thereof to each of the other parties interested, together with a notice in accordance with Form 31 in the Schedule informing the party that the memorandum will not be recorded except with the consent in writing of the party or employer disputing the same or objecting to the same being recorded, or by the order of a judge of a County Court.

Notice of dispute or objection.
Eng. r. 46.

50. (1) If the consent mentioned in the last preceding regulation is obtained the prescribed authority shall subject to proviso (d) to paragraph (8) of the Second Schedule to the Act and to regulation 51 record the memorandum without further proof.

Subsequent proceedings.
Eng. r. 47.

(2) If the consent cannot be obtained, any party interested may apply to a judge of a County Court to order the memorandum to be recorded :

Provided that if all parties interested consent in writing to any amendment of the memorandum and to the recording of the same as so amended, the prescribed authority may amend the memorandum accordingly and record the same without further proof.

Amendment of memorandum by consent.

51. The following provisions shall apply to an application to a judge of a County Court for an order that a memorandum be recorded, or an application to a judge of a County Court to rectify the register pursuant to paragraph (8) of the Second Schedule to the Act—

Proceedings on application for record of memorandum or rectification of register.
Eng. r. 48.

(a) The application shall be on notice in writing stating the relief or order which the applicant claims.

(b) The notice shall be filed with the Registrar and copies thereof shall be served—

(i) in the case of an application for an order that a memorandum be recorded, on the party disputing the memorandum or objecting to its being recorded, and on all other parties interested ;

(ii) in the case of an application to rectify the register, on every party who would be affected by the rectification subject to the provisions of these Regulations as to the parties to an arbitration ; or

on the solicitor of such party ten clear days at least before the hearing of the application, unless the court gives leave for shorter notice.

- (c) On the hearing of the application witnesses may be orally examined in the same manner as on the hearing of an action in the County Court.
- (d) On the hearing of the application the court may make such order or give such directions as it thinks just, regard being had in the case of an application for an order that a memorandum of an agreement be recorded, to proviso (d) to paragraph (8) of the Second Schedule to the Act.
- (e) The provisions of the Act and these Regulations as to the costs of an arbitration before a judge shall apply to the application.

Where
memorandum
of agreement
relates to
matter within
Second
Schedule,
paragraph (8),
proviso (d) of
Act.
Eng. r. 49.

52. (1) Where a memorandum of agreement as to the redemption of a weekly payment by a lump sum, or as to the amount of compensation payable to a person under any legal disability or to dependants, is presented for registration, the prescribed authority shall, before recording the memorandum, make such inquiries and obtain such information as he thinks necessary in order to satisfy himself whether the memorandum may properly be recorded, regard being had to proviso (d) to paragraph (8) of the Second Schedule to the Act.

(2) It shall be the duty of the parties to the agreement to answer such inquiries and give such information accordingly.

(3) Where it appears to the prescribed authority that the memorandum ought not to be recorded for any reason mentioned in the said proviso, he shall transmit to the Registrar of a County Court all documents in the matter, together with a report in writing stating the information he has obtained and the grounds on which it appears to him that the memorandum ought not to be recorded.

(4) The Registrar shall bring the matter before the court as soon as conveniently may be, and, if on consideration of the report of the prescribed authority, it appears to the court that the memorandum may properly be recorded, it may so direct, and the memorandum shall be recorded accordingly.

(5) If on consideration of the report of the prescribed authority it appears to the court that the memorandum should not be recorded without further inquiry, the prescribed authority shall, on being so informed by the Registrar, send notice to the parties to the agreement according to Form 33 in the Schedule informing them that he has referred the matter to a County Court, and requiring them to attend on a day to be named in the notice, when the matter will be inquired into by the court.

(6) The notices shall be sent to the parties or their solicitors ten clear days at least before the day fixed for the inquiry, unless the court directs shorter notice to be given.

(7) At the inquiry witnesses may be orally examined in the same manner as on the hearing of an action in the County Court.

(8) At the inquiry the court may make such order or give such directions as it thinks fit.

(9) The provisions of the Act and these Regulations as to the costs of an arbitration before a judge shall apply to the inquiry, and in particular if it appears that a report of the prescribed authority has been rendered necessary by the neglect or refusal of any party to an agreement to furnish any information reasonably required of him by the prescribed authority, such party may be ordered to pay the costs of the inquiry.

53. (1) An application to a County Court by or on behalf of any party for the removal from the register of the record of a memorandum of an agreement under proviso (e) to paragraph (8) of the Second Schedule to the Act shall be made on notice in writing, and the provisions of regulation 51 shall apply to the proceedings on the application.

Application for removal of agreement from register under provisions of paragraph (8), proviso (e), Second Schedule to Act.
Eng. r. 50.

(2) If it appears to the court, on a report by the prescribed authority without such application, as in the last preceding sub-regulation mentioned, that the record of a memorandum of an agreement should be removed from the register pursuant to the said proviso, the Registrar shall send notice to the parties to the agreement according to Form 35 in the Schedule, requiring them to attend on a day to be named in the notice when the matter will be inquired into by the court.

Notice where inquiry directed by judge or magistrate.

(3) The notice shall be sent and the inquiry held in accordance with the provisions of the last preceding regulation, and the provisions of that regulation shall apply to the inquiry.

54. (1) Where an agreement is made for the payment of a lump sum in lieu of a weekly payment to a person under any legal disability or for the redemption by a lump sum of a weekly payment payable to a person under any legal disability, and a memorandum thereof has been recorded in accordance with the Act and these Regulations, the sum shall be paid to the prescribed authority and shall be invested, applied, or otherwise dealt with in such manner as a judge or the Comptroller-General in his discretion thinks fit for the benefit of the person entitled thereto, and the receipt of the prescribed authority shall be a sufficient discharge in respect of the amount paid in.

Payment and investment and application of lump sum payable under agreement in lieu of or in redemption of weekly payment to person under disability.
Eng. r. 50 (a).

(2) The provisions of paragraph (6) of the First Schedule to the Act and of regulation 55 shall apply to the payment and the investment and application of the sum.

Division 8.—Payment and Investment of Moneys and Suspension of Payments.

55. (1) In any case in which a seaman has given notice of an accident, or is receiving weekly payments under the Act, and the employer alleges that the seaman refuses to submit himself to medical examination in accordance with paragraph (5), paragraph (11), or paragraph (16) of the First Schedule to the Act, or in any way obstructs the examination, the employer may apply for a suspension of the right to compensation and take or prosecute any proceedings under the Act in relation to compensation, or of the right to the weekly payments, until the examination has taken place, in accordance with this regulation.

Application to stay proceedings or suspend weekly payment on refusal of seaman to submit to examination under Act, Schedule I., par. 5, par. (11), or par. (16).
Eng. r. 56.

(2) Where proceedings are pending before a committee or an arbitrator agreed on by the parties, the application shall be made to the committee or arbitrator.

(3) Where the seaman has given notice of an accident, but no proceedings are pending, or proceedings are pending before the judge or an arbitrator appointed by him, the application shall be made to the judge.

(4) Where the seaman is receiving weekly payments under an award, or memorandum, then—

(a) if proceedings for a review of the weekly payment are pending before a committee or arbitrator agreed on by the parties, the application shall be made to the committee or arbitrator;

(b) if no proceedings for review are pending, or if proceedings for review are pending before the judge or an arbitrator appointed by him, the application shall be made to the judge.

(5) Where the application is made to the judge, it may be made in or out of court in accordance with regulation 51, and the provisions of that regulation shall apply to the proceedings on the application, but in such case the notice shall be served on the seaman or his solicitor five clear days before the hearing of the application, unless the judge or Registrar gives leave for shorter notice.

Payment
investment and
application of
payment in case
of death.
First Schedule,
paragraph (6)
of Act.
Eng. r. 56A.

56. (1) Where any payment in the case of death is to be paid to the prescribed authority pursuant to paragraph (6) of the First Schedule to the Act, the following provisions of this regulation shall have effect.

(2) Where any money is to be paid to the prescribed authority under an award under an arbitration under the Act, payment shall be made in accordance with the directions contained in the award.

(3) The employer shall forthwith give notice to the persons interested in the sum paid in of the payment having been made.

(4) On the payment of money the prescribed authority shall forthwith send by post to each of the persons appearing by the award, or memorandum, to be interested in such money a notice of the said payment in accordance with Form 42 in the Schedule:

Provided that in the case of infant dependants residing with their mother or guardian it shall be sufficient to send such notice to the mother or guardian only.

(5) If all questions as to who are dependants and the amount payable to each dependant have been settled by agreement or arbitration before payment to the prescribed authority, the sum paid shall be allotted between the dependants in accordance with the agreement or award, and the amount allotted to each dependant shall be invested, applied, or otherwise dealt with by the Comptroller-General, as he thinks fit, for the benefit of the person entitled thereto in accordance with paragraph (6) of the First Schedule to the Act.

(6) If any such questions have not been settled before payment to the prescribed authority, then--

- (a) if all the persons interested in the sum paid agree to leave the application thereof to a judge, or if no question arises as to who is a dependant or as to the amount payable to any dependant, or otherwise as to the application of the sum paid into Court; but any of the persons interested in the said sum are absent or under disability the amount paid to the prescribed authority shall, on application to a judge by or on behalf of the persons interested therein, be allotted, invested, applied, or otherwise dealt with by the prescribed authority as the judge directs, for the benefit of the persons interested therein, in accordance with paragraph (6) of the First Schedule to the Act.
- (b) if any question arises as to who is a dependant or as to the amount payable to any dependant, or otherwise as to the application of the sum paid to the prescribed authority, such question may be settled by arbitration in accordance with the Act and these Regulations; and the amount allotted to each dependant shall be invested, applied, or otherwise dealt with by the prescribed authority as a judge or arbitrator directs, for the benefit of the person entitled thereto in accordance with paragraph (6) of the First Schedule to the Act.

(7) Where any question is settled by arbitration in accordance with the last preceding sub-regulation, an application for the investment or application of any sum allotted to any person on the arbitration may be made at or immediately after the hearing of the arbitration.

- (8)(a) Where application is not so made, or in any other case coming within paragraph (6) of the First Schedule to the Act, an application for the investment or application of any sum paid to the prescribed authority, or the amount allotted to any person, shall be made to a judge or arbitrator on notice in writing, stating on whose behalf the application is made, and the order which the applicant asks, in accordance with Form 43 in the Schedule.

(b) The notice shall be filed with the Registrar, and where the application is made by or on behalf of some only of the persons interested, notice thereof shall be served on all other parties interested, or on their solicitors, five clear days at least before the hearing of the application, unless the judge or arbitrator gives leave for shorter notice.

- (c) On the hearing of the application witnesses may be orally examined in the same manner as on the hearing of an action in the County Court.

(d) On the hearing of the application, the judge or arbitrator may, after making or directing such inquiries as to the dependants and on such evidence of title and identity as he thinks necessary, make such order under paragraph (6) of the First Schedule to the Act and this regulation as he thinks fit.

(e) The provisions of the Act and these Regulations as to the costs of an arbitration shall apply to any such application.

(9) An employer paying money to the prescribed authority under this regulation shall not be liable to any costs incurred by any person interested in such money after the receipt of notice of payment to the prescribed authority; but the judge may, in his discretion, order the employer to pay the costs of any such person properly incurred before the receipt of the notice.

(10) Every order for the investment or application of money paid to the prescribed authority shall reserve liberty to the parties interested to apply to the court as they may be advised.

(11) Where any sum allotted to any person under paragraph (6) of the First Schedule to the Act or this regulation is ordered to be paid out to, or applied for the benefit of, the person entitled thereto, by weekly or other periodical payments, the payments may be made to the person entitled to receive the same either at the office of the prescribed authority, or, on the written request of the person, by crossed cheque or post-office order addressed to the person and forwarded by registered post letter, payment by post being in all cases at the cost and risk of the person requesting the same.

Payment
where liability
admitted but
amount not
ascertained.
Reg. r. 56B.

57. (1) If there is no dispute as to the liability to pay compensation, but the amount payable has not been ascertained or decided either by arbitration or by agreement, the employer may pay the amount which he admits to be payable as compensation to the prescribed authority.

(2) The employer shall forthwith give notice to the persons interested in the sum paid in of the payment having been made.

(3) On the payment of money under this regulation the prescribed authority shall make such inquiries and obtain such information as he thinks necessary to satisfy himself whether the amount paid in is adequate in the circumstances of the case, and it shall be the duty of the employer, and of the persons interested in the money paid in, to answer such inquiries and give such information accordingly.

(4) Where it appears to the prescribed authority that the amount paid in is adequate, he shall forthwith send by post, to each of the persons appearing to be interested in the money, a notice of the said payment in accordance with Form 42 (b) in the Schedule:

Provided that in the case of infant dependants residing with their mother or guardian it shall be sufficient to send such notice to the mother or guardian only.

(5) Where it appears to the prescribed authority that the amount paid in is inadequate, he shall transmit all documents in the matter in his possession, together with a report in writing stating the information he has obtained, and the grounds on which it appears to him that the amount paid in is inadequate, to the Registrar of a County Court.

(6) The Registrar of the court shall refer the document and report to a judge.

(7) If on consideration of the report of the prescribed authority, it appears to the judge that the amount paid in is adequate, he may direct the prescribed authority to send to the parties interested notice of payment in accordance with sub-regulation (4) of this regulation.

(8) If on consideration of the report of the prescribed authority, it appears to the judge that further inquiry should be made, the prescribed authority shall send notice to the employer to the parties appearing to be interested in the money paid to him in accordance with Form 41 in the Schedule, informing them that he has referred the matter to the judge, and requiring them to attend on a day to be named in the notice, when the matter will be inquired into by the judge. On the inquiry the judge may make such order as under the circumstances he thinks just, and sub-regulations (5), (6), and (8) of regulation 51 shall apply.

(9) Where notice of payment is sent in accordance with sub-regulation (4) or sub-regulation (6) of this regulation, then—

(a) if any question arises as to the adequacy of the amount paid, the question as to the amount payable as compensation, and all questions as to who are dependants and the amount payable to each dependant, shall be settled by arbitration in accordance with the Act and these regulations, and the amount allotted to each dependant shall be invested, applied, or otherwise dealt with by a judge for the benefit of the persons entitled thereto in accordance with paragraph (6) of the First Schedule to the Act, and sub-regulations (7), (8), (10), and (11) of the last preceding regulation.

(b) if no question arises as to the adequacy of the amount paid into court, the amount paid into court shall be allotted, invested, applied, or otherwise dealt with by a judge in accordance with sub-regulations (6) to (8), (10) and (11) of the last preceding regulation.

58. (1) Where a claim for compensation has been made by or on behalf of dependants, and the employer denies liability, but is willing to pay an amount in settlement of the claim, and such of the dependants as are not under disability are willing to accept the amount in settlement, the employer may pay the amount to the prescribed authority.

Payment into court where liability denied.

Reg. r. 56c.

(2) The employer shall forthwith give notice to the persons interested in the sum paid in of the payment having been made.

(3) On the payment of money to the prescribed authority under this regulation, the prescribed authority shall proceed according to sub-regulation (3) of the last preceding regulation, and the provisions of that regulation shall apply to proceedings subsequent to the payment.

Application for payment of weekly payment to person under legal disability, paragraph (7), First Schedule, Act.

Eng. r. 57.

Application for variation of order, paragraph (10) First Schedule, Act.

Eng. r. 58.

59. Where, under paragraph (7) of the First Schedule to the Act, any weekly payment is to be paid to the prescribed authority, the sums paid shall be paid out by the prescribed authority to or otherwise applied for the benefit of the person entitled thereto in such manner as the Comptroller-General directs.

60. (1) An application for the variation of an order of the court under paragraph (10) of the First Schedule to the Act shall be made on notice in writing, stating the circumstances under which the application is made, and the relief or order which the applicant desires.

(2) The notice shall be filed with the Registrar, and notice thereof shall be served on all persons interested in accordance with regulation 51; and the provisions of that regulation and of Regulation 56 shall apply to the proceedings on the application.

Investment and application of sums paid in redemption of weekly payments, paragraph (18), First Schedule, Act.

Eng. r. 59.

61. Where pursuant to paragraph (18) of the First Schedule to the Act a lump sum payable for the redemption of any weekly payment is ordered by a committee or an arbitrator or by the judge to be invested or applied for the benefit of the person entitled thereto, the sum shall be paid to the prescribed authority, and the provisions of paragraph (6) of the First Schedule to the Act and of Regulation 56 shall apply to the investment and application of the sum.

When seaman receiving weekly payment intends to cease to reside in Australia.

Eng. r. 60.

62. (1) Where a seaman receiving a weekly payment intends to cease to reside in Australia the provisions of this regulation shall have effect under paragraph (19) of the First Schedule to the Act.

(2) The seaman may apply to the prescribed authority to refer to a medical referee the question whether the incapacity of the seaman resulting from the injury is likely to be of a permanent nature.

(3) The application shall be made on notice in writing, in accordance with Form 46 in the Schedule, which shall be filed with the prescribed authority, and shall be accompanied by a report of a medical practitioner selected by the seaman, setting out the nature of the incapacity alleged to be the result of the injury, and a copy of the application and of the report shall be served on the employer or his solicitor in accordance with regulation 51, and the applicant shall file a copy of the application and of the report for the use of the medical referee.

(4) The employer may, on being served with notice of the application, require the seaman to submit himself for examination by a medical practitioner provided and paid by the employer, in accordance with paragraph (11) of the First Schedule to the Act; and if the employer requires the seaman to submit himself for such examination he shall before or at the hearing of the application furnish the worker with a copy of the report of that practitioner as to the seaman's condition, and file a copy of the report for the use of the medical referee.

(5) The seaman and the employer respectively may before or at the hearing of the application submit to the prescribed authority such statements in writing as they think fit, with copies of such statements for the use of the medical referee.

(6) On the hearing of the application the prescribed authority on being satisfied that the applicant has a *bonâ fide* intention of ceasing to reside in the Commonwealth shall make an order referring the question to a medical referee; and if he is not so satisfied, he may refuse to make an order, but in that case he shall, if so requested by the applicant, refer the matter to a judge, who may make such order or give such directions as he think fit.

(7) If the prescribed authority makes an order referring the question to a medical referee, he shall also make an order directing the seaman to submit himself for examination by the medical referee, subject to and in accordance with these Regulations, and the provisions of sub-regulations (3) to (6) of regulation 90 shall with the necessary modifications apply.

(8) The prescribed authority shall with the order of reference forward to the medical referee copies of any statements submitted to him by either party.

(9) The medical referee shall forward his certificate in the matter to the prescribed authority by registered post, specifying therein the nature of the incapacity of the seaman resulting from the injury, and whether such incapacity is likely to be of a permanent nature; and the prescribed authority shall thereupon proceed in accordance with sub-regulation (8) of Regulation 90.

(10) Where the medical referee certifies that the incapacity resulting from the injury is likely to be of a permanent nature, the prescribed authority shall on application furnish the seaman—

- (a) with a copy of the certificate of the medical referee, certified by the prescribed authority in his own handwriting to be a true copy; and
- (b) with a copy of the award, memorandum, or certificate under which the weekly payment is payable, and certified by the prescribed authority in his own handwriting to be a true copy; and
- (c) with a certificate of identity in accordance with Form 48 in the Schedule; and
- (d) with a notice in accordance with Form 49 in the Schedule annexing thereto forms of certificate and declaration in accordance with Forms 50 and 51 in the Schedule;

and shall procure from the seaman a specimen of his signature and file the same for reference (except in cases where the worker is illiterate and unable to sign his name).

(11) A seaman who desires to have the weekly payments payable to him remitted to him while residing out of Australia shall at intervals of three months from the date to which such payments were last made submit himself to examination by a medical practitioner in the place where he is residing, and shall produce to him the copy of the certificate of the medical referee and the certificate of identity furnished under the last preceding sub-regulation, and shall obtain from him a certificate in accordance with the form in the Schedule that the incapacity of the seaman resulting from the injury continues, and the certificate shall be verified by declaration by the medical practitioner, in the presence of the seaman, before a person having authority to administer an oath.

(12) The seaman shall also make a declaration of identity in accordance with Form 51 in the Schedule before a person having authority to administer an oath, producing to such person the copy and certificate above mentioned, and the certificate of the medical practitioner by whom he has been examined.

(13) The seaman shall forward the certificate and declaration to the prescribed authority, with a request, in accordance with Form 52 in the Schedule for the transmission to him of the amount of the weekly payments due to him, specifying the place where and the manner in which the amount is to be remitted, which request shall be signed by the seaman in his own handwriting (except in cases where the seaman is illiterate and unable to sign his name).

(14) On receipt of the certificate, declaration, and request (if any), the prescribed authority shall examine the same, and may, if not satisfied that they are in order, return them for correction.

(15) If the prescribed authority is satisfied that the certificate, declaration, and request (if any) are in order, he shall send to the employer a notice in accordance with Form 53 in the Schedule, requesting him to forward the amount due, and the employer shall thereupon forward the amount to the prescribed authority who shall remit the same, less any fees payable to the prescribed authority and the costs of transmission, to the seaman at the address and in the manner requested by him, the remittance being in all cases at the cost and risk of the seaman.

Payment of
arrears of
weekly
payments on
death of
seaman
residing out
of Australia.
Reg. r. 60A.

63. (1) In the event of the death of a seaman in receipt of weekly payments while residing out of Australia, his representative shall, for the purpose of obtaining payment of the arrears due to the seaman, forward to the prescribed authority a certificate of the death of the seaman and documents showing that they are entitled to such arrears, verified by declaration before a person having authority to administer an oath, with a request for payment of such arrears, specifying the place where and the manner in which the amount is to be remitted to them.

(2) For the purpose of this Regulation the expression "representatives" shall mean--

- (a) if the seaman leaves a will, the executors of such will; or
- (b) if the seaman dies intestate, the persons who are according to law entitled to his personal estate, and payment of the arrears may be made to such persons without the production of letters of administration.

(3) On the receipt of the certificates and documents mentioned in this regulation the prescribed authority shall examine the same, and may, if not satisfied that the same are in order, return the same for correction.

(4) If the prescribed authority is satisfied that the certificate and documents are in order, or when they are returned to him in order, he shall send to the employer a notice requesting him to forward the amount due, and the employer shall remit the same, less any fees payable to the prescribed authority and the costs of transmission, to the representatives of the seaman at the address and in the manner requested by them, such remittance being in all cases at the cost and risk of such representatives.

(5) Upon the employer remitting the amount in accordance with the notice he shall be discharged from any further liability in respect of any arrears.

Division 9. - Miscellaneous.

64. (1) Any costs of and incident to an arbitration and proceedings connected therewith directed to be paid by one party to another shall, in default of agreement between the parties as to the amount of such costs, be taxed according to such one of the scales of costs for the time being applicable to actions in the County Court as the committee, arbitrator, or the judge directs, and in default of such direction shall be taxed according to the scale which would be applicable if the proceeding had been an action in the County Court, and the statutory provisions and rules for the time being in force as to the allowance and taxation of costs on such actions, and as to objections and review of taxation by the Registrar shall, so far as applicable, apply accordingly.

Costs.
Paragraph (6),
Second
Schedule, Act.
Cl. Reg. r. 61.
Vic. r. 68.

(2) The costs, whether before a committee or an arbitrator or in the County Court, shall not exceed the limit prescribed by rules of court and shall, subject to these regulations, be taxed in the manner prescribed by those rules.

65. (1) Where the subject-matter of an arbitration is not a capital sum, the committee, arbitrator or the judge shall determine what, for the purpose of the allowance and taxation of costs, shall be considered to be the amount of the subject-matter of the arbitration; and in default of such determination the amount shall be fixed by the Registrar by whom the costs are to be taxed.

How amount
for purposes of
taxation to be
determined,
&c.
Eng. r. 61 (2).

Reasonable costs may be allowed where provision not expressed.
Eng. (2a) of r. 61

Ib. (3).

(2) Where proceedings are taken for which no provision is made by these Regulations or by the scale of costs, reasonable costs may be allowed in respect of such proceedings by the Registrar, or by special order of the judge.

(3) The committee, arbitrator, or the judge in dealing with the question of costs may take into consideration any offer of compensation proved to have been made on behalf of the employer.

Ib. (4).

(4) Where any seaman is examined by a medical referee on a reference under paragraph (13) of the First Schedule to the Act, and the certificate of the referee is used in any subsequent arbitration, any reasonable travelling and other expenses incurred by the seamen in obtaining the certificate (if not otherwise provided for) may, by order of the committee, arbitrator, or the judge, be allowed as costs in the arbitration.

Ib. (5).

(5) Where a seaman is ordered to submit himself for examination by a medical referee appointed to report under paragraph (12) of the Second Schedule to the Act, any reasonable expenses incurred by the seaman in travelling to attend on the referee for examination may by order of the committee, arbitrator, or the judge be allowed as costs in the arbitration.

Taxation of costs awarded by committee or arbitrator agreed on by the parties.
Cf. Eng. r. 62.

66. (1) Where any costs are awarded by a committee or arbitrator agreed on by the parties, an application by any party interested may be made to the Registrar of a County Court for the taxation of the costs so awarded.

(2) Upon the receipt of the application, the Registrar shall fix a time for the hearing of the application, not being less than seven days from the date of the application.

(3) Upon the time for the hearing of the application being fixed, the Registrar shall send a notice thereof to the parties to the arbitration.

(4) On the day fixed for the hearing the Registrar shall dispose of the application on hearing the parties or such of them as are present at the hearing.

(5) On the costs being taxed the Registrar shall notify the prescribed authority, with whom the memorandum of the decision of the committee or arbitrator has been recorded, of the amount of costs allowed on the taxation.

(6) The prescribed authority shall enter the amount of costs allowed on the taxation in the register, and the entry shall be deemed to be part of the memorandum recorded with the prescribed authority, and shall be enforced accordingly.

Execution.
Eng. r. 67.
Vic. r. 68.

67. (1) When a party liable to pay compensation or costs under any award or memorandum has made default in payment of the amount awarded, or where payment is to be made by instalments, of any instalment, execution may issue against his goods without leave for the amount in payment of which he has made default.

(2) The party applying for execution shall satisfy the Registrar by affidavit or otherwise, as to the amount in payment of which default has been made.

(3) Where the parties liable to pay compensation or costs under any award or memorandum are a firm, an execution under this rule may issue in manner following :—

- (a) Against any property of the partnership ;
- (b) Against any property of any person who has admitted in the proceedings that he was a partner at the time of the accruing of the cause of complaint, or who has been adjudged to be liable as a partner ;
- (c) Against any property of any person who was individually served as a partner or a person sought to be made liable and who failed to appear at the arbitration.

(4) If the party who has obtained the judgment or order claims to be entitled to issue execution against the property of any other person as a member of the firm, he may, after giving to the person two clear days' notice of his intention, apply to the judge for leave so to do ; and the judge may give the leave if the liability is not disputed, or if the liability is disputed, may try and determine the question.

(5) Except as against any property of the partnership, an award against a firm shall not render liable, release, or otherwise affect any member thereof who was out of Australia when the proceedings were commenced, unless he has been made a party or has been served within Australia after proceedings commenced.

68. (1) Where proceedings by way of judgment summons are taken against a party liable to pay compensation or costs under any award or memorandum, who has made default in payment of the amount awarded, or (where payment is to be made by instalments) of any instalment, the County Court Rules for the time being in force as to the committal of judgment debtors shall, with any necessary modifications, apply to such proceedings :

Proceedings
on judgment
summons.
Eng. r. 68.
Vic. r. 68.

Provided that the court shall not alter the terms or mode of payment of any sum to become payable in future under any award or memorandum otherwise than by consent.

(2) The party applying for a judgment summons shall satisfy the court, by affidavit or otherwise, as to the amount in payment of which default has been made.

(3) A judgment summons issued under this regulation shall be in accordance with Form 55 in the Schedule.

(4) Where the parties liable to pay compensation or costs are a firm, the provisions of the County Court Rules for the time being as to judgment summonses on a judgment or order against a firm shall, with the necessary modifications, apply to proceedings by way of judgment summons under this regulation.

69. The County Court Rules for the time being in force as to proceedings for the enforcement of or the recovery of money due under judgments or orders of the County Court otherwise than by execution or committal shall, with the necessary modifications, apply to proceedings for the enforcement of or the recovery of money due under any award or memorandum.

Other
proceedings for
enforcement of
award, &c.
Eng. r. 69.

When award
or order may
be set aside
or varied.
Eng. r. 70

70. (1) Where the judge is satisfied—

- (a) that any award, or any order as to the application of any amount awarded or agreed upon as compensation made by the judge or an arbitrator appointed by him, has been obtained by fraud or other improper means; or
- (b) that any person has been included in any award or order as a dependant who is not in fact a dependant; or
- (c) that any person who is in fact a dependant has been omitted from any award or order,

the judge may set aside or vary the award or order, and may make such order (including an order as to any sum already paid under the award or order) as under the circumstances he thinks just.

(2) An application to set aside or vary an award or order under this regulation shall be made on notice in writing, and the provisions of regulation 50 shall apply to the proceedings on such application.

(3) An application to set aside or vary an award or order under this regulation shall not be made after the expiration of six months from the date of the award or order, except by leave of the judge; and the leave shall not be granted unless the judge is satisfied that the failure to make the application within such period was occasioned by mistake, absence from Australia, or other reasonable cause.

Deposit of
order of Court
of Appeal with
Registrar and
procedure
thereon.
Eng. r. 72.

71. (1) When the Court of Appeal has given judgment on any appeal, any party may deposit the order of the court of Appeal, or an office copy thereof, with the Registrar, and the Registrar shall file the order or copy and shall transmit a copy thereof to the judge, and the order shall have the same effect as if it had been a decision of the judge.

(2) If the order has the effect of an award, decision, or order in the matter in favour of any party, the order shall be served and recorded and may be proceeded on in the same manner as if it had been an award decision or order of the judge.

(3) If the order be to the effect that an award be made or a decision given or order made in favour of any party, the judge shall make the award or give the decision or make the order accordingly.

(4) If the order directs or involves a rehearing or further hearing of an arbitration or special case or other matter, the judge shall as soon as conveniently may be appoint a day and hour for the rehearing or further hearing, and shall instruct the Registrar to give notice thereof forthwith to the parties.

(5) Generally the judge shall make such award or give such decision or make such order and give such directions and take or direct to be taken such proceedings in the matter, as are necessary to give effect to the order of the Court of Appeal.

72. (1) All matters which under the Act or these Regulations are required to be done in the County Court, or by, to or before a judge, shall be done in the County Court, or by, to or before a judge holding such County Court—

Where proceedings may be taken. Eng. r. 73.

- (i) nearest to the place in which all the parties reside ;
- (ii) if the parties concerned reside in different places—
 - (a) nearest to the place in which the accident out of which the matter arose occurred ; or
 - (b) if the accident out of which the matter arose occurred at sea,
 - (A) nearest to the place in which the ship shall be when the matter is to be done ; or
 - (B) nearest to the port of registry of the ship ; or
 - (c) nearest to the place in which the seaman or the dependants of the seaman by whom or on whose behalf the matter is to be done, or some or one of them, resides or reside ;

without prejudice to any transfer in manner provided by these Regulations.

(2) An application for an order for the detention of a ship may be made to the judge of any court.

(3) Where proceedings by way of arbitration for the recovery of compensation are taken against the persons giving security pursuant to section 13 of the Act and regulation 42, the proceedings may be commenced in the County Court—

- (i) nearest to the place in which all the parties reside ;
- (ii) if the parties concerned reside in different places—
 - (a) nearest to the place in which the accident out of which the matter arose, occurred ; or
 - (b) if the accident occurred at sea—
 - (A) nearest to the place where the vessel is or was detained, or where the order for detention was made or applied for ; or
 - (B) nearest to the place where the seaman or the dependants of the seaman, or some or one of them, resides or reside ;

without prejudice to any transfer in manner provided by these Regulations.

73. Where any party intends to take the objection that proceedings have been commenced or taken in the wrong place he shall give fourteen clear days' notice of his intention so to do, and the judge, if he upholds such objection, may transfer the proceedings to the proper place upon such terms as he thinks fit.

Variation by a judge other than the judge making the order.

74. The judge for the time being, holding a court in any district or place, may vary or otherwise deal with any matter or order dealt with or made by any other judge who has held a court in the same district or place, so far as the circumstances of the case will permit.

Filing of certified copy of memorandum, &c., recorded under Second Schedule of Act paragraph (8) before taking subsequent proceedings in a court.

75. Where an award, or a memorandum under paragraph (8) of the Second Schedule to the Act, has been recorded, and any party desires to take any subsequent proceedings with reference to the subject-matter of such award or memorandum in a court, he shall before taking the proceedings obtain from the prescribed authority a certified copy of the award or memorandum and shall file the same in the court in which he desires to take proceedings.

Eng. r. 74.

Transfer.
Eng. r. 75.

76. If the judge is satisfied by any party to any matter under the Act before him that the matter can be more conveniently proceeded with before any other judge as the case may require, he may order the matter to be transferred to the other judge, and thereupon the Registrar shall forthwith transmit by registered post to the Registrar of the County Court at the place to which the matter is transferred, all original documents filed in the matter, and shall transfer to the last-mentioned court any money invested in his name as Registrar, and thenceforth the matter shall be proceeded with in the court at the place to which it is transferred in the same manner as if it had originally been commenced therein.

Procedure in connexion with application to transfer.
(O VIII r. 9, Eng.).

77. (1) Where application is intended to be made for the transfer under the last preceding regulation, three clear days' notice in writing of such intended application shall be given by the applicant to the Registrar and to all parties who may be affected by the application; but the judge may at any time, by consent of all parties, or without such consent, if he thinks fit, order a transfer although this regulation has not been complied with.

(2) When a transfer is ordered, the judge may make such order as to the costs incurred before or occasioned by such transfer as he thinks fit, and a certified copy of the proceedings shall be transmitted.

(3) The costs of such copy and the costs of transmission shall be paid for in the first instance by the party on whose application the transfer has been made, or if the transfer is made by the judge without any application to transfer being made to him, the costs shall be paid for in the first instance by the applicant; but the payment shall be without prejudice to any question as to the party by whom the costs are ultimately to be borne.

Filing and service of documents and notices.
Eng. r. 77.

78. (1) Where any document is to be filed with the Registrar or the prescribed authority under these Regulations, that document may be so filed by delivering it at the office of the Registrar, or prescribed authority (as the case may be), or by sending it by post addressed to the Registrar or the prescribed authority (as the case may be), at his office.

(2) Where any document is to be so filed, there shall be filed with the original document as many copies of the document as there are persons to whom copies of the document or any part thereof are to be sent by the Registrar or by the prescribed authority, and in addition a copy for the use of the judge.

(3) Where any document is under these Regulations to be sent to any person by the Registrar, or by the prescribed authority, that document may be sent by post.

(4) Any proceeding, document, or notice which is under these Regulations to be served on any party may be served on the party by the opposite party or his solicitor; and where no special provision as to the mode of service is made by these Regulations, the proceeding, document or notice may be served on the party or, where he acts by a solicitor, on his solicitor in manner provided by sub-sections (3), (4), and (5) of section 6 of the Act with reference to service of notice in respect of an injury.

79. The following provisions shall apply to the case of parties acting by solicitors, and as to substituted service and notice in lieu of service—

- (a) When a party acts by a solicitor, service of any order in the nature of a decree and of any interlocutory order, or any notice relating to any such order when directed to be served, may be made by or upon the solicitor, as the case may be.
- (b) Where by these Regulations any act may be done by any party, the act may be done either in person or by his solicitor or, where it can legally be done by an agent, by an agent.
- (c) Where a party acts by a solicitor, any document, notice or proceeding, required to be served by or upon the party, may be served by or upon the solicitor, except in cases where by these Regulations personal service upon a party is required; and service of the document, notice, or proceeding upon the solicitor, or delivery of the same at his office or sending the same to him by post, prepaid, shall be deemed to be good service upon the party for whom the solicitor acts, as upon the day when the same is so served or delivered, or upon which, in the ordinary course of post, it would be delivered: Provided that the provisions of this paragraph shall not extend to any judgment summons.
- (d) A solicitor acting for a party in any matter may give notice in writing by post or otherwise to the Registrar and to the other party, or his solicitor, that he is so acting, whereupon service of any document, notice or proceeding whatsoever authorized by these Regulations to be served by or upon a solicitor so acting shall be served by or upon the solicitor accordingly, and he shall be deemed to be the solicitor acting for the party on whose behalf he has given the notice, until notice of change of solicitor has been duly given.

Provisions as to parties acting by barristers and solicitors and as to substituted service and notice in lieu of service.
Cf. Eng. r. 78.

- (e) Where a solicitor undertakes the service of any process, he shall make the necessary copies of each process, and the Registrar shall initial the same and return them to the solicitor for service.
- (f) Any party who acts by a solicitor may change his solicitor without any order for that purpose, but when any change is made he shall give forty-eight hours' notice in writing to the Registrar and to the other parties to the proceedings or the solicitors (if any) acting for them of the change and of the name or firm and place of business of the new solicitor, and the Registrar shall file the notice given to him; but until the notice is filed and a copy thereof served, the former solicitor shall be deemed to be the solicitor of the party.
- (g) Where by reason of the absence of any party or from any other sufficient cause, the service of any summons (other than a judgment summons), petition, notice, proceeding or document cannot be made, a judge may, upon an affidavit showing grounds, make such order for substituted or other service, or for the substitution for service of notice by advertisement or otherwise, as is just.

Service of documents where Commonwealth a party.
Cf. Eng. r. 79.

80. In any proceedings under the Act or these Regulations, arising out of an injury to a seaman employed by or under the Commonwealth, any proceeding, document, or notice to be served on the Commonwealth may be served on the permanent head of the department in which the seaman is employed subject to the provisions of these Regulations as to service on parties acting by solicitors.

Procedure where not otherwise provided for.
Eng. r. 80.

81. Where any matter or thing is not specially provided for under these Regulations, 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 Acts relating to County Courts, and the Rules made in pursuance of those Acts, in so far as such procedure and provisions are applicable to proceedings by way of arbitration.

Record of proceedings before judge or magistrates.
Special register.
Eng. r. 81.

82. Proceedings under the Act before a judge or arbitrator shall be recorded in the books of the County Court in the place in which proceedings have been commenced, or to which they have been transferred, in the manner in which other proceedings in the County Court are recorded; and the Registrar shall also keep a special register for the purposes of the Act, in which he shall record—

- (i) A memorandum of every application made to the judge for the settlement of any matter by arbitration.
- (ii) A memorandum of every appointment of an arbitrator to settle any matter made by the judge.
- (iii) A memorandum of every proceeding taken in any arbitration before the judge or an arbitrator appointed by him prior to the award.

- (iv) A memorandum of every appointment of a medical referee by the judge or arbitrator, and of his report.
- (v) A memorandum of every award made by the judge or an arbitrator appointed by him.
- (vi) A memorandum of every special case submitted to the judge and of the proceedings and order thereon.
- (vii) A memorandum of every judgment given by the Court of Appeal on any appeal.
- (viii) A memorandum of every application to the court for the detention of a ship pursuant to section 13 of the Act and regulation 42, and of the order and subsequent proceedings thereon.
- (ix) A memorandum of every application to the court for the appointment of an arbitrator in case of the death or refusal or inability to act of an arbitrator agreed on by the parties, and of the proceedings and order thereon.
- (x) A copy of every memorandum sent to the prescribed authority pursuant to paragraph (8) of the Second Schedule to the Act, and of the report (if any) of the medical referee annexed thereto, with a note stating whether such memorandum was recorded without further proof, or after inquiry, or by order of the judge.
- (xi) If the memorandum is recorded after inquiry, a memorandum of the inquiries made and of the result thereof.
- (xii) If the memorandum is recorded by order of the judge, a memorandum of the application to the judge and of the order made thereon.
- (xiii) If in the case of a memorandum of an agreement the matter is referred to the judge, a memorandum of the reference and of the directions of the judge and the subsequent proceedings and order thereon.
- (xiv) A memorandum of the result of every taxation under any such memorandum, or under any award or order.
- (xv) A memorandum of every application to rectify the register in respect of any memorandum, and of the proceedings and order thereon.
- (xvi) A memorandum of every application or report with reference to the removal of the record of a memorandum of an agreement from the register, and of the subsequent proceedings and order thereon.
- (xvii) A memorandum of every proceeding taken for the enforcement of any award, order, memorandum, or certificate and of the result of such proceeding.
- (xviii) A memorandum of every application to refer a matter to a medical referee pursuant to paragraph (13) of the First Schedule to the Act, and of the order and subsequent proceedings thereon.

- (xix) A memorandum of every application for the suspension of the right to compensation or to take or prosecute any proceedings under the Act in relation to compensation or of the right to weekly payments and of the proceedings and order thereon.
- (xx) A memorandum of every application made with reference to any sum paid to the prescribed authority and of every order made on such application and of the manner in which the sum is invested, applied, or disposed of.
- (xxi) A memorandum of every application for variation of an order as to the apportionment, investment, or application of any sum paid as compensation, and of the proceedings and order thereon.
- (xxii) A memorandum of every application to set aside or vary an award or order under Regulation and of the proceedings and order thereon.
- (xxiii) A memorandum of every certified copy filed pursuant to regulation 75.
- (xxiv) A memorandum of every application for transfer, and of the order thereon and the proceedings under the order.
- (xxv) A memorandum of the transmission of documents and certified copies under sub-regulation (14) of regulation 42.
- (xxvi) A memorandum of the transfer of any money paid into court to any other court.
- (xxvii) The like memorandum as to every matter transferred or document or certified copy transmitted or money transferred to a court, as would have been recorded as to such matter, document, or money if it had been originally commenced and prosecuted in or transmitted to or paid into the court.
- (xxviii) A memorandum of any other matter which the judge shall order to be recorded with reference to any matter brought into or proceeding taken under the Act.

PART III.—TIMES FOR EXAMINATION OF SEAMEN BY A MEDICAL PRACTITIONER PAID BY EMPLOYER.

Worker meeting with accident not to be required to be medically examined except at reasonable hours.

Intervals between examinations of worker in receipt of weekly payments.

83. Where a seaman has given notice of an accident or is in receipt of weekly payments under the Act, he shall not be required to submit himself, against his will, for examination by a medical practitioner provided by the employer except at reasonable hours.

84. A seaman in receipt of weekly payments shall not be required, after a period of one month has elapsed from the date on which the first payment of compensation was made, or if the first payment is made in obedience to the award of a judge or arbitrator, from the date of the award, to submit himself, against his will, for examination by a medical practitioner provided by the employer except at the following intervals :—Once a week during the second, and once a month during the third, fourth,

fifth, and sixth months, after the date of the first payment or the award, as the case may be, and thereafter once in every two months :

Provided that where after the second month an application has been made to a judge or arbitrator for a review of the weekly payment, the seaman may be required, pending and for the purposes of the settlement of the application, to submit himself to one additional examination.

Additional examination after second month when revision of payments sought.

PART IV.—DUTIES AND REMUNERATION OF MEDICAL REFEREES UNDER PROVISIONS OF FIRST AND SECOND SCHEDULES OF THE ACT.

Division 1.—General.

85. In the case of any reference under these Regulations, the medical referee, in the absence of special circumstances, shall be one of those appointed for the place in which the case arises :

In absence of special circumstances reference to be to referee for place in which case arises.

Provided that, where there has been a previous reference in any case, any subsequent reference in the same case shall, if possible, be made to the same referee and be accompanied by the previous report or certificate, or copy thereof, of the medical referee.

86. The medical referee shall not accept any reference under these Regulations unless signed or countersigned by the Registrar of a County Court and sealed with the seal of the County Court or unless signed by the prescribed authority.

Reference to be signed by Registrar and have court seal.

87. The medical referee shall send to the prescribed authority, at the end of each quarter, statements, in accordance with the forms in the Schedule, of the fees due to him for the quarter under these Regulations.

Referee to furnish quarterly statement of fees.

88. In cases where a claim is made under these Regulations in respect of travelling expenses, the medical referee, in submitting his quarterly statements under the last preceding regulation, shall certify the distance of the place to which he was required to travel from his residence or other prescribed centre.

Statement of travelling expenses with quarterly statement.

89. In cases involving special difficulty the medical referee may apply to the Minister for special expert assistance, which may be granted by the Minister, if he thinks fit, on such terms as to remuneration or otherwise as he thinks fit.

Minister may allow referee special expert assistance.

Division 2.—References under Schedule I; Paragraph (13).

90. (1) With respect to applications to the prescribed authority pursuant to paragraph (13) of the First Schedule to the Act to refer any matter to a medical referee the following provisions shall have effect.

Application for reference to a medical referee under paragraph (13) of First Schedule of Act.

(2) An application to the prescribed authority to refer any matter to a medical referee shall be made in writing, and shall contain a statement of the facts which render the application necessary, in accordance with Form 36 in the Schedule and shall

Eng. c. 54.

be accompanied by a copy of the report of every medical practitioner who has examined the worker either on behalf of the employer or on the selection of the worker. The application shall be signed by or on behalf of both parties; and the applicant shall file copies of the application and reports for the use of the medical referee.

(3) On the hearing of the application the prescribed authority shall refer the matter to one of the medical referees appointed for the area comprising the place in which the arbitration is pending; and shall forward to the medical referee by registered post one of the filed copies of the application and reports, with an order of reference in accordance with Form 57 in the Schedule.

(4) The prescribed authority shall also make an order directing the seaman to submit himself for examination by the medical referee.

(5) Before making the order the prescribed authority shall inquire whether the seaman is in a fit condition to travel for the purpose of examination, and if satisfied that he is in a fit condition shall by the order direct him to attend at such time and place as the referee determines, and if satisfied that he is not in a fit condition to travel shall so state in the order of reference; and it shall be the duty of the seaman on being served with the order to submit himself for examination accordingly.

(6) The prescribed authority shall deliver or send by registered post to each party a copy of the order of reference, and shall send to the seaman a copy of the order directing him to submit himself for examination, with a notice of the consequence or effect of any refusal or obstruction to the submission for examination.

(7) The medical referee shall forward his certificate in the matter to the prescribed authority by registered post.

(8) On the receipt of the certificate of the medical referee the prescribed authority shall inform the parties by post that it has been received, and shall permit any party to inspect the same during office hours, and shall on the application and at the cost of either party furnish him with a copy of the certificate, or allow him to take a copy thereof.

(9) The fee payable by the applicant for such reference shall be calculated at the rate of One shilling in the pound on twenty-six times the amount of the weekly payments claimed by or payable to the seaman, but so that the total fee shall not exceed Two pounds.

(10) The costs of any application to the prescribed authority, including the fee paid under the last preceding sub-regulation may be allowed as costs in any subsequent proceedings for the settlement of the weekly payment to be made to the seaman, or where the application is made after the weekly payment has been settled, as costs in any subsequent arbitration as to the review of the weekly payment.

On receipt of reference referee to send notice to parties fixing time and place of examination.

91. The medical referee shall, on receipt of a reference duly signed and sealed, fix a time and place for the examination of the seaman, and shall send notice accordingly to both the parties signing the application on which the reference is made.

92. Before giving the certificate required by the reference, the medical referee shall personally examine the seaman and shall consider any statements that may be made or submitted by either party.
93. The certificate given by the medical referee shall be in accordance with Form 58 in the Schedule.
94. The medical referee shall forward his certificate to the prescribed authority from whom he received the reference.
95. The following shall be the scale of fees to be paid to medical referees in respect of references under this Division of these Regulations—
- (a) for a first reference (to include all the duties performed in connexion therewith) . . . £2
 - (b) for a second or subsequent reference to the same medical referee in the same case . . . £1
 - (c) where, in order to examine the injured seaman, the medical referee is compelled to travel to a place distant more than 2 miles from his residence or such other centre as may be prescribed by the Minister, in addition to the above fees—5s. for each mile beyond 2 and up to 10 miles distant from such residence or centre, and thereafter 1s. 6d. for each mile distant therefrom.

Referee before certifying to personally examine seaman.

Form of certificate.

Certificate to be sent to registrar.

Scale of referee fees.

Division 3.—References under Schedule I., Paragraph (19).

96. The medical referee shall, on receipt of a reference duly signed and sealed, fix a time and place for the examination of the seaman, and shall send notice accordingly to the seaman.
97. Before giving the certificate required by the reference the medical referee shall make a personal examination of the seaman.
98. The certificate given by the medical referee shall be in accordance with Form 60 in the Schedule.
99. The medical referee shall forward his certificate to the prescribed authority from whom he received the reference.
100. The fee to be paid to a medical referee in respect of a reference (to include all the duties performed in connexion therewith) under this Division of these Regulations shall be One pound.
101. (1) A committee, arbitrator, judge, or County Court may submit to a medical referee for report any matter which seems material to any question arising in an arbitration.
- (2) When any matter is submitted, the committee, arbitrator, judge, or County Court may, subject to and in accordance with these Regulations, order the injured seaman to submit himself for examination by the medical referee; and it shall be the duty of the seaman on being served with the order to submit himself for examination accordingly.

Referee to notify parties of time and place of examination.

Referee before certifying to personally examine seaman.

Form of certificate.

Certificate to be sent to registrar.

Fee of medical referee.

Appointment of medical referees to report under paragraph (12) of Second Schedule of Act.
Eng. r. 53.

Division 4.—References under Schedule II., Paragraph (12).

Conditions of
reference.

102. Before making any reference the committee, arbitrator, or judge shall be satisfied, after hearing all medical evidence tendered by either side, that such evidence is either conflicting or insufficient on some matter which seems material to a question arising in the arbitration, and that it is desirable to obtain a report from a medical referee on the matter.

Form and
mode of
reference.

103. (1) Every reference shall be made in writing, and shall state the matter on which the report of the medical referee is required, and the question arising in the arbitration to which the matter seems to be material.

(2) The reference may be in accordance with Form 61 in the Schedule.

(3) The reference shall be accompanied by a general statement of the medical evidence given on behalf of the parties.

(4) If the evidence has been given before a committee or agreed arbitrator, each medical witness shall sign the statement of his evidence, and may add any necessary explanation or correction.

Order for
examination
of seaman.

104. (1) On making the reference to the medical referee, the committee, arbitrator, or judge shall make an order in accordance with Form 62 in the Schedule, directing the injured seaman to submit himself for examination by the medical referee.

(2) Before making the order the committee, arbitrator, or judge shall inquire whether the seaman is in a fit condition to travel for the purpose of examination, and if satisfied that he is in a fit condition, they shall, by the same order, direct him to attend at such time and place as the referee determines.

(3) If the committee, arbitrator, or judge is satisfied that the seaman is not in a fit condition to travel, they shall so state in the reference.

(4) It shall be the duty of the injured seaman to obey the order.

Reference to
be signed.

105. The reference shall be signed, if made by a committee, by the chairman and secretary of the committee; if made by an agreed arbitrator, by the arbitrator; if made by a judge or an appointed arbitrator, by the judge or arbitrator, or by the Registrar of the court in which the arbitration is pending.

Committee or
agreed
arbitrator
need not
name referee.

106. A committee or an agreed arbitrator making a reference shall, without naming a medical referee, address the reference in general terms to "one of the medical referees appointed by the Minister for the purposes of the *Seaman's Compensation Act 1911*," and shall forward it to the Registrar of the County Court of the place in which the case arises.

107. (1) In the case of a reference by a committee or agreed arbitrator, the Registrar on receiving the reference shall— Duties of Registrar.

- (a) see that the reference is in accordance with these Regulations, and if it is not, return it for amendment;
- (b) insert the name of the referee proper to be appointed;
- (c) when the reference is in accordance with these Regulations, countersign and seal it, and forward it forthwith to the medical referee.

(2) In the case of a reference by a judge or appointed arbitrator, the Registrar of the court in which the arbitration is pending shall sign (or countersign) and seal it, and forward it forthwith to the medical referee.

108. (1) The Registrar, on receiving the report from a medical referee under regulation 110, shall forthwith file a copy in the court and transmit the report to the committee, arbitrator, or judge by whom the reference was made. Registrar to file report of medical referee.

(2) If the committee, arbitrator, or judge directs that the parties be at liberty to inspect the report, the Registrar shall, on receiving notice of the direction, permit the inspection to be made during office hours, and shall on the application and at the cost of any party furnish him with a copy of the report or allow him to take a copy thereof.

109. The medical referee shall, on receipt of a reference duly signed and sealed, appoint a time and place for the examination of the seaman, and shall send him notice accordingly. Medical referee to appoint time and place for examination.

110. The medical referee shall give his report in writing, and shall forward it to the Registrar from whom he received the reference. Report of medical referee.

111. The committee, arbitrator, or judge may, by request signed and forwarded in the same manner as the reference, remit the report to the medical referee for a further statement on any matter not covered by the original reference. Further statement from referee.

112. The following shall be the scale of fees to be paid to the medical referees in respect of references under this Division of the Regulations:— Fees.

- (i) For a first reference, to include examination of the injured seaman and written report .. £2
- (ii) For a further statement under regulation 111 on any matter not covered by the original reference £1
- (iii) For a second or subsequent reference to the same referee on a further arbitration on the same case, to include examination, if necessary, and written report £1
- (iv) Where in order to examine the injured seaman the medical referee is compelled to travel to a place distant more than two miles from his residence or such a centre as may be fixed by the Minister, in addition to the above fees: Five shillings for each mile beyond two and up to ten miles distant from the residence or centre, and thereafter One shilling for each mile distant therefrom.

PART V.—MISCELLANEOUS.

Amendment of
Second Schedule
to Act.

113. The Second Schedule to the Act is amended—

- (a) by inserting at the end of paragraph (2) thereof the words “or by arbitration before a judge of a County Court;”
- (b) by inserting in paragraph (6) thereof, after the word “committee” (wherever it occurs), the words “a judge”; and
- (c) by inserting in paragraph (12) thereof, after the word “arbitrator,” the word “judge”.

Review of
weekly
payment.

114. Any weekly payment may be reviewed at the request of an employer or seaman by arbitration in manner provided by these Regulations for the settlement of any matter by arbitration.

Returns of
accidents and
compensation.

115. (1) The owner or master of every vessel (except a vessel included in sub-regulation (3) of this regulation), in which seamen to whom the Act applies are employed, shall furnish to the Comptroller-General of Customs, not later than the 31st day of July and the 31st day of January in each year, a return setting forth the particulars required by paragraphs (a) and (b) of section 16 of the Act, for the six months ending on the 30th day of June and the 31st day of December respectively in each year.

(2) In addition to the returns required by sub-regulation (1) of this regulation, the owner or master of every vessel (except a vessel included in sub-regulation (3) of this regulation), at which seamen to whom the Act applies are employed, shall furnish to the Comptroller-General of Customs, not later than the 31st day of July and the 31st day of January in each year, a return in respect of each seaman to whom the Act applies, injured during the six months ending on the 30th day of June and the 31st day of December respectively in each year, setting forth the following particulars:—

Name of vessel.

Nationality.

Place of registry.

Date and place of accident.

Name of person injured.

Nature of employment.

Nature of injury.

Whether injury resulted in death.

Where injury does not result in death, period of incapacitation.

Amount of compensation paid.

Name and address of person to whom compensation paid, or where injury has resulted in death and no compensation has been paid, the home address of the seaman, as recorded in the ship's articles.

Where injury results in death, relationship of person to whom compensation paid to person injured.

(3) In the case of a vessel not having an owner in Australia on which any seaman to whom this Act applies is employed, the master shall furnish to the Comptroller-General of Customs, within one week of the date of the accident or before clearance is granted, a return setting forth the particulars specified in sub-regulation (2) of this regulation in respect of each seaman, to whom the Act applies, injured while the vessel is in the territorial waters of the Commonwealth.

116. Every matter brought under the Act shall be intitled in the matter of the Act and shall have a reference to the district or place in which it was instituted and be distinguished by a separate number; and all documents filed and subsequent proceedings taken in the court with reference to the matter shall be intitled in like manner and shall be distinguished by the same number; and the entries made in the special register with respect to each matter shall be entered together and shall be kept separate from the entries with respect to any other matter.

Matters how distinguished.
Eng. r. 83.

117. The forms in the Schedule where applicable, and where they are not applicable, forms of like character, with such variations as the circumstances may require, may be used in proceedings under the Act.

Forms in appendix or like forms may be used.
Eng. r. 84.

118. The Seaman's Compensation Regulations 1912 (Statutory Rules 1913, No. 279) are hereby repealed.

Repeal.

THE SCHEDULE.

FORM I.

Application for Arbitration by Seaman with respect to the Compensation payable to him.

(a) Here fill in name of place in which proceedings are commenced.

(a) In the matter of the *Seamen's Compensation Act 1911*.
No. of Matter.
In the matter of an Arbitration between
A.B.
of [address]
[description]
and
Applicant,

The owners [or charterers] of the ship " " Respondents.

1. On the day of personal injury by accident arising out of and in the course of his employment was caused to A.B. employed in the capacity of on board the ship

2. A question has [or questions have] arisen.
[here state the questions, specifying only those which have arisen, e.g.]—
(a) as to whether the said A.B. is a seaman within the meaning of the above-mentioned Act; or
(b) as to the liability of the owners [or charterers] of the said ship to pay compensation under the above-mentioned Act in respect of the said injury; or
(c) as to the amount [or duration] of the compensation payable by the owners [or charterers] of the said ship to the said A.B. under the above-mentioned Act in respect of the said injury.
[or as the case may be].

3. An arbitration under the above-mentioned Act is hereby requested between the said A.B. and the owners [or charterers] of the said ship " " for the settlement of the said question [or questions].

4. Particulars are hereto appended [or annexed].

PARTICULARS.

1. Name and address of applicant
2. Name of ship on which applicant was employed at time of accident and port of registry
3. Nature of employment at time of accident
4. Date and place of accident, nature of work on which applicant was then engaged, and nature of accident and cause of injury
5. Nature of injury
6. Particulars of incapacity for work, whether total or partial, and estimated duration of incapacity
7. Average weekly earnings during the 12 months previous to the injury, if the applicant has been so long employed under the same owners or charterers, or if not, during any less period during which he has been so employed
8. Average weekly amount which the applicant is earning or is able to earn in some suitable employment or business after the accident

- Dated this _____ day of _____
- (Signed) _____ Applicant.
[Or _____ Applicant's Solicitor.]

2. A question has [or questions have] arisen
[here state the questions, specifying only those which have arisen, e.g.] :—
(a) as to whether the said A.B. was a seaman within the meaning
of the above-mentioned Act ; or
(b) as to the liability of the owners [or charterers] of the said ship to pay
compensation under the above-mentioned Act to the dependants of
the said A.B. in respect of the injury caused to them by the death
of the said A.B. or

FORM 2 —continued.

- (c) as to the amount of compensation payable by the owners [or charterers] of the said ship to the dependants of the said A.B. under the above-mentioned Act in respect of the injury caused to them or the death of the said A.B. ; or
- (d) as to who are dependants of the said A.B.
- (e) as to the apportionment and application of the compensation payable by the owners [or charterers] of the said ship to the dependants of the said A.B. in respect of the injury caused to them by the death of the said A.B.

[or as the case may be]

3. An arbitration under the above-mentioned Act is hereby requested between E.F. , the legal personal representative of the said A.B. [or between E.F. , a dependant of the said A.B.] and the owners of the said ship and G.B. , who claims or may be entitled to claim to be a dependant of the said A.B.

[or as the case may be ; see Regulation 6].

for the settlement of the said question [or questions].

4. Particulars are hereto appended [or annexed].

PARTICULARS.

1. Name and late address of seaman
2. Name of ship of which deceased was employed at time of accident or loss of ship and port of registry
3. Nature of employment at time of accident or loss of ship
4. Date and place of accident, nature of work on which deceased was then engaged, and nature of accident and cause of injury [or date and place when and where ship was lost or is deemed to have been lost]
5. Nature of injury to deceased and date of death [or date when ship was lost or is deemed to have been lost]
6. Earnings of deceased during the 3 years next preceding the injury or date of loss if he had been so long employed under the same owners [or charterers]; or if the period of his employment had been less than the said 3 years, particulars of his average weekly earnings during the period of actual employment under the said owners [or charterers]
7. Amount of weekly payments [if any] made to deceased under the Act, and of any lump sum paid in redemption thereof
8. Name and address of applicant for arbitration
9. Character in which applicant applies for arbitration, i.e., whether as legal personal representative of deceased, or as a dependant and if as a dependant, particulars showing how he is so
10. Particulars as to the dependants of the 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

11. Particulars as to any persons claiming or who may be entitled to claim to be dependants, but as to whose claim a question arises, and who are therefore made respondents, with their names, addresses, and descriptions and occupations [if any]
12. Particulars of amount claimed as compensation, and of the manner in which the applicant claims to have such amount apportioned and applied
13. Date of service of statutory notice of accident and whether given before deceased voluntarily left the employment in which he was injured. [*A copy of the notice to be annexed*].
14. If notice not served, reason for omission to serve same

As representing the owners [or charterers] of the ship “ ”
[State name and address of managing owner or manager, or of master of ship. See Regulation 17].

Applicant.
Applicant's Solicitor.]

Application for Arbitration where Security has been given on behalf of the Owners of a Ship under Section 13.

In the matter of the *Seamen's Compensation Act 1911.*

In the matter of an Arbitration between

of [address]
[description]

and

Applicant,

names and addresses of persons giving security]

Respondents.

1. On the _____ day of _____ personal injury by accident arising out of and in the course of his employment was caused to A.B. _____ of _____ and the said A.B. _____ claims that the owners of the ship "_____" are liable under the *Seamen's Compensation Act 1911* to pay compensation in respect of the said injury.

2. The respondents have given security to abide the event of any proceedings that may be instituted in respect of the said injury, and to pay such compensation and costs as may be awarded thereon.

FORM 3—continued.

3. A question has [or questions have] arisen [here state the questions, specifying only those which have arisen, e.g.] :—

- (a) as to whether A.B. is a workman to whom the above-mentioned Act applies; or
 (b) as to the liability of the owners of the said ship to pay compensation under the above-mentioned Act in respect of the said injury; or
 (c) as to the amount [or duration] of the compensation payable to the said A.B. under the above-mentioned Act in respect of the said injury.

[or as the case may be.]

4. An arbitration under the above-mentioned Act is hereby requested between the said A.B. and the respondents for the settlement of the said question [or questions].

5. Particulars are hereto appended [or annexed].

PARTICULARS.

[Here insert particulars of circumstances under which the application is made, and of the relief or order which the applicant claims, adapting the particulars in the preceding forms to the circumstances of the case.]

The names and addresses, &c. [as in Form 1.]

NOTE.—This form to be adapted as required to an application for arbitration as between the dependants of a deceased seaman and the persons giving security.

FORM 4.

Application for Arbitration as to who are Dependents, or as to the Amount payable to each Dependant, where the total amount payable as Compensation to the Dependents of a Deceased Seaman has been agreed upon or ascertained.

(a) Here fill in name of place in which proceedings are commenced.

(a) In the matter of the Seamen's Compensation Act 1911.
 No. of Matter.
 In the matter of an Arbitration between
 H.F. of [address]
 [description] Applicant,
 and
 The owners [or charterers] of the ship " " and
 G.H. of [address]
 [description] Respondents.
 [or as the case may be; see Regulation 7.]

1. On the day of personal injury by accident arising out of and in the course of his employment was caused to A.B. late of , deceased, employed in the capacity of on board the ship " " and on the day of the death of the said A.B. resulted from the injury [or, the ship " " which left the port of on or about the day of , was lost with all hands on or about the day of [or was last heard of on or about the day of , and is believed to have been lost with all hands.]

When the said ship left the said port, A.B. late of was employed in the capacity of .

FORM 4—continued.

2. The amount of compensation payable by the owners [or charterers] of the ship to the dependants of the said A.B. under the above-mentioned Act in respect of the injury caused to them by the death of the said A.B. has been agreed upon [or ascertained], but a question has arisen

[here state the questions, specifying only those which have arisen, e.g.]—

- (a) as to who are dependants of the said A.B. within the meaning of the above-mentioned Act; or
 (b) as to the apportionment and application of the compensation payable to the dependants of the said A.B.
 [or as the case may be].

3. An arbitration under the above-mentioned Act is hereby requested between E.F., the legal personal representative of the said A.B., acting on behalf of N.O., P.R., &c., dependants of the said A.B. [or between E.F., N.O., P.R., &c., dependants of the said A.B. and the owners [or charterers] of the said ship and G.H., who claims or may be entitled to claim to be a dependant of the said A.B.
 [or as the case may be; see Regulation 7.]

for the settlement of the said question [or questions].

4. Particulars are hereto appended [or annexed].

PARTICULARS.

1. Name and late address of deceased seaman . . .
2. Name of ship on which deceased was employed at time of accident or loss of ship and port of registry . . .
3. Nature of injury to deceased and date of death [or date when ship lost or is deemed to have been lost] . . .
4. Agreed or ascertained amount of compensation to be paid to dependants of deceased . . .
5. Particulars as to whether the compensation money is still payable by the employer or has been paid by him, and if so, to whom, and in whose hands it now is . . .
6. Character in which the applicant applies for arbitration, i.e., whether as legal personal representative of deceased or as a dependant, and if as a dependant, particulars showing how he is so . . .
7. Particulars as to the dependants or persons claiming to be dependants by whom or on whose behalf the application is made, giving the 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 or claim to have been wholly or partially dependent on the earnings of the deceased at the time of his death . . .
8. The like particulars as to any dependants who are made respondents . . .
 [NOTE.—If there is a legal personal representative, and he is not an applicant, he must be made a respondent.]
9. Particulars as to any persons claiming or who may be entitled to claim to be dependants, but as to whose claim a question arises, and who are therefore made respondents, with their names, addresses, descriptions, and occupations (if any) . . .
10. Particulars of the manner in which the applicant claims to have the amount of compensation apportioned and applied . . .

FORM 4—continued.
PARTICULARS—continued.

The names and addresses of the applicant and his solicitor are—
Of the Applicant,
Of his Solicitor.

The names and addresses of the respondents to be served with this application are—

As representing the owners [or charterers] of the ship “

[State name and address of managing owner or manager, or of master of ship,
See Regulation 17.]

and G.H.,

[or as the case may be.]

Dated this

day of

(Signed)

Applicant.

[Or,

Applicant's Solicitor.]

FORM 5.

Application for Arbitration with respect to the Compensation payable in respect of Expenses of Medical Attendance and Burial, where Deceased Seaman leaves no Dependants.

(a) Here fill in name of place in which proceedings are commenced.

(a)

In the matter of the Seamen's Compensation Act 1911.

No. of Matter.

In the matter of an Arbitration between

B.F.,

of [address]
[description]

Applicant.

and

The owners [or charterers] of the ship “

G.H.,

of [address]
[description]

Respondents.

1. On the day of personal injury by accident arising out of and in the course of his employment was caused to A.B. late of deceased, employed in the capacity of on board the ship “ and on the day of the death of the said A.B. resulted from the injury [or, the ship “ which left the port of on or about the day of was lost with all hands on or about the day of [or was last heard of on or about the day of and is believed to have been lost with all hands.]

When the said ship left the said port, A.B. late of was employed in the capacity of

2. The said A.B. left no dependants within the meaning of the above-mentioned Act.

3. A question has [or questions have] arisen.

[here state the questions, specifying only those which have arisen, e.g.]—

(a) as to whether the said A.B. was a seaman to whom the above-mentioned Act applied; or

FORM 5—continued.

- (b) as to the liability of the said owners [or charterers] to pay compensation under the above-mentioned Act in respect of the reasonable expenses of the medical attendance on and the burial of the said A.B. ; or
- (c) as to the amount of compensation payable by the said owners [or charterers] under the above-mentioned Act in respect of the reasonable expenses of the medical attendance on and the burial of the said A.B. ; or
- (d) as to the apportionment and application of the compensation payable by the said owners [or charterers] under the above-mentioned Act in respect of the reasonable expenses of the medical attendance on and the burial of the said A.B.
- [or as the case may be].
4. An arbitration under the above-mentioned Act is hereby requested between
 E.F. and the owners [or charterers] of the said ship and G.H.
 for the settlement of the said question [or questions].
5. Particulars are hereto appended [or annexed].

PARTICULARS.

1. Name and late address of deceased seaman . . .
2. Name of ship on which deceased was employed
 at the time of accident or loss of ship, and
 port of registry . . .
3. Nature of employment of deceased at time of
 accident or loss of ship . . .
4. Date and place of accident, nature of work
 on which deceased was then engaged and
 nature of accident and cause of injury [or
 date and place when and where ship lost or
 deemed to have been lost] . . .
5. Nature of injury to deceased, and date of
 death [or date when ship was lost or is
 deemed to have been lost] . . .
6. Name and address of applicant for arbitra-
 tion . . .
7. Character in which applicant applies for
 arbitration i.e., whether as legal personal
 representative of deceased or as a person
 to whom expenses in respect of which
 compensation is payable are due; and if
 the latter, particulars must be given of the
 circumstances under which the expenses
 are claimed to be due to the applicant . . .
8. Particulars as to any other persons who claim
 that expenses in respect of which compen-
 sation is payable are due to them and who
 are therefore made respondents, with their
 names and addresses . . .
9. Particulars of amount claimed as compensa-
 tion, and of the manner in which the appli-
 cant desires such amount to be apportioned
 and applied . . .
10. Particulars and items making up medical and
 funeral expenses . . .
11. Date of service of statutory notice of accident
 on respondent from whom compensation is
 claimed and whether given before deceased
 voluntarily left the employment in which
 he was injured. [A copy of the notice to be
 annexed] . . .
12. If notice not served, reason for omission to
 serve same . . .

FORM 5—continued.
PARTICULARS—continued.

The names and addresses of the applicant and his solicitor are—
Of the Applicant,
Of his Solicitor.
The names and addresses of the respondents to be served with this application are—
As representing the owners [or charterers] of the ship “
[State name and address of managing owner or manager, or of master of ship.
See Regulation 17.]
and
G.H.
Dated this day of (Signed) Applicant.
[Or Applicant’s Solicitor.]

FORM 6.
Application for Arbitration with respect to the Review, Termination, Diminution, Increase, or Redemption, of a Weekly Payment.

(a) Here fill in name or place in which proceedings are commenced.
(a) In the matter of the Seamen’s Compensation Act 1911. No. of Matter.
In the matter of an Arbitration between ”
The owners [or charterers] of the ship “ Applicants,
and
A.B. of [address] Respondent.
[description] [or as the case may be; see Act, Sched. 1, pars. 17 and 18.]
An arbitration under the Seamen’s Compensation Act 1911 is hereby requested between the owners [or charterers] of the ship “
and A.B. [or as the case may be; see Act, Sched. 1, pars. 17 and 18.]
with respect to the review and termination [or diminution, increase, or redemption [as the case may be] of the weekly payment payable to the said A.B.] under the said Act in respect of personal injury caused to him by accident arising out of and in the course of his employment.
Particulars are hereto appended [or annexed].

PARTICULARS.

- 1. Name and address of injured seaman ..
- 2. Name of ship on which applicant was employed at the time of the accident and port of registry ..
- 3. Date and nature of accident ..
- 4. Date of agreement, decision, or award, fixing weekly payment, and date from which it commenced..
- 5. Relief sought by applicant, whether termination, diminution, increase or redemption..
- 6. Grounds on which termination, diminution, or increase is claimed ..

FORM 6--continued.

PARTICULARS--continued.

The names and addresses of the applicants and their solicitors are--

Of the Applicants, as representing the owners [or charterers] of the ship " " "

[State name and address of managing owner or manager, or of master of ship. See Regulation 17].

Of their Solicitor,

The names and addresses of the respondents to be served with this application are--

Dated this day of

(Signed)

Applicants.

[Or

Applicant's Solicitor.]

FORM 7.

Application for Arbitration where Rights of Employer against Insurers are Transferred to Seaman under Section 8.

(a)

In the matter of the *Seamen's Compensation Act 1911*.

No. of Matter

(a) Here fill in name of place in which proceedings are commenced.

In the matter of an Arbitration between

A.B.

of [address]
[description]

Applicant,

and

[Name and address of insurers]

Respondents.

1. On the day of personal injury by accident arising out of and in the course of his employment was caused to A.B. employed in the capacity of on board the ship " " " and the said A.B. claims that the owners [or charterers] thereupon became liable to pay compensation under the *Seamen's Compensation Act 1911* to the said A.B. in respect of the injury.

[Or, where weekly payment has been settled.]

1. Under an agreement [or a decision, or an award] recorded at on the day of a weekly payment of payable by the owners [or charterers] of the ship " " " as compensation for personal injury caused to the said A.B. by accident arising out of and in the course of his employment in the capacity of employed on the said ship.

2. The respondents are insurers of the owners [or charterers] of the said ship " " " in respect of his [or their] liability to pay such compensation.

3. The owners [or charterers] of the said ship " " " have become insolvent [or made a composition or arrangement with their creditors [or if the employer is a company, the said has commenced to be wound up], and the rights of the owners [or charterers] of the said ship " " " against the respondents as such insurers in respect of their liability to the said A.B. have, by virtue of section 8 of the said Act, been transferred and vested in the said A.B.

Form 7.—continued.

4. A question has [or Questions have] arisen [here state the questions, specifying only those which have arisen, e.g.] :—

- (a) as to whether the said A.B. is a seaman to whom the above-mentioned Act applies; or
- (b) as to the liability of the owner [or charterer] of the said ship "to pay compensation under the above-mentioned Act in respect of the said injury; or
- (c) as to the liability of the respondents as such insurers as aforesaid to the said A.B.; or
- (d) as to the amount [or duration] of the liability of the respondents as such insurers as aforesaid to the said A.B.
- [or as the case may be].

[or as the case may be].

5. An arbitration under the above-mentioned Act is hereby requested between the said A.B. and the respondents for the settlement of the said question [or questions].

6. Particulars are hereto appended [or annexed].

PARTICULARS.

[Here insert particulars containing a concise statement of the circumstances under which the application is made, and of all matters necessary to be stated in order to bring the questions to be settled properly at the arbitration, and of the relief or order which the applicant claims, adapting the particulars given in the preceding Forms to the circumstances of the case.]

The names and addresses of the applicant and his solicitor are—

Of the Applicant,

Of his Solicitor,

The names and addresses of the respondents to be served with this application are—

Dated this _____ day of _____

(Signed)

 $[O_2]$

Applicant's Applicant,
s Solicitor.]

NOTE.—This Form to be adapted as required to an application for arbitration as between the dependants of a deceased seaman and insurers.

Form 8.

Notice to Applicant of Day upon which Arbitration will be proceeded with.

[Heading as in Request for Arbitration.]

TAKE NOTICE that His Honour a judge of this court [or
Mr. the arbitrator appointed by the court], will proceed
with the Arbitration in this matter at on the
day of at the hour of o'clock in the
noon or so soon thereafter as the parties can be heard.

Dated this day of

To

.Of

Registrar of the County
Court at

FORM 9.

Notice to Respondent of Day upon which Arbitration will be proceeded with.
[Heading as in Request for Arbitration.]

TAKE NOTICE that His Honour _____ a judge of this Court [or Mr. _____ the arbitrator appointed by the Court], will proceed with the Arbitration applied for in the request and particulars, a sealed copy of which is served herewith at _____ on the _____ day of _____ at the hour of _____ o'clock in the _____ noon or so soon thereafter as the parties can be heard, and that if you do not attend either in person or by your solicitor at the time and place above-mentioned such order will be made and proceedings taken as the judge [or arbitrator] thinks just and expedient.

And further take notice, that if you wish to disclaim any interest in the subject-matter of the Arbitration, or consider that the Applicant's particulars are in any respect inaccurate or incomplete, or desire to bring any fact or document to the notice of the judge [or arbitrator], or intend to rely on any fact, or to deny (wholly or partially) your liability to pay compensation under the Act, you must file with me an answer, stating your name and address and the name and address of your solicitor (if any), and stating that you disclaim any interest in the subject-matter of the Arbitration, or stating in what respect the Applicant's particulars are inaccurate or incomplete, or stating concisely any fact or document which you desire to bring to the notice of the judge [or arbitrator] or on which you intend to rely, or the grounds on and extent to which you deny liability to pay compensation.

Such answer, together with a copy thereof for the judge [or arbitrator] and a copy for the Applicant and for each of the Respondents, must be filed with me _____ clear days at least before the _____ day of _____

If no answer is filed, and subject to such answer, if any, the Applicant's particulars and your liability to pay compensation will be taken to be admitted.

Dated this _____ day of _____

To
 Of

Registrar of the County
 Court at _____

FORM 10.

Affidavit of Service of copy of request for Arbitration and Particulars Notices.

(a)

In the matter of the *Seamen's Compensation Act 1911*.

No. of Matter _____

R.F.,

In the matter of an Arbitration between

of [address]
 [description]

Applicant.

The owners [or charterers] of the ship "_____"
 and

R.H.,

of [address]
 [description]

Respondents.

[or as the case may be].

I, A.B.,

of

[or G.H., a clerk [or servant] in the permanent and exclusive employ of _____]

[or L.M., of _____]

, the solicitor for _____]

[or R.S., of _____]

solicitor, agent for L.M., of _____]

solicitor for _____]

[; [or X.Y., a clerk in the employ of [R.S., _____]

solicitor for _____]

solicitor, agent for] L.M., of _____]

and say:—

] the above-mentioned plaintiff, make oath

I. That I, [_____]

, am a clerk [or servant] in the permanent and exclusive employ of _____, [or am a clerk in the employ of [R.S. of _____]

, solicitor, agent for] L.M., of _____, solicitor for] _____

the above-named plaintiff, and that I am over sixteen years of age.

(a) Here fill in name of place in which proceedings are commenced.

FORM 10--continued.

2. That I did on the _____ day of _____, 19____, duly serve the owners [or charterers] of the ship "____", the above-named respondent [or one of the above-named respondents] with the copy of request for Arbitration herein and particulars thereof [or as the case may be], a true copy of which is hereunto annexed, marked "A," by leaving the same at the office of the managing owners or manager of the said ship "____" [or by delivering the same personally to the manager or to the master of the said ship "____"] [insert time, place, and mode of service] or as the case may be].

Sworn at _____, in the State of _____ on the _____ day of 19____, before me,

A Commissioner for taking declarations [or affidavits].

[or as the case may be].

[Indorse the copy request or other matter :—This paper marked "A" is the paper referred to in the annexed affidavit.]

FORM 11.

ANSWER BY RESPONDENTS.

[Not to be Printed, but to be used as a Precedent.]

[Heading as in Request for Arbitration.]

TAKE NOTICE—

That the respondent G.H. _____ disclaims any interest in the subject-matter of the above arbitration.

Or

That the respondents the owners [or charterers] of the ship "____" state that the applicant's particulars filed in this matter are inaccurate or incomplete in the particulars hereto annexed.

Or

That the respondents, the owners [or charterers] of the ship "____" desire to bring to the notice of the judge [or arbitrator] the facts stated in the particulars hereto annexed.

Or

That the respondents, the owners [or charterers] of the ship "____" intend at the hearing of the arbitration to give evidence and rely on the facts stated in the particulars hereto annexed.

Or

That the respondents, the owners [or charterers] of the ship "____" deny their liability to pay compensation under the Act in respect of the injury to A.B., _____, mentioned in the applicant's particulars, on the grounds stated in the particulars hereto annexed.

FORM 11—continued.

PARTICULARS.

1. Particulars in which the particulars filed by the Applicant are inaccurate or incomplete.

2. Facts which the respondents desire to bring to the notice of the Arbitrator—

That the applicant A.B. refuses to submit himself to medical examination as required by [or obstructs the medical examination required by] the respondents, the owners [or charterers] of the ship " " in accordance with paragraph 5 of the First Schedule to the Act [or refuses to submit himself for examination by a medical referee as ordered] [or obstructs the examination by a medical referee ordered in accordance with paragraph 13 of the First Schedule of the Act]

[or as the case may be].

3. Facts which the respondents, the owners [or charterers] of the ship " " intend to give in evidence and rely on at the hearing of the Arbitration:—

That notice of the alleged accident [or of death or disablement] was not given to the respondents as required by the Act; or

That the claim for compensation was not made on the respondents within the time limited by the Act; or

[or as the case may be].

4. Grounds on which the Respondents deny their Liability to pay Compensation—

(i) That the applicant A.B. is [or the deceased seaman was] not a seaman to whom the Act applies; or

(ii) That the injury to the applicant [or to the deceased seaman] was not caused by accident arising out of and in the course of his employment; or

(iii) That the injury to the applicant [or to the deceased seaman] was attributable to the serious and wilful misconduct of the applicant [or of the deceased seaman] and did not result in death or serious and permanent disablement; or

(iv) That at the time of the alleged accident the applicant [or the deceased seaman] was not immediately employed by the respondents, but was employed by of , a contractor with the respondents for the execution by or under such contractor of work undertaken by the respondents, and the accident occurred elsewhere than on or about premises on which the respondents had undertaken to execute the work or which were otherwise under the control or management of the respondents; or

(v) That the injury to the applicant [or to the deceased seaman] was caused under circumstances creating a legal liability in a person other than the respondents, to wit [name and address of such person] to pay damages in respect thereof, and the applicant [or the deceased seaman] has taken proceedings against that person and has recovered damages from him;

[or as the case may be].

And further take notice, that the names and addresses of the said respondents and their solicitors are—

Of the Respondents, as representing the owners [or charterers] of the ship " " ,

[State name and address of managing owners or manager or of master of ship. See Regulation 17.]

Of their Solicitors,

Dated this

day of

(Signed)

Solicitors for the Respondent,
and

To the Registrar of the County Court at
To the Applicant, A.B., and
To the Respondents
if any [naming them].

FORM 12.

Notice by Respondent admitting Liability, and submitting to an Award for Payment of a Weekly Sum, or paying Money into Court.

[Not to be printed, but to be used as a Precedent.]

[Heading as in Request for Arbitration.]

TAKE NOTICE—

That the respondents, the owners [or charterers] of the ship “ ”
admit their liability to pay compensation in the above-mentioned matter.

And they hereby submit to an award for payment by them to the
applicant A.B. of the weekly sum of such weekly
payment to commence as from the day of and
to continue during the total or partial incapacity of the said A.B.
for work, or until the same shall be ended, diminished,
increased, or redeemed in accordance with the provisions of the above-
mentioned Act.

And for payment by them to the applicant forthwith
after the award of the amount of such weekly payments calculated from
the day of until the first Saturday [or other
usual pay day] after the date of the award, and for the payment thereafter
of the said sum of to the applicant.
on Saturday [or other usual pay day] in every week.

[Or, And the owners [or charterers] of the said ship “ ”
herewith pay in to the County Court at the sum of £
in satisfaction of such liability.]

Dated this day of

(Signed)

Solicitors for the Respondents,
and

To the Registrar of the County Court at
To the Applicant A.B., and
To the Respondents
if any [naming them].

FORM 13.

Notice of Filing of Submission to an Award.

[Heading as in Request for Arbitration.]

TAKE NOTICE—

That the respondents, the owners [or charterers] of the ship “ ”
have this day filed with me a notice (copy of which is sent herewith) that
they admit their liability to pay compensation in the above-mentioned
matter, and submit to an award for payment by them to you of the weekly
sum of

If you elect to accept such weekly sum in satisfaction of your claim,
you must send to the Registrar of this court and to the owners [or
charterers] of the ship “ ” a written notice forthwith by
post, or leave such notice at the office of the Registrar of such Court, and
at the place of business of the owners [or charterers] of the said ship
“ ”

If you send such notice, a judge of this court will, on application made
to him, make an award directing payment of such weekly sum to you and
you will be liable to no further costs.

In default of such notice, the Arbitration will be proceeded with;
and if no greater weekly payment is awarded to you you will be liable to
be ordered to pay the costs incurred by the respondents subsequent to the
receipt by you of this notice.

Dated this day of

Registrar of the County
Court at

To the Applicant, A.B.

FORM 14.

*Notice of Payment into Court.**[Heading as in Request for Arbitration].*

TAKE NOTICE—

That the respondents, the owners [or charterers] of the ship “ ” have this day filed with me a notice that they admit their liability to pay compensation in the above-mentioned matter, and they have paid into the County Court at sum of £ in satisfaction of such liability.

If you are willing to accept the sum so paid into court in satisfaction of the compensation payable in the above-mentioned matter, you must send to the Registrar of the said court, and to the owners [or charterers] of the said ship, and to the other respondents [or where this notice is sent to a respondent, to the applicant and the other respondents] a written notice forthwith by post, or leave such notice at the office of the said Registrar, and at the residence or place of business of the owners [or charterers] of the said ship and at the place of business of each of the other respondents [or of the applicant and each of the other respondents].

If you and all the other respondents [or If you and the applicant and all the other respondents] send such notice, and agree as to the apportionment and application of the said sum of £ a judge of this court will on application made to him, make an award for such apportionment and application, and you will be liable to no further costs.

If you and all the other respondents [or If you and the applicant and all the other respondents] send such notice, but do not agree as to the apportionment and application of the said sum of £ , the arbitration will be proceeded with as between you and such other respondents or as between the applicant and yourself and such other respondents].

In default of such notice being sent by you and all the other respondents [or by the applicant and yourself and all the other respondents] the arbitration will be proceeded with; and if no greater amount than the said sum of £ is awarded as compensation, the parties who do not send such notice will be liable to be ordered to pay the costs incurred by the respondents, the owners [or charterers] of the said ship, subsequent to the receipt by such parties of this notice and also any costs incurred subsequent to the receipt of this notice by any parties who send notice of their willingness to accept the said sum of £ in satisfaction of the said compensation payable in the above-mentioned matter.

Dated this day of Registrar of the County Court at

To the Applicant A.B.
[or To the Respondent G.H.]
[or as the case may be].

FORM 15.

*Notice of Acceptance of Weekly Sum offered, or of Willingness to accept Sum paid into Court.**[Not to be printed, but to be used as a Precedent.]**[Heading as in Request for Arbitration.]*

TAKE NOTICE—

That the applicant, A.B., accepts the weekly sum offered by the respondents, the owners [or charterers] of the ship “ ” in satisfaction of his claim in the above-mentioned matter [or that the applicant, E.F. [or the respondent, G.H.], is willing to accept the sum of £ paid into court by the respondents, the owners [or charterers] of the ship “ ” in satisfaction of the compensation payable] in the above-mentioned matter].

FORM 15—continued.

But the applicant [or the said respondent, G.H.] will apply to the judge to include in his award an order directing the said respondents, the owners [or charterers] of the said ship, to pay the costs properly incurred by the applicant [or the said respondent, G.H.] before the receipt of notice of the offer of the said weekly sum [or of notice of payment of the said sum of £ into court], and his costs properly incurred in relation to the notice of the offer of the said weekly sum [or the notice of payment of the said sum of £ into court] and to this notice and in attending the arbitrator to obtain an award.

Dated this day of

(Signed)

Applicant.

[Or

Respondent.]

To the Registrar of the County Court at and,
To the Respondents, the owners [or charterers] of the ship “ ,” and
To the Applicant, A.B., and
To the Respondents
[naming them].

FORM 16.

Notice by Respondent to Third Parties.

[Not to be Printed, but to be used as a Precedent.]

[Heading as in Request for Arbitration.]

To Mr. , of [Address and description.]

TAKE NOTICE—

That A.B. , of &c., , has filed a request for arbitration (a copy whereof is hereto annexed) as to the amount of compensation payable by the respondents, the owners [or charterers, of the ship “ ”, to the said A.B. in respect of personal injury caused to the said A.B. by accident arising out of and in the course of his employment.

[Or that E.F., , of , has filed a request for arbitration (a copy whereof is hereto annexed) with respect to the compensation payable to the dependants of A.B. , deceased, in respect of the injury caused to the said dependants by the said A.B. , which resulted from injury caused to the said A.B. by accident arising out of and in the course of his employment.]

[Or, as the case may be. See Forms of Request for Arbitration.]

The respondents, the owners [or charterers] of the said ship, claim to be indemnified by you against their liability to pay such compensation, on the ground that at the time of the injury in respect of which compensation is claimed by the said A.B. was not immediately employed by the owners [or charterers] of the said ship, but was employed by you in the execution of work undertaken by the owners [or charterers] of the said ship, in respect of which the owners [or charterers] of the said ship had contracted with you for the execution thereof by or under you.

[Or on the ground that the injury for which compensation is claimed was caused under circumstances creating a legal liability on your part to pay damages in respect thereof.]

[Or as the case may be.]

And take notice, that if you wish to dispute the applicant's claim as against the respondents, the owners [or charterers] of the said ship, or your liability to the said respondents, you must appear before the judge [or arbitrator] at the time and place mentioned in the notice, a copy of which is hereunto annexed.

FORM 16—continued.

In default of your so appearing you will be deemed to admit the validity of any award made in the said arbitration as to any matter which the judge [or arbitrator] has jurisdiction to decide in such arbitration as between the applicant and the respondents, the owners [or charterers] of the said ship, whether such award is made by consent or otherwise, and your own liability to indemnify the owners [or charterers] of the said ship [or to contribute as above-mentioned].

Dated this day of

(Signed)

Managing Owners or Manager,
(as representing the owners [or
charterers] of the said ship).

[Or

Solicitors for the Respondents,
(the owners [or charterers] of
the said ship).

To
of

FORM 17.

Award.

These forms are intended for use in ordinary cases only. The award in any special case must be settled under Regulation 30 in accordance with the directions given by the judge or arbitrator.

(i) In case of Application by Seaman.

[Heading as in Request for Arbitration.]

Having duly considered the matters submitted to me, I do hereby make my award as follows:—

[Here insert any introductory recitals of findings on which the award is made which the judge or magistrate may direct.]

1. I order that the respondents, the owners [or charterers] of the ship “ ” do pay to the applicant A.B. the weekly sum of as compensation for personal injury caused to the said A.B. on the day of by accident arising out of and in the course of his employment as a seaman employed by the said respondents, such weekly payment to commence from the day of and to continue during the total or partial incapacity of the said A.B. for work, or until the said sum shall be ended, diminished, increased, or redeemed in accordance with the provisions of the above-mentioned Act.

2. And I order that the owners [or charterers] of the said ship do forthwith pay to the said A.B. the sum of £ being the amount of such weekly payments calculated from the day of until the day of (1) and do thereafter pay the said sum of to (1) First Saturday or other usual pay day after date of award.

3. And I order that the owners [or charterers] of the said ship do pay to the Registrar of the County Court at for the use of the applicant, costs of and incident to this arbitration, such costs, in default of agreement between the parties as to the amount thereof, to be taxed by the said Registrar on a scale of costs and to be paid by the said owners [or charterers] to the said Registrar within fourteen days from the date of the certificate of the result of such taxation.

Dated this day of

Judge [or Arbitrator.]

FORM 17—continued.

(ii) In case of Application by Dependents.

[Heading as in Request for Arbitration.]

Having duly considered the matter submitted to me, I do hereby make award as follows:—

[Here insert any introductory recitals of findings on which the award is made which the judge or magistrate may direct.]

1. I, _____ order that the respondents, the owners [or charterers] of the ship "_____" do pay the sum of £ _____ to the dependants of A.B. _____ late of _____ deceased, as compensation for the injury resulting to such dependants from the death of the said A.B. which took place on the _____ day of _____ from injury caused to the said A.B. _____ on the _____ day of _____ by accident arising out of and in the course of his employment as a seaman employed by the said respondents.

2. And I declare that the persons hereinafter named are entitled to share in such compensation as dependants of the said A.B. _____ that is to say _____ J.B. _____, the widow of the said A.B.

and (1)

(1) Name the other persons.

3. [Add, if so found.] And I declare that the respondent G.H. the _____ of the said A.B. _____, is not entitled to share in such compensation as dependant of the said A.B.

4. And I order that the said sum of £ _____ be apportioned between the said J.B. _____ and (1) _____ in the proportions following, that is to say:—

I apportion the sum of £ _____ to or for the benefit of the said J.B. and the sum of £ _____ to or for the benefit of the said (2)

(2) Specify the persons entitled and the sums apportioned to them.

5. And I order that the owners [or charterers] of the said ship do pay the said sum of £ _____ to the prescribed authority within 14 days from the date of this award.

6. And I order that the owners [or charterers] of the said ship do pay to the Registrar of this court at _____ for the use of the applicants, their costs of and incident to this arbitration, such costs, in default of agreement between the parties as to the amount thereof, to be taxed by the Registrar under the scale of costs used in the County Courts and to be paid by the owners [or charterers] to the Registrar within 14 days from the date of the certificate of the result of such taxation.

[Add directions (if any given) as to costs occasioned by claim of person claiming as a dependant whose claim is disallowed.]

Dated this _____ day

Judge [or Arbitrator].

(iii) In case of Application by Person to whom expenses of Medical Attendance or Burial are due.

[Heading as in Request for Arbitration.]

Having duly considered the matters submitted to me, I do hereby make my award as follows:—

[Leave space for any introductory recitals of findings on which the award is made which the judge or magistrate may direct.]

1. I order that the respondents, the owners [or charterers] of the ship "_____" do pay the sum of £ _____ for or towards the expenses of medical attendance on and the burial of A.B. _____ late of _____ deceased, who died on the _____ day of _____ from injury caused on the _____ day of _____ by accident arising out of and in the course of the employment of the said A.B. _____ as a seaman employed by the owners [or charterers] of the said ship.

FORM 17—*continued.*

2. And I declare that the persons hereinafter named are entitled to share in such compensation, that is to say :—

The applicant E.F. in respect of charges amount to £
 due to [or payable by] him for medical attendance on the said A.B. and
 the respondent G.H. in respect of charges amount to £ due
 to him for the burial of the said A.B.

3. And I order that the respondents, the owners [or charterers] of the said ship do pay the said sum of £ to the Registrar of this court within 14 days from the date of this award, and that the said sum of £ be apportioned between and paid to the said E.F. and G.H. in proportion to the amounts due to them respectively as aforesaid.

4. And I order that the owners [or charterers] of the said ship do pay to the Registrar of this court for the use of the applicant E.F. and the respondent G.H. their respective costs of and incident to this arbitration, such costs, in default of agreement between the parties as to the amount thereof to be taxed by the Registrar under scale of costs in use in the County Courts and to be paid by the owners [or charterers] of the said ship to the Registrar within 14 days from the date of the certificate of the result of such taxations.

Dated this day of Judge [or Arbitrator].

[NOTE.—The above forms will serve as guides for framing awards in other cases of arbitration.]

FORM 18.

Notice of Day upon which Special Case will be heard.

In the County Court of holden at

[Heading as in Special Case.]

TAKE NOTICE that the judge of this court will hear the special case stated in the above-named, at a court to be holden at on the day of at the hour of in the noon; and that if you do not attend in person or by your solicitor at the place and time above-mentioned, such order will be made and proceedings taken as the judge thinks just.

You may obtain a copy of the case upon application at my office and upon prepayment of the costs of such copy.

Dated this day of Registrar.

To [the applicant and respondents]

FORM 19.

Application for Order for Detention of Ship.

[Not to be printed, but to be used as a Precedent.]

[(a) Heading of the Court where proceedings commenced.]

The Seamen's Compensation Act 1911, section 13.

The ship " "

Application is hereby made on behalf of of
 who alleges that the owners of the ship " " which has been found
 in the port [or river] of [or within the territorial waters of
 Australia] are liable as owners to pay compensation under the Seamen's Com-
 pensation Act 1911, in respect of personal injury by accident arising out of and in
 the course of his employment caused to of
 on the day of , and who claims compensation in
 respect of the injury, and alleges that none of the owners of the said ship reside

FORVM 19—continued

in Australia, for an order directed to an officer of the Department of Trade and Customs or other officer named by the judge, requiring him to detain the said ship until such time as the owners, agent, master, or consignee thereof, have paid the compensation, or have given security, to be approved by the judge, to abide the event of any proceedings that may be instituted to recover the compensation, and to pay such compensation and costs as may be awarded thereon, or until the said ship shall be otherwise released by due course of law.

The grounds on which this application is made are set forth in the affidavit of _____ filed herewith [or will be given in evidence on the hearing of the application].

Dated this _____ day of _____
(Signed) _____

[Name and address of Applicant or Applicant's Solicitor.]

FORM 20.

Undertaking as to Damages.

[Heading of Court in which proceedings commenced.]

The Seamen's Compensation Act 1911, section 13.

The ship " "

I, the undersigned, _____ of _____ hereby undertake to abide by an order which may hereafter be made as to damages, in case any person affected by the order to be made on my application for the detention of the ship "_____" shall sustain any damages by reason of such order which I ought to pay.

Dated this _____ day of _____
(Signed) _____

[Signature and address of applicant.]

[To be altered as required, if the undertaken is given by any person other than the applicant.]

FORM 21.

Order for Detention of Ship.

[Heading of court in which proceedings commenced.]

The Seamen's Compensation Act 1911.

The ship "

Whereas it is alleged that the owners of the ship " " are liable as such owners to pay compensation in respect of personal injury by accident arising out of and in the course of his employment, caused to of :

And that the said ship has been found in the port [or river] of [or within the territorial waters of Australia]:

And whereas it has been shown to me, on the application of _____ who claims compensation in respect of the injury, that the owners of the said ship are probably liable as such to pay compensation, and that none of the owners reside in Australia :

And whereas the said _____ has filed an undertaking to abide by an order which may hereafter be made as to damages, in case any person affected by this order shall sustain any damages by reason of this order which the said _____ ought to pay:

FORM 21—continued.

Now I do hereby issue this order directed to you, the Collector of Customs at *[or other officer named by the judge]* require you to detain the said ship until such time as the owners, agent, master, or consignee thereof have paid compensation in respect of the said injury, or have given security in the sum of £ , to be approved by the judge, to abide the event of any proceedings that may be instituted to recover the compensation, and to pay such compensation and costs as may be awarded thereon, or until the said ship shall be otherwise released by due course of law.

Dated this day of Judge.
To the Collector of Customs at
[or other officer named by the judge.]

FORM 22.

*Bond by Way of Security.**[Not to be printed, but to be used as a Precedent.]**[Heading of court in which proceedings commenced.]*

The Seamen's Compensation Act 1911.

The ship " "

Whereas it is alleged that the owners of the ship " " are liable as such owners to pay compensation in respect of personal injury by accident arising out of and in the course of his employment, caused to
of

And whereas a judge of this court has issued an order directed to the Collector of Customs at *[or other officer named by the judge]* requiring him to detain the said ship until such time as the owners, agent, master, or consignee thereof have paid compensation in respect of the said injury, or have given security in the sum of £ to be approved by the judge, to abide the event of any proceedings that may be instituted to recover the compensation, and to pay such compensation and costs as may be awarded thereon, or until the said ship shall be otherwise released by due course of law:

Now, therefore, we *[state names, addresses, and descriptions of sureties]* jointly and severally submit ourselves to the jurisdiction of this court, or of any other competent court in the Commonwealth in which any proceedings may be instituted in respect of the said injury, and consent that if the owners, agent, master, or consignee of the said ship shall not pay all such compensation, and costs as may be awarded thereon, execution may arise forthwith against us, our heirs, executors, and administrators, goods and chattels, for a sum not exceeding £

[Signature of Sureties.]

This bond was signed by the said the sureties, the
and
day of

Before me,

Registrar.

FORM 23.

*Order of Release.**[Heading of court in which proceedings commenced.]*

The Seamen's Compensation Act 1911.

The ship " "

You are hereby authorized and directed to release the ship " " now under detention by virtue of an order made on the day of upon the payment of all costs, charges, and expenses attending the custody thereof.

Dated this day of Judge.

To the Collector of Customs at
[or other officer named in the order of detention].

FORM 24.

*Solicitors undertaking to give Security.**[Not to be printed, but to be used as a Precedent.]**[Heading of court in which proceedings commenced.]**The Seamen's Compensation Act 1911.*

The ship " " "

Whereas it is alleged that the owners of the ship " " are liable as such owners to pay compensation in respect of personal injury by accident arising out of and in the course of his employment caused to of

Now, therefore, I, L.M. of of solicitor for the owners [agent, master or consignee] of the said ship, hereby undertake within days from the date hereof to put in or give security in the sum of £ , to be approved by the judge, to abide the event of any proceedings that may be instituted to recover the compensation, and to pay such compensation and costs as may be awarded thereon.

Dated this day of
(Signed) L.M.

FORM 25.

*Application for Appointment of New Arbitrator.**(Schedule II., Paragraph (7.))**[Heading of court in which proceedings commenced.]**In the matter of the Seamen's Compensation Act 1911.*

In the matter of an arbitration between A.B.

of [address]
[description]

Applicant.

and
The owners [or charterers] of the ship " " Respondents.

Application is hereby made to the court on behalf of the above-named to appoint a new arbitrator in the above-mentioned matter in the place of Mr. the arbitrator appointed therein, by reason of the death [or refusal, [or inability] to act] of the said Mr.

And the applicant hereby requests that a time and place may be fixed for the hearing of the application.

Dated this day of
(Signed) Applicant.
[or Applicant's Solicitor.]

FORM 26.

*Summons on Application for Appointment of new Arbitrator.**[Title as in Application.]*

You are hereby summoned to attend before the judge in chambers at on the day of at the hour of in the noon, on the hearing of an application on the part of for the appointment by the judge of a new arbitrator in the above-mentioned matter in the place of Mr. the arbitrator appointed thereon, by reason of the death [or refusal [or inability] to act] of the said Mr.

And take notice that in default of your attendance at the time and place above-mentioned, the judge will, on proof of the service of this summons, proceed to hear and dispose of the said application.

Dated this day of
To Registrar.
and to his [or their] solicitor.

FORM 27.

Form of Memorandum under Paragraph (8) of Schedule II.

(i) In case of Injury to Seaman by Accident.

To the Collector of Customs for the State of
In the matter of the *Seamen's Compensation Act 1911*,
and
In the matter of an arbitration between

A.B.
of [address]
[description]

Applicant,

and
The owners [or charterers] of the ship “ ”,

Respondents.

[Or, where the matter has been decided by agreement without arbitration],

In the matter of an agreement between

A.B.
of [address]
[description]

and
The owners [or charterers] of the ship “ ”,

Be it remembered, that on the day of personal
injury was caused to the above-named A.B. by accident arising
out of and in the course of his employment:

And that on the day of the following agreement was
come to by and between the said A.B. and the owners [or
charterers] of the said ship, that is to say:

[Or That on the day of the following decision was
given by a committee representative of the owners [or charterers] of the said ship
and their seamen, having power to settle matters under the above-mentioned
Act in the case of the said owners [or charterers] and their seamen, that is to
say:]

[Or That on the day of the following award was
made and given by me, the undersigned , being an arbitrator
agreed on by the said A.B. and the owners [or charterers] of the said ship [or
appointed by the County Court of ,] that is to say:]

[Here set out copy of agreement, decision, or award.]

[Or where death resulted from the accident.]

Be it remembered, that on the day of personal
injury was caused to E.F., late of deceased, a seaman employed
on the ship “ ”, by accident arising out of and in the course of
his employment, and that on the day of the said E.F.
died as a result of the injury:

[Or That the ship “ ”, which left the port of
on or about the day of was lost with all hands
on or about the day of [or was last heard of on or
about the day of , and is believed to have been
lost with all hands, and that E.F., of , was a seaman employed
on the said ship]:

And that on the day of the following agreement
was come to by and between A.B. and G.H. the
dependants of the said E.F. within the meaning of the above-
named Act, and the owners [or charterers] of the said ship, that is to say:

[Or That on the day of the following decision was
given by a committee representative of the owners [or charterers] of the said
ship and their seamen, having power to settle matters under the above-mentioned
Act in the case of the said owners [or charterers] and their seamen, that is to say:]

[Or That on the day of the following award was
made and given by me, the undersigned , being an arbitrator
agreed on by A.B. and G.H. the dependants
of the said E.F. within the meaning of the above-mentioned Act, and the owners
[or charterers] of the said ship [or appointed by the County Court of ,]
that is to say:]

[Here set out copy of agreement, decision, or award.]

A copy of the report of Mr. , a medical referee appointed to
report on the above-mentioned matter, is hereunto annexed.

FORM 27—continued.

You are hereby requested to record this memorandum pursuant to paragraph 8 of the Second Schedule to the above-mentioned Act.

Dated this day of

[To be signed—

In the case of an agreement, by the parties or some or one of them, or by their or his solicitor on their or his behalf :

In the case of a decision by a committee, by the chairman and secretary on behalf of the committee :

In the case of an award, by the arbitrator.]

Note.—This form to be adapted to the circumstances of the case and the matter decided.

FORM 28.

Information to be supplied where a Memorandum of an Agreement as to the redemption of a weekly payment by a lump sum, or as to the amount of compensation payable to a person under any legal disability, or to dependants, is presented for registration. Schedule II. Paragraph (8).

A. In case of agreement with injured Seaman.

[Heading as in Memorandum.]

(a) A.B. named in the memorandum of agreement presented for registration in this matter was at the date of the accident years of age.

(b) He was employed as and his average weekly earnings computed in accordance with the above-mentioned Act were

(c) He was injured by and the nature of his injury was as follows :—

(d) He was totally incapacitated for work for a period of but recovered and was fit to resume his ordinary work on the day of 19 ;

[or He was and is at present totally incapacitated for work, but is expected to recover and to be fit to resume his ordinary work in about] ;

[or He was totally incapacitated for work for a period of and is now partially incapacitated, but such partial incapacity is not likely to be permanent, and he is expected to recover and to be fit to resume his ordinary work in about] ;

[or He was and is totally incapacitated for work and such incapacity is likely to be permanent] ;

[or He was totally incapacitated for work for a period of and is still partially incapacitated and such partial incapacity is likely to be permanent, but he is able to do light work, and it is estimated that he is able to earn an average weekly amount of in some suitable employment or business] ;

[or as the case may be].

(e) The said received the following payments, allowances, or benefits from his employers previous to the date of the agreement, viz. :—

[Here state payments made, and where a weekly payment has been made, the amount of such payment, and the period for which it was paid.]

Dated this day of , 19 .

B. Where death resulted from injury.

[Heading as in Memorandum.]

(a) A.B. named in the memorandum of agreement presented for registration in this matter was at the date of the accident [or death] years of age.

(b) He was employed as and his earnings in the employment of during the three years next preceding the injury in the said memorandum mentioned [or his average weekly earnings during the period of his employment under] were

FORM 28—continued.

(c) He left the following dependants wholly dependent upon his earnings, and the following dependants partly dependent, viz. :—

[Here state dependants, with their relationship to the deceased, and particulars showing how and to what extent they were dependent.]

[or He left no dependants wholly dependent upon his earnings, but left the following dependants partly dependent, viz. :—

Here state dependants, with their relationship to the deceased, and particulars showing how and to what extent they were dependent.]

(d) The said _____ received the following payments, allowances, or benefits from his employers after the accident *[or disablement]*, viz. :—

Dated this _____ day of _____ 19 ____.

FORM 29.

Notice of Memorandum having been received.

[Heading as in Memorandum.]

TAKE NOTICE that a memorandum, copy of which is hereto annexed, has been sent to me for registration.

Such memorandum appears to affect you.

I have therefore to request you to inform me within 7 days from this date whether you admit the genuineness of the memorandum, or whether you dispute it, and if so, in what particulars, or object to its being recorded, and if so, on what grounds.

If you do not inform me in due course that you dispute the genuineness of the memorandum, or object to its being recorded, it may be recorded without further inquiry, and will be enforceable accordingly.

If you dispute its genuineness or object to its being recorded, it will not be recorded, except with your consent in writing, or by order of a Judge of a County Court.

Dated this _____ day of _____
Collector of Customs for the
State of _____

FORM 30.

Notice disputing Memorandum or objecting to its being recorded.

[Not to be printed, but to be used as a Precedent.]

[Heading as in Memorandum.]

TAKE NOTICE that the owners *[or charterers]* of the ship "_____" dispute the genuineness of the memorandum sent to you for registration in the above-mentioned matter in the following particulars :—

[Here state particulars.]

[Or,
TAKE NOTICE that the owners *[or charterers]* of the ship "_____" object to the memorandum sent to you for registration in the above-mentioned matter being recorded, on the following grounds :—

[Here state grounds. See particularly Schedule 2, para. (8), proviso (b).]

Dated this _____ day of _____
As representing the owners *[or charterers]* of
the ship "_____"
*(Signature of managing owners or
manager or master of the ship.)*

[Or,
Solicitors for the owners *[or charterers]* of
the ship "_____"*"]*

The Collector of Customs for the State of _____

FORM 31.

Notice that Memorandum is Disputed, or of Objection to its being recorded.

[Heading as in Memorandum.]

TAKE NOTICE that the genuineness of the memorandum in the above-mentioned matter left [or sent to] me for registration is disputed by of a party affected by such memorandum, in the following particulars :

[here state particulars of dispute]

[or That of a party interested in the memorandum in the above-mentioned matter left with [or sent to] me for registration objects to the same being recorded, on the following grounds:]

[here state grounds]

The memorandum will therefore not be recorded except with the consent in writing of the said , or by order of a judge of a County Court.

Dated this

day of

Collector of Customs for the State of

To

FORM 32.

Notice of Application for Registration of Memorandum or for Rectification of Register.

[Not to be printed, but to be used as a Precedent.]

(a) Here fill in name of place in which proceedings were commenced or to which they have been transferred.

(a)

[Heading as in Memorandum.]

TAKE NOTICE that I intend to apply to the judge of the County Court at o'clock on the day of , at the hour of in the noon [in case of notice by solicitor, on behalf of of] for an order for the registration of the memorandum sent to the Collector of Customs for the State of in the above-mentioned matter [or for an order for the rectification of the memorandum recorded in the above-mentioned matter] by [state particulars of rectification applied for] and for consequential directions, and for costs.

Dated this

day of

Applicant.

[Or

Applicant's Solicitor.

To the Registrar of the County Court at and to and to Messrs. [his [or their] solicitors].

FORM 33.

Notice to Parties where the Question of Recording a Memorandum of an Agreement is referred to the Judge under Schedule II., paragraph (8), proviso (d).

(a)

[Heading as in Memorandum.]

TAKE NOTICE that the Collector of Customs for the State of had refused to record the memorandum sent him in this matter for registration, and has referred the matter to the judge of the County Court pursuant to proviso (d) to paragraph 8 of the Second Schedule to the Act, it appearing to him that the said memorandum ought not to be registered by reason of—

- (a) the inadequacy of the lump sum agreed to be paid in redemption of the weekly payment referred to in the memorandum : or
- (b) the inadequacy of the amount of compensation agreed to be paid to a person under legal disability : or
- (c) the inadequacy of the amount of compensation agreed to be paid to and dependants : or
- (d) the agreement having been agreed by fraud [or undue influence or improper means]

FORM 33—continued.

And further take notice, that by order of the judge you are hereby summoned to attend before him at _____ on _____ the _____ day at the hour of _____ in the _____ noon or so soon thereafter as the parties can be heard, when the matter will be inquired into. And that if you do not attend either in person or by your solicitor on the day and the hour above-mentioned such order will be made and proceedings taken as the judge thinks just and expedient.

Dated this _____ day of _____ Registrar of the County Court at _____
to [all parties concerned].

FORM 34.

Application for Removal of Record of Memorandum of Agreement from Register under Schedule II., paragraph (8), proviso (e).

(a)

[Heading as in Memorandum.]

TAKE NOTICE that I intend to apply to the judge of the County Court at _____ on _____ the _____ day of _____ at the hour of _____ in the _____ noon or so soon thereafter as the parties can be heard for an order for the removal from the register of the record of the memorandum of the agreement in the above-mentioned matter which was recorded on the _____ day of _____ pursuant to proviso (e) to paragraph 8 of the Second Schedule to the above-mentioned Act, on the ground that the said agreement was obtained by fraud [or undue influence or improper means] and for consequential directions, and for costs.

(a) Here fill in name of place in which proceedings were commenced or to which they have been transferred.

Dated this _____ day of _____ Applicant.
[Or Applicant's Solicitor.]
To the Registrar of the County Court at _____
and to _____
Messrs. _____
and his [or their] Solicitor.

FORM 35.

Notice to Parties where Judge or Magistrate directs Inquiry as to Removal of Record of Memorandum of Agreement from Register under Schedule II., paragraph (8), proviso (e).

(a)

[Heading as in Memorandum.]

WHEREAS it has been made to appear to the judge of the County Court that an inquiry should be held as to the removal from the register of the record of the memorandum of the agreement in the above-mentioned matter which was recorded on the _____ day of _____ pursuant to proviso (e) to paragraph 8 of the Second Schedule to the above-mentioned Act, on the ground that the said agreement was obtained by fraud [or undue influence or improper means].

(a) Here fill in name of place in which proceedings were commenced or to which they have been transferred.

TAKE NOTICE that you are hereby summoned to attend before the judge at _____ on _____ the _____ day of _____ at the hour of _____ in the _____ noon or so soon thereafter as the parties can be heard, when the matter will be inquired into by him. And that if you do not attend either in person or by your solicitor on the day and at the hour above-mentioned such order will be made and proceedings taken as the judge thinks just and expedient.

Dated this _____ day of _____ Registrar of the County Court at _____
To [all parties concerned].

FORM 36.

Application for Reference to Medical Referee under Schedule I, paragraph (13).
[Not to be printed, but to be used as a Precedent.]

(a) Here fill in
name of place
in which
proceedings
were
commenced or
to which they
have been
transferred.

(a)

In the matter of the *Seamen's Compensation Act 1911*.
 In the matter of a claim for compensation made by A.B.
 of against the owners [or charterers] of the
 ship " " "
[Or, where an arbitration is pending.]

In the matter of an arbitration between A.B.
 of [address]
 [description]

Applicant,

and
 the owners [or charterers] of the ship " "

Respondents.

[Or, where application is made after weekly payment has been settled.]

In the matter of an agreement [or a decision, or award] as to the weekly
 payment payable to A.B. of " by the
 owners [or charterers] of the ship " "

Application is hereby made on behalf of the above-named A.B.
 and the owners [or charterers] of the ship " " for a reference
 in the above-mentioned matter to a medical referee pursuant to paragraph 13
 of the First Schedule to the above-mentioned Act under the following circum-
 stances:—

1. On the day of notice
 was given by [or on behalf of] the above-mentioned A.B. to the
 above-mentioned owners [or charterers] of personal injury caused to the said
 A.B. by accident arising out of and in the course of his employ-
 ment in respect of which injury the said A.B. claims compensation
 from the said owners [or charterers] under the said Act.

[Or where arbitration is pending.]

1. An arbitration under the said Act is pending between the above-mentioned
 A.B. and the above-mentioned owners [or charterers] as to the
 amount of compensation payable to the said A.B. under the said
 Act in respect of personal injury caused to him by accident arising out of

[Or where weekly payment has been settled.]

1. Under an agreement [or a decision, or award] in the above-mentioned matter,
 recorded with the Collector of Customs at on the day of
 a weekly payment is payable to the above-mentioned A.B. by the
 above-mentioned owners [or charterers], as compensation in respect of personal
 injury caused to the said A.B. by accident arising out of and in
 course of his employment.

2. The weekly payment claimed by [or payable to] the said A.B.
 is

3. A question has [or questions have] arisen between the said A.B.
 and the said owners [or charterers], as to the condition [or fitness for employment]
 of the said A.B. [or as to whether [or to what extent] the
 incapacity of the said A.B. is due to the accident] [or as to the
 condition or fitness for employment] of the said A.B. and as to
 whether [or to what extent] the incapacity of the said A.B. is
 due to the accident, and no agreement can be come to between the said owners
 [or charterers] and the said A.B. with reference to such question
 [or questions].

4. The said A.B. has submitted himself for examination by a
 medical practitioner, provided by the said owners [or charterers] [or has been
 examined by a medical practitioner selected by himself] [or, if so, the said A.B.
 has submitted himself for examination by a medical practitioner
 provided by the said owners [or charterers], and has also been examined by the
 medical practitioner selected by himself] and a copy of the report of the said
 practitioner is [or copies of the reports of the said practitioners are] annexed to
 this application.

FORM 36—continued.

The applicants request that an order may be made referring the matter to a medical referee for his certificate as to the condition of the said A.B. and his fitness for employment, specifying if necessary the kind of employment for which he is fit [or for his certificate whether [or to what extent] the incapacity of the said A.B. is due to the accident] [or for his certificate as to the condition of the said A.B. and his fitness for employment, specifying if necessary the kind of employment for which he is fit, and as to whether [or to what extent] the incapacity of the said A.B. is due to the accident.]

Dated this day of

(Signed)

Applicant.

[Or Applicant's Solicitor,
as representing the owners [or charterers]
of the ship " "]

(Signature of managing owners or manager
or the master of the ship.)

[Or Solicitors for the owners
[or charterers].]

To the Collector of Customs for the
State of

FORM 37.

Order of Reference, Schedule I, paragraph (13).

[Heading as in Application.]

On the application of A.B. of and the
owners [or charterers] of the ship " " of (a copy
of which is hereto annexed) I hereby appoint Mr. of of
the medical referees appointed for the purposes of the *Seamen's Compensation
Act 1911* to examine the said [name of seaman] and to give his
certificate as to the condition of the said and his fitness for
employment, specifying if necessary the kind of employment for which he is fit,
[or his certificate whether [or to what extent] the incapacity of the said
is due to the accident] [or his certificate as to the condition of the said
and his fitness for employment, specifying if necessary the kind of employment
for which he is fit, and as to whether [or to what extent] the incapacity of the said
is due to the accident].

Copies of the reports of the medical practitioners by whom the said
has been examined are hereto annexed.

The said who is now at has been directed to
attend himself for examination by the referee.

I am satisfied that the said is in a fit condition to travel for
purpose of being examined, and he has been directed to attend on the referee
examination at such time and place as may be fixed by the referee.

[or The said does not appear to be in a fit condition to travel
for the purpose of being examined.]

The referee is requested to forward his certificate to me on or before the
day of

Dated this day of

Collector of Customs for the State
of

Form 38.

Order on Injured Seaman to submit himself for examination by Medical Referee.
[Heading as in Application.]

To A.B. of [address and description]
TAKE NOTICE that I have appointed Mr. of
of the medical referees for the purposes of the Seamen's Compensation Act 1911
to examine you in accordance with the application in the above-mentioned matter
for a reference to a medical referee.
You are hereby required to submit yourself for examination by the referee
[add where seaman is in a fit condition to travel, and to attend for that purpose at
such time and place as may be fixed by him].
If you refuse to submit yourself for such examination or in any way obstruct
the same your right to compensation and to take or prosecute any proceeding in
relation to compensation (or your right to any weekly payment) shall be suspended
until such examination has taken place.

Dated this day of Collector of Customs for the State
of

Form 39.

Notice to Parties of Certificate of Medical Referee.
[Heading as in Application.]

TAKE NOTICE that I have received the certificate of the medical referee appointed
in this matter, and that you may inspect the same during office hours at my
office situate at and may on request, and at your own cost, be
furnished with or take a copy thereof.

Dated this day of Collector of Customs for the State
of

To
and

Form 40.

Notice of Application for Suspension of Right to Compensation or to take or prosecute
Proceedings in relation to Compensation, or of right to Weekly Payments, under
Schedule I, paragraph (5), paragraph (11), or paragraph (13), and Regulation
55.

[Not to be printed, but to be used as a Precedent.]

(a) Here fill in name of place in which proceedings were commenced or to which they have been transferred.
(a) In the matter of the Seamen's Compensation Act 1911.
In the matter of a claim for compensation made by A.B.
of against the owners [or charterers] of the
ship "
[Or where an arbitration is pending.]
In the matter of an arbitration between
A.B.
of [address]
[description]
Applicant.
and
The owners [or charterers] of the ship "
Respondents.
[Or, where application is made after weekly payment has been settled.]
In the matter of an agreement [or a decision or an award] as to the
weekly payment payable to A.B.
of by the owners [or charterers] of the ship
"

FORM 40—continued.

TAKE NOTICE that I intend to apply to the judge at _____ on
the _____ day of _____ at the hour of _____ in the
noon or so soon thereafter as the parties can be heard (on behalf of
the owners [or charterers] of the said ship) for an order suspending your right to
compensation in the above-mentioned matter and to take or prosecute any pro-
ceedings under the above-mentioned Act in relation to compensation [or suspending
your right to weekly payments in the above-mentioned matter] on the ground
that you refuse to submit yourself to medical examination as required by me
[or by the owners [or charterers] of the said ship] in accordance with paragraph (5)
[or paragraph (11), of the First Schedule to the Act] [or that you obstruct the
medical examination required by me [or by the owners [or charterers] of the said
ship] in accordance with paragraph (5) [or paragraph (11)] of the First Schedule to
the Act] [or on the ground that you refuse to submit yourself for examination by
a medical referee as ordered under paragraph 13 of the First Schedule to the Act]
[or that you obstruct the examination by a medical referee ordered under paragraph
13 of the First Schedule to the Act] and for consequential directions, and for
costs.

Dated this _____ day of _____
(Signed)

As representing the owners [or
charterers] of the ship.
[Signature of managing owners or
manager or of the master of the
ship.]

To A.B. _____ of
and to Messrs.
his Solicitors.

[Or _____
Solicitors for the said owners.

FORM 41.

*Notice to parties where the question of adequacy of amount paid to the prescribed
authority under Regulation 57, is referred to the Judge.*

In the County Court at _____

In the matter of the *Seamen's Compensation Act 1911*,
and

In the matter of an arbitration between

A.B.,
of, &c., &c.

Applicant,

and

The owners [or charterers] of the ship “ _____ ”

Respondents,

or

In the matter of an agreement between

A.B.,
of, &c., &c.,

and

The owners [or charterers] of the ship “ _____ ”

TAKE NOTICE that the question of the adequacy of the amount paid to the prescribed
authority in this matter has been referred to the judge.

AND FURTHER TAKE NOTICE that by order of the judge you are hereby summoned
to attend before the judge at _____ on _____ the _____
day of _____ at the hour of _____ in the _____ noon, or so
soon thereafter as the parties can be heard, when the matter will be inquired into
by the judge; and that if you do not attend either in person or by your solicitor
on the day and at the hour above-mentioned such order will be made and pro-
ceedings taken as the judge thinks just and expedient.

Dated this _____ day of _____

Registrar.

To [the employer and the persons appearing to be interested in the amount paid in].

FORM 42.

Notice of Payment to the Prescribed Authority under Schedule I, paragraph (6).

(i)

(i) *Where amount payable has been ascertained or decided and payment to the Prescribed Authority is made under Regulation 56.*

[Heading as in Form 41.]

TAKE NOTICE that the sum of _____ has been paid to me as compensation in the above-mentioned matter.

Any person interested in the said sum may apply to the Comptroller-General of Customs for an order for the investment and application of the said sum for the benefit of the persons entitled thereto in accordance with paragraph 6 of the First Schedule to the *Seamen's Compensation Act 1911*, and the Regulations made under the said Act.

Dated this _____ day of _____
Collector of Customs for the State
of _____

To

Hours of attendance, &c.

(ii)

(ii) *Where amount payable has not been ascertained or decided and payment is made under Regulation 57.*

[Heading as in Form 41.]

TAKE NOTICE that the sum of £ _____ has been paid to me as compensation in the above-mentioned matter.

If any question arises as to the adequacy of the amount paid, or as to who are dependants, or as to the amount payable to each dependant or otherwise as to the application of the said sum, such question must be settled by arbitration in accordance with the above-mentioned Act and the Regulations made under the said Act.

If no question arises as to the adequacy of the amount paid, or as to who are dependants, or as to the amount payable to each dependant, any person interested in the said sum may apply to the Comptroller-General of Customs for an order for the investment and application of the said sum for the benefit of the persons entitled thereto in accordance with paragraph 6 of the First Schedule to the *Seamen's Compensation Act 1911*, and the Regulations made under the said Act.

If no question arises as to the adequacy of the amount paid, or as to who are dependants, or as to the amount payable to each dependant, but any of the persons interested in the sum are absent or under disability, any person interested in the said sum may apply to a judge for an order for the investment and application of the said sum for the benefit of the persons entitled thereto in accordance with paragraph 6 of the First Schedule to the *Seamen's Compensation Act 1911* and the Regulations made under the said Act.

Dated this _____ day of _____
Collector of Customs for the State
of _____

To

Hours of attendance, &c.

FORM 43.

Application for Investment or Application of Money paid to the prescribed authority under Schedule 1, paragraph (6.)

[Not to be printed, but to be used as a Precedent.]

- (1) *Application to the Comptroller-General of Customs for Investment and Application of the Sum Paid to the Prescribed Authority.*

[Heading as in Form 41.]

TAKE NOTICE that I *[name and address of applicant]* intend to apply to the Comptroller-General of Customs at on the day of at the hour of in the noon or so soon thereafter as the parties can be heard, on behalf of myself and of *[specify the persons on whose behalf the application is made]* as dependants of the above-named A.B. for an order for the investment and application of the sum paid to the prescribed authority in the above-mentioned matter, and for the allotment of the same between the dependants of the said A.B.

To the best of my knowledge and belief the persons interested in the said sum as dependants of the said A.B. are

[State dependants, with their ages and relationship to deceased seaman, and places of residence.]

I intend to apply for an order for the investment and application of the said sum, and for the allotment of the same between the dependants of the said A.B. as follows, viz. :—

[State how applicant wishes the sum to be dealt with]

or in such other manner as the Comptroller-General of Customs in his discretion thinks fit for the benefit of the persons entitled thereto under the above-mentioned Act, and for consequential directions.

Dated this day of

(Signed)

To the Registrar and *[to any other parties interested where the application is made on behalf of some only of the parties interested].*

2. *Application to the Comptroller-General of Customs for Investment and Application of the Amount allotted to any person.*

[Heading as in Form 41.]

TAKE NOTICE that I *[name and address of applicant]* intend to apply to the Comptroller-General of Customs at on the day of at the hour of in the noon or so soon thereafter as the parties can be heard, on behalf of myself *[or of]* for an order for the investment and application of the sum paid to the prescribed authority in the above-mentioned matter and allotted to me *[or to the said]*

I intend to apply for an order for the investment and application of the said sum as follows, viz. :—

[State how applicant wishes the sum to be dealt with]

or in such other manner as the Comptroller-General of Customs in his discretion thinks fit for my benefit *[or for the benefit of the said]* and for consequential directions.

Dated this day of

(Signed)

To the Comptroller-General of Customs.

FORM 43—continued.

3. *Application for Investment and Application of the amount paid to the prescribed authority where any of the persons interested in the sum is absent or under disability.*

In the County Court at

[Heading as in Form 41.]

TAKE NOTICE that I [name and address of applicant] intend to apply to the judge at _____ on the _____ day of _____ at the hour of _____ in the _____ noon or so soon thereafter as the parties can be heard, on behalf of myself and of [specify the persons on whose behalf the application is made] as dependants of the above-named A.B. for an order for the investment and application of the sum paid to the prescribed authority in the above-mentioned matter, and for the allotment of the same between the dependants of the said A.B.

To the best of my knowledge and belief the persons interested in the said sum as dependants of the said A.B. are [State dependants, with their ages and relationship to deceased seaman, and places of residence].

I intend to apply for an order for the investment and application of the said sum, and for the allotment of the same between the dependants of the said A.B. as follows, viz.:-

[State how applicant wishes the sum to be dealt with]

or in such other manner as the judge in his discretion thinks fit for the benefit of the persons entitled thereto under the above-mentioned Act, and for consequential directions.

Dated this _____ day of _____

(Signed)

To the Registrar and [to any other parties interested where the application is made on behalf of some only of the parties interested].

FORM 44.

Application to Prescribed Authority for Variation of Award under Schedule I, paragraph (10).

[Heading as in Award or Memorandum.]

TAKE NOTICE that I [name and address of applicant] intend to request the Collector of Customs for the State of _____ on the _____ day of _____ at the hour of _____ in the _____ noon to make application to the judge of a County Court for an order that the order of the court [or the award made in the above-mentioned matter on the _____ day of _____ as to the apportionment of the sum paid as compensation among the dependants of A.B. _____ deceased [or as to the manner in which the sum payable to _____ a dependant of A.B. _____ deceased, should be invested, applied, or otherwise dealt with] may be varied by directing [here state variation claimed by the applicant]:

And further take notice that the circumstances in which this application is made are [state particulars].

Dated this _____ day of _____

(Signed)

Applicant,

[Or

[Applicant's Solicitor

To the Collector of Customs for the State of _____ and to [all persons interested].

FORM 45.

Application by Prescribed Authority for Variation of Order under Schedule 1., paragraph (10).

[Not to be printed, but to be used as a Precedent.]

[Heading as in Award or Memorandum.]

TAKE NOTICE that I [name and address of applicant] intend to apply to the judge on the day of at the hour of in the noon or so soon thereafter as the parties can be heard, for an order that the order of the court [or the award] made in the above-mentioned matter on the day as to the apportionment of the sum paid as compensation among the dependants of A.B. deceased [or as to manner in which the sum payable to a dependant of A.B. deceased, should be invested, applied, or otherwise dealt with] may be varied by directing [here state variation claimed by applicant] and for consequential directions.

And further take notice that the circumstances in which this application is made are [state particulars].

Dated this day of (Signed)

Collector of Customs for the State of

To the Registrar of the County Court at and to [all persons interested].

FORM 46.

Application by Seaman intending to cease to reside in Australia for Reference to Medical Referee under Schedule 1., paragraph (19).

[Not to be printed, but to be used as a Precedent.]

In the matter of the Seamen's Compensation Act 1911 and

In the matter of an agreement [or a decision or an award] as to the weekly payment payable to A.B. of by the owners [or charterers] of the ship "

(a) Here fill in name of place in which proceedings were commenced or to which they have been transferred.

TAKE NOTICE that A.B. of to whom under an agreement [or a decision or an award] in the above-mentioned matter recorded with the Collector of Customs for the State of on the day of a weekly payment of is payable by the above-mentioned owners [or charterers] of the ship " as compensation for personal injury caused to the said A.B. by accident arising out of and in the course of his employment, intends to cease to reside in Australia;

And that the said A.B. intends to apply to the Collector of Customs at on the day of at the hour of in the noon or so soon thereafter as the parties can be heard, for an order referring to a medical referee question whether the incapacity of the said A.B. resulting from injury, is likely to be of a permanent nature.

A report of a medical practitioner, setting out the nature of the incapacity of the said A.B. resulting from the injury, is hereto annexed

Dated this day of (Signed)

Applicant.

[Or

Applicant's Solicitor.]

To the Collector of Customs at and to [the employer].

FORM 47.

Order of Reference. Schedule 1, paragraph (19).

(a) Here fill in name of place in which proceedings were commenced or to which they have been transferred.

(a)

[Heading as in Application Form.]

On the application of _____ of _____ (a copy of which is hereto annexed), I hereby appoint Mr. _____ of _____ of the medical referees appointed for the purposes of the *Seamen's Compensation Act 1911*, to examine the said [name of seaman] and to give his certificate as to whether the incapacity of the said [name of seaman] resulting from the injury is likely to be of a permanent nature.

A copy [or copies] of the report [or reports] of the medical practitioner [or practitioners] by whom the said _____ has been examined, is [or are] hereto annexed. [Add, if so : Copies of the statements submitted to me by the parties are also hereto annexed].

The said _____ who is now at _____ has been directed to submit himself for examination by the referee.

I am satisfied that the said _____ is in a fit condition to travel for the purpose of being examined, and he has been directed to attend on the referee for examination at such time and place as may be fixed by the referee.

[Or, The said _____ does not appear to be in a fit condition to travel for the purpose of being examined.]

The referee is requested to forward his certificate to the Collector of Customs at _____ on or before the _____ day of _____ specifying therein the nature of the incapacity of the said _____ resulting from the injury, and whether such incapacity is likely to be of a permanent nature.

Dated this _____ day of _____ Judge [or Collector of Customs].

FORM 48.

[To be printed on thick blue foolscap.]

Certificate of Identity.

[To be carefully preserved.]

NOTICE.—This Certificate is no security whatever for a debt.

No. of Certificate.

(a) Here fill in name of place in which proceedings were commenced or to which they have been transferred.

(a)

[Heading as in Award or Memorandum.]

THIS IS TO CERTIFY that A.B. _____ late of [address and description] is entitled to a weekly payment of _____

from [name and address of employer] as compensation payable to the said A.B. _____ in respect of personal injury caused to him by accident arising out of and in the course of his employment, such weekly payment to continue during the total or partial incapacity of the said A.B. _____ for work ; and that the description of the said A.B. _____ and his incapacity for work, as certified by the medical referee appointed in this matter, are as follows :—

Age _____

Height _____

Hair _____

Eyes _____

Nature of incapacity _____

[Describe nature of incapacity, as in certificate of medical referee.]

Dated this _____ day of _____ Collector of Customs at _____

FORM 49.

Notice to be given to Seaman intending to cease to reside in Australia.

[Heading as in Award or Memorandum.]

TAKE NOTICE, that if you desire to obtain payment of the weekly payment payable to you under the award [or memorandum] hereto annexed while you are residing out of Australia, you must at intervals of three months from the date up to which such payments have been made submit yourself to examination by a medical practitioner in the place where you are residing, and produce to him the copy of the certificate of the medical referee and the certificate of identity hereto annexed; and you must obtain from such medical practitioner a certificate in the form hereto annexed that he has examined you, and that your incapacity resulting from the injury specified in the certificate of the medical referee continues: and such certificate must be verified by the medical practitioner by declaration in your presence before some person as hereinafter mentioned.

You must also attend before some such person as hereinafter mentioned, and make a declaration in the form hereto annexed that you are the same person as mentioned in the copy of the certificate of the medical referee and in the certificate of identity hereto annexed, and in the certificate of the medical practitioner by whom you have been examined, producing to such person the copy and certificates above mentioned.

You must then transmit to me, at my office, situate at _____ the certificate of the medical practitioner by whom you have been examined, and your declaration, together with a request for transmission to you of the amount of the weekly payment due to you, specifying the place where and the manner in which the amount is to be transmitted, according to the form hereto annexed, which request must be signed in your own handwriting.

The persons before whom a certificate may be verified or a declaration made are:—

1. Any person having authority to administer an oath in the place in which you reside.
2. Any British ambassador, envoy, minister, charge d'affaires, or secretary of embassy or legation, exercising his functions in any foreign place in which you reside, or any British consul-general, consul, vice-consul, acting-consul, pro-consul, or consular agent exercising his functions in any foreign place in which you reside. In the event of your death while residing out of Australia, your representatives must, in order to obtain payment of the arrears due to you transmit to me at my office, situate at _____ a certificate of your death and documents showing that they are entitled to such arrears, verified by declaration before a person having authority to administer an oath, with a request for transmission to them of the amount of such arrears, specifying the place where and the manner in which such amount is to be transmitted to them.

The expression "your representatives" means—

- (a) if you leave a will, the executors of such will; or
- (b) if you die intestate, the persons who are according to law entitled to your personal estate; and payment of the arrears may be made to such persons without the production of letters of administration.

Dated this _____ day of _____

Collector of Customs at _____

To A.B. _____
of [address and description]

FORM 50.

Form of Medical Certificate to be obtained by Seaman residing out of Australia.
[Heading as in Award or Memorandum.]

I [name, address, and medical qualification of medical practitioner]

hereby certify that I have this day examined A.B. _____ of _____ whom I conscientiously believe to be the same person as A.B. _____ of _____ described in the copy certificate of the medical referee in the above-mentioned matter, dated the _____ day of _____ and in the certificate of identity _____

[Signature and description of persons before whom the declaration is made.]

[Signature and description of person before
whom the declaration is made.]

[add address of Collector's office.]

FORM 53.

Notice by the prescribed authority to Employer of Receipt of Medical Certificate and Declaration of Identity.

[Heading as in Award or Memorandum.]

TAKE NOTICE, that I have received proof of identity and of continuance of incapacity in the above-mentioned matter.

And I have to request you to transmit the sum of _____ being the amount of the weekly payments payable to A.B. under the above-mentioned award [or memorandum] from [the date to which they were last paid] to [13 weeks from that date] to me, to be by me remitted to the said A.B.

Dated this _____ day of _____
Collector of Customs at

To [name and address of employer.]

FORM 54.

Execution on Award or Memorandum.

In the County Court at _____

[Heading as in Award or Memorandum.]

WHEREAS on the _____ day of _____ an award was made in the above-mentioned matter by the judge [or by Mr. _____ an arbitrator appointed by the judge] whereby it was ordered [state operative parts of award]—

[Or, Whereas on the _____ day of _____ a memorandum was recorded with the Collector of Customs for the State of _____ of an agreement [or a decision, or an award] come to [or given or made] in the above-mentioned matter, whereby it was agreed [or ordered] [state operative parts of agreement, decision, or award]—

And whereas default has been made in payment of the sum of £ _____ payable by the said _____ to the prescribed authority [or to the said A.B. according to the said award [or memorandum];

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of [name the party against whose goods execution is issued] wheresoever they may be found within the district of this Court (except the wearing apparel and bedding of him or his family), and the tools and implements of his trade, if any, to the value of Ten pounds), the sum stated at the foot of this warrant, being the amount due under the said award [or memorandum], together with the costs of this execution; and also to seize and take any money or bank notes and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the said _____ which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of this court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the court this _____ day of _____ 19 _____

By the court, _____ Registrar.

To the Bailiff of the said court,

Amount in payment whereof default has been made	£ s. d.
Poundage for issuing this warrant	—
Total amount to be levied (with fees for execution of warrant, as indorsed hereon)	—

[See Back.]

[Back to be indorsed in form adopted in County Court writs.]

FORM 55.

Judgment Summons.

In the County Court at

[Heading as in Award or Memorandum.]

WHEREAS on the day of an award was made in the above-mentioned matter by the judge *[or by Mr. an arbitrator appointed by the judge]* whereby it was ordered *[state operative parts of award]*:
[or Whereas on the day of a memorandum was recorded with the Collector of Customs for the State of of an agreement [or a decision or an award] come to [or given or made] in the above-mentioned matter whereby it was agreed [or ordered] [state operative parts of agreement, decision, or award]:

And whereas default has been made in payment of the sum of £ payable by you the above-named to the prescribed authority *[or to the said A.B.]* according to the said award *[or memorandum]*:

These are therefore to require you to appear personally before the said court on the day of 191 at o'clock in the noon to be examined by the said court touching your estate and effects, and as to the property and means you have of paying the said sum together with interest thereon, and *[if there have been previous fruitless executions]* the costs of previous executions against you, and as to the disposal you have made of your property and the mode in which you incurred the liability; and if you disobey this summons you will be committed to prison.

Given under my hand and the seal of the said court this day of 19

 Registrar of the said court.

FORM 56.

Notice by Medical Referee to Employer or Solicitor signing the Application on Employer's behalf: Schedule I., par. (13).

Seamen's Compensation Act 1911.

To

I hereby give you notice that in accordance with the Reference made to me by the Collector of Customs for the State of under Schedule I., paragraph (13), of the above-named Act, in the case of *[name and address of worker]* I propose to examine the said at on the day of at o'clock.

Any statements made or submitted by you *[or if notice is addressed to the solicitor, by the employer]*, will be considered.

Dated this day of (Signed)

 Medical Referee.

FORM 57.

Notice by Medical Referee to Seaman or Solicitor signing the Application on Seaman's behalf: Schedule I., par. (13).

Seamen's Compensation Act 1911.

To

I hereby give you notice that in accordance with the reference made to me in your case *[or, if notice is addressed to the solicitor, in the case of]*, in the case of *[name and address of seaman]* by the Collector of Customs for the State of , under Schedule I., paragraph (13), of the above-named Act, I propose to examine you *[or the said]* at on the day of at o'clock.

And you are required to submit yourself *[or the said]* is required to submit himself for examination accordingly.

Any statements made or submitted by you *[or, if notice is addressed to the solicitor, by the worker]* will be considered.

Dated this day of (Signed)

 Medical Referee.

FORM 58.

*Certificate of Medical Referee as to Condition of Seaman and fitness for employment,
or as to whether or to what extent Incapacity of Seaman is due to the Accident;
Schedule I., paras. (13) and (15).*

Seamen's Compensation Act 1911.

In accordance with the Reference made to me by the Collector of Customs
for the State of _____ upon the application of _____
[*names and addresses of parties*] I have on the _____ day of _____
examined the said [name of seaman] and I hereby certify as
follows:—

1. The said _____ is*
and his condition is such that he is†

2. The incapacity of the said _____ is‡

NOTE.—*Either paragraph 1 or paragraph 2 to be filled up, or both to be filled
up, according to the terms of the Reference.*

Dated this _____ day of _____

(Signed)

Medical Referee.

*Describe state
of health.
†State whether
seaman is fit for
his ordinary or
other work,
specifying where
necessary the
kind of work,
whether he is
unfit for work
of any kind.
‡State whether
or to what extent
the incapacity
is due to the
accident.

FORM 59.

Notice by Medical Referee to Seaman: Schedule I., par. (19).

Seamen's Compensation Act 1911.

To _____
I hereby give you notice that in accordance with the Reference made to me
in your case by the Collector of Customs at _____
under Schedule I., paragraph (19), of the above-named Act, I propose to examine
you at _____ on the _____ day of _____ at _____ o'clock
and you are required to submit yourself for examination accordingly.

Dated this _____ day of _____

(Signed)

Medical Referee.

FORM 60.

Certificate of Medical Referee: Schedule I., par. (19).

Seamen's Compensation Act 1911.

In accordance with the Reference made to me by the Collector of Customs
at _____ under Schedule I., paragraph (19), of the above-named
Act, I have on the _____ day of _____ examined _____
[name and address of worker] and I hereby certify that his
incapacity is [or is not] likely to be of a permanent nature.

Dated this _____ day of _____

(Signed)

Medical Referee.

FORM 61.

Reference to a Medical Referee under Schedule II., para. (12).

In the matter of the *Seamen's Compensation Act 1911*.
In the matter of an arbitration between—

A.B.
of [address]
[description]

Applicant,

and
The owners [or charterers] of the ship “ ”

Respondents,

We, a committee, representative of the owners, [or charterers] of the ship “ ” and their seamen, and empowered to arbitrate in the matter arising under the *Seamen's Compensation Act 1911* between them :
[or I, an arbitrator agreed upon by the above-named parties to arbitrate in the matter arising between them under the *Seamen's Compensation Act 1911*]:
[or I, a judge of a County Court]:
[or I, arbitrator appointed by a judge of a County Court], having heard the evidence tendered by both parties, hereby certify that in our [or my] opinion the medical evidence given before us [or me] is conflicting [or insufficient] on a matter which seems to us [or me] to be material to a question arising in the above-mentioned arbitration, and that it is desirable to obtain a report from a medical referee on such matter, as follows:—

- (a) On the day of personal injury was [or is alleged to have been] caused to of by accident arising out of and in the course of his employment, under the following circumstances:

[Here state the facts of the accident as ascertained from the evidence.]

- (b) The matter on which we are [or I am] satisfied that it is desirable to obtain a report is:

[Here state the matter on which report is desired.]

- (c) The matter seems to be material to the following question arising in the arbitration, viz.:

[Here state the question to which the matter is material.]

We [or I] therefore appoint one of the medical referees appointed for the purposes of the *Seamen's Compensation Act 1911* to examine the said on the matter specified above, and to report to us [or me].

A statement of the medical evidence given before us [or me] is appended.

We are [or I am] satisfied that the said who is now at is in a fit condition to travel for the purpose of being examined, and he has been directed to attend on the referee for examination at such time and place as shall be fixed by the referee [or does not appear to be in a fit condition to travel for the purpose of being examined].

The referee is requested to forward his report to the Registrar of the County Court of on or before the day of

Dated this day of

(Signed)

Judge or Arbitrator

On behalf of the Committee,
Chairman } of
Secretary } Committee

Signature of Registrar
and Seal of Court.

A previous Reference was made to a medical referee in this case on the day of and a copy of the report then given is attached.

To: A.B. of [address]
[description]

TAKE NOTICE—
That the Committee [or arbitrator, or judge] have [or has] appointed one of the medical referees under the *Seamen's Compensation Act 1911* to examine you for the purposes of the above-mentioned arbitration, and to report to them [or him].
You are hereby required to submit yourself for examination by such referee (and to attend) for that purpose at such time and place as may be fixed by him.

FORM 63.

To A.B.
of [address]
[description]

(Signed)

FORM 64.

Number of Master.		Names of Parties.		Date on which Reference received.	From whom received.	Date of Examination.	Place of Examination.	Date on which Certificate or Report sent.	Tenor of Certificate.	Amount of Fees under each of the Headings in Regulation 95.					Expert Assistance.
										First Reference, Examination and Certificate or Report.	Subsequent Reference, Examination and Certificate or Report.	Further Statement	Travelling more than two miles from residence (or centre) to examine Seaman. (See Certificate of Distance and Scale of Fees on back.)		
										£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	
Totals															

Total £

I hereby certify that I examined the seaman
 [described centre], which is distant _____
 miles from my residence [or _____]

Total £ _____

(Signed) _____

Endorsement to be made on back of Statement.

FORM 65.

Medical Referee's Statement of Fees in respect of References under Schedule I., paragraph (19).

Number of Matter.	Name of Seaman.	Date on which Reference Received.	From Whom Received.	Date of Examination.	Date on which Certificate sent to Registrar.	Whether Incapacity Certified to be Permanent or not.	Fees.	Expert Assistance.
							(per case to include all Duties).	
							£ s. d.	£ s. d.
Totals ..							Total £	

(Signed)

FORM 66.

Medical Referee's Statement of Fees in respect of References under Schedule II., paragraph (12).

Number.	Name of Parties.	Date on which Reference Received.	Registrar from Whom Received.	Date and Place of Examination.	Date on which Report Sent.	Amount of Fees under---				Expert Assistance.
						First Reference.	Subsequent Reference.	Further Statement.	Traveling Expenses.	

FORM 67.

Record of References, &c., to be kept by the Registrar and the Prescribed Authority. State of

For quarter ended

Number of Reference.	Names of Parties.	Date on which Reference forwarded to Medical Referee.	Provision in the Act under which Reference is made, and if under Schedule II., par. 12, by Whom Made.*	Whether Seaman directed to attend a Referee or not.	Medical Referee Appointed.	Date and Number of Previous Reference in same case (if any).

* Here say whether committee, agreed arbitrator, County Court judge, or appointed arbitrator.

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