

12 OF 1925.

A.D. 1525. TO PROVIDE FOR THE REGULATION AND INSPECTION OF
 12 of 1925. MINES AND FOR THE PAYMENT OF COMPENSATION TO
 WORKMEN FOR INJURIES SUFFERED IN THE COURSE
 OF THEIR EMPLOYMENT IN MINES.

MALCOLM STEVENSON.]

[April 29, 1925.

BE it enacted:—

Short title

1. This Law may be cited as the Mines Regulations (Amendment) Law, 1925, and shall be read in conjunction with the Mines Regulations Law, 2 Shaban, 1285, and the Mines Regulations Amendment Law, 1882.

PART I.

Inspection of Mines.

Power to
 High Com-
 missioner to
 make regula-
 tions.

2. The High Commissioner in Council may from time to time make and when made may alter, amend, or cancel regulations for—

(a) Inspecting and examining into the state and condition, and ensuring the due ventilation, of any mine or part thereof.

(b) Regulating all matters and things connected with or relating to the safety and health of the persons employed in or about any mine or connected with or relating to the machinery in or attached to any such mine.

(c) Inspecting and examining the state of the external parts of the machinery used upon or in the mines and the state of all plants, works and ways.

(d) Inspecting the storage of explosives upon any mines.

(e) The issuing of notices to the owners, superintendents, managers, or persons in charge of any mine, calling upon them to execute any work for any of the above purposes.

(f) The appointment of a Controller and Inspectors or Inspector of mines.

(g) The reporting to the Chief Secretary to Government by the owner, superintendent, manager or person in charge of any mine of any loss of life, or serious personal injury to any person employed in the mines by reason of any accident or mishap at such mine.

(h) Any other purpose necessary for carrying out the provisions of this Part of this Law.

3. Any person who shall—

(a) open, work or use a mine in contravention of the regulations or any of them made under section 2 hereof, Penalties.

(b) hinder or obstruct any Inspector when inspecting any mine or the machinery of any mine, under the provisions of section 2 hereof or any regulation made thereunder,

(c) refuse or neglect to execute any work after receiving notice in writing in that behalf,

(d) keep any mine in an insanitary state or condition or without ensuring the due ventilation thereof,

(e) commit any breach of any of the regulations made under section 2 of this Law,

shall be guilty of an offence and be liable on a first conviction to a fine not exceeding five pounds or to imprisonment not exceeding three months or to both such punishments, and on any subsequent conviction to a fine not exceeding ten pounds or to imprisonment not exceeding six months or to both such punishments.

4. If at any time it is shewn to the satisfaction of the High Commissioner that a mine is in such condition as to render mining operations dangerous to the safety of the workmen employed in or about such mine, the High Commissioner may order either (a) that such mine be closed or (b) that such works be executed as will enable mining operations to be conducted with due regard to the safety of the workmen employed in or about such mine. Power to High Commissioner to close mine.

PART II.

Compensation for Injuries.

5. In this Part of this Law, unless the context otherwise requires— Definitions.

“Employer” includes any body of persons corporate or unincorporate and the legal personal representative

Repealed by Law 36/1948.

of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Law, be deemed to continue to be the employer of the workman whilst he is working for that other person ;

“ Workman ” does not include any person employed otherwise than by way of manual labour whose remuneration exceeds two hundred pounds a year, or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer’s trade or business, or a member of a police force, or an out worker, or a member of the employer’s family dwelling in his house, but, save as aforesaid, means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing ;

Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependants or other person to whom or for whose benefit compensation is payable ;

“ Dependants ” means such of the members of the workman’s family as were wholly or in part dependent upon the earnings of the workman at the time of his death, or would but for the incapacity due to the accident have been so dependent, and where the workman, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon his earnings, or, being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child and parent or grandparent respectively ;

“ Member of a family ” means wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister.

Liability of
employers to
workmen for
injuries.

6.—(1) If in any employment in a mine personal injury by accident arising out of and in the course of such employment is caused to a workman, his employer shall, subject as hereinafter mentioned, be liable to pay compensation in accordance with the First Schedule to this Law.

(2) Provided that—

(a) The employer shall not be liable under this Law in respect of any injury which does not disable the workman for a period of at least one week from earning full wages at the work at which he was employed.

(b) When the injury was caused by the personal negligence or wilful act of the employer nothing in this Law shall affect any civil liability of the employer, but in that case the workman may, at his option, either claim compensation under this Law or take proceedings independently of this Law ; but the employer shall not be liable to pay compensation for injury to a workman by accident arising out of and in the course of the employment in a mine both independently of and also under this Law and shall not be liable to any proceedings independently of this Law, except in case of such personal negligence or wilful act as aforesaid.

(c) If it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed.

(3) If any question arises in any proceedings under this Law as to the liability to pay compensation under this Law (including any question as to whether the person injured is a workman to whom this Law applies), or as to the amount or duration of compensation under this Law, the question, if not settled by agreement within six months from the date of claim, shall, subject to the provisions of the First Schedule to this Law, be settled by the District Court, in accordance with procedure prescribed by Rules of Court.

(4) If, within the time hereinafter in this Law limited for taking proceedings, an action is brought to recover damages independently of this Law for injury caused by any accident, and it is determined in such action that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under the provisions of this Law, the action shall be dismissed ; but the Court in which the action is tried shall, if the Plaintiff so choose, proceed to assess such compensation, but may deduct from such compensation all or part of the costs, which, in its judgment have

been caused by the plaintiff bringing the action instead of proceeding under this Law.

Time for
taking pro-
ceedings.

7.—(1) Proceedings for the recovery under this Law of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death :

Provided always that—

(a) the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect or inaccuracy, or that such want, defect or inaccuracy was occasioned by mistake, absence from the island of Cyprus, or other reasonable cause ; and

(b) the failure to make a claim within the period above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from the island of Cyprus, or other reasonable cause.

(2) Notice in respect of an injury under this Law shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of such employers.

(3) The notice may be served by delivering the same at, or sending it by post in a registered letter addressed to, the residence or place of business of the person on whom it is to be served.

(4) Where the employer is a body of persons, corporate or unincorporate, the notice may also be served by delivering the same at, or by sending it by post in a registered

letter addressed to, the employer at the office, or, if there be more than one office, any one of the offices of such body.

8.—(1) Where any person (in this section referred to as the principal), in the course of or for the purposes of mining operations, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this Law which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal then, in the application of this Law, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

Sub-
contracting.

(2) Where the principal is liable to pay compensation under this section, he shall be indemnified by any person who would have been liable to pay compensation to the workman independently of this section, and all questions as to the right to and amount of any such indemnity shall in default of agreement be settled in accordance with the procedure mentioned in section 6 (3) of this Law.

(3) Nothing in this section shall be construed as preventing a workman recovering compensation under this Law from the contractor instead of the Principal.

(4) This section shall not apply in any case when the accident occurred elsewhere than on, or in, or about premises in which the principal has undertaken to execute the work or which are otherwise under his control or management.

9.—(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Law to any workman, then, in the event of the employer becoming bankrupt, or making a composition or arrangement with his creditors, or if the employer is a company in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in the enactments relating to bankruptcy and the winding

Provision as
to cases of
bankruptcy
of employer.

up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the bankruptcy or liquidation.

(3) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

Remedies
both against
employer
and stranger.

10. Where the injury for which compensation is payable under this Law was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

(1) The workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this Law for such compensation, but shall not be entitled to recover both damages and compensation; and

(2) If the workman has recovered compensation under this Law, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the section of this Law relating to sub-contracting, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be settled by the District Court.

Power to
make Rules
of Court.

11. The High Commissioner, with the advice and assistance of the Chief Justice, may make Rules of Court regulating the practice and procedure of the Courts under this Part of this Law, and the fees to be taken with regard to the proceedings hereinbefore mentioned.

See Cyprus Gazette of 5.3.26, No. 1151.

PART III.

General.

Definitions.

12. In this Law, unless the context otherwise requires—
“Mine” means any excavation for the purpose of mining minerals, and all mineral deposits worked at or

from the surface and includes all shafts, levels, planes, buildings, erections, plant, machinery, tramways, railways, ropeways, appliances, stones, works, waste heaps, dumps and sidings belonging or appertaining thereto both above and below ground, which may be sunk, driven, erected or constructed in and adjacent to any such mine.

“Minerals” means all materials of economic value forming part of or derived naturally from the crust of the earth including mineral oil, pitch, asphalt and natural gas but not minerals in solution or peat, trees, timber and similar kinds of forest produce.

“Mining” means any operation for mining or obtaining minerals.

13. This Law shall come into operation upon a date fixed by notice by the High Commissioner in the *Cyprus Gazette*. Date of coming into operation.

14. The enactments mentioned in the first column of the Second Schedule of this Law are hereby repealed to the extent appearing in the second column of the Second Schedule. Repeal

FIRST SCHEDULE.

SCALE AND CONDITIONS OF COMPENSATION.

(1) The amount of compensation under this Law shall be—

(a) where death results from the injury—

(i) if the workman leaves any dependants wholly dependent upon his earnings, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of one hundred pounds, whichever of these sums is the larger, but not exceeding in any case two hundred pounds, provided that the amount of any weekly payments made under this Law, shall be deducted from such sum, and if the period of the workman's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years shall be deemed to be one hundred and fifty six times his average weekly earnings during the period of his actual employment under the said employer.

(ii) if the workman does not leave any such dependants, but leaves any dependants in part dependent upon his earnings, such sum, not exceeding in any case the amount payable under the foregoing provisions, as may be agreed upon, or in default of agreement may be determined, by the Court, to be reasonable and proportionate to the injury to the said dependants ; and

(iii) if he leaves no dependants, the reasonable expenses of his medical attendance and burial, not exceeding five pounds ;

(b) where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding fifty per cent. of his average weekly earnings during the previous twelve months, if he has been so long employed, but if not then for any less period during which he has been in the employment of the same employer, such weekly payment not to exceed ten shillings,

Provided that—

(a) if the incapacity lasts less than two weeks no compensation shall be payable in respect of the first week ; and

(b) as respects the weekly payments during total incapacity of a workman who is under twenty-one years of age at the date of the injury, and whose average weekly earnings are less than ten shillings, one hundred per cent. shall be substituted for fifty per cent. of his average weekly earnings, but the weekly payment shall in no case exceed five shillings.

(2) For the purposes of the provisions of this schedule relating to “ earnings ” and “ average weekly earnings ” of a workman, the following rules shall be observed :—

(a) Average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated. Provided that where by reason of the shortness of the time during which the workman has been in the employment of his employer, or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average weekly amount which, during

the twelve months previous to the accident, was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment.

(b) Where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident.

(c) Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

(d) Where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings.

(3) In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may receive from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in some suitable employment or business after the accident, but shall bear such relation to the amount of that difference as under the circumstances of the case may appear proper.

(4) Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination by the District Medical Officer of the district in which such workman resides, and, if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceeding under this Law in relation to compensation, shall be suspended until such examination has taken place.

(5) The payment in the case of death shall, unless otherwise ordered as hereinafter provided, be paid into the District Court, and any sum so paid into Court shall, subject to rules of court, and the provisions of this schedule, be invested, applied or otherwise dealt with by the Court in such manner as the Court in its discretion thinks fit for the benefit of the persons entitled thereto under this Law, and the receipt of the Registrar of the Court shall be a sufficient discharge in respect of the amount paid in :

Provided that, if so agreed, the payment in case of death shall, if the workman leaves no dependants, be made to his legal personal representative, or, if he has no such representative, to the person to whom the expenses of medical attendance and burial are due.

(6) Where a weekly payment is payable under this Law to a person under any legal disability, a District Court may, on application being made in accordance with rules of court, order that the weekly payment be paid during the disability into court, and the provisions of this schedule with respect to sums required by this schedule to be paid into court shall apply to sums paid into court in pursuance of any such order.

(7) Any question as to who is a dependant and the amount payable to each dependant shall, in default of agreement, be settled by the District Court. Where there are both total and partial dependants nothing in this schedule shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

(8) Where, on application being made in accordance with rules of court, it appears to a District Court that, on account of neglect of children on the part of a widow, or on account of the variation of the circumstances of the various dependants, or for any other sufficient cause, an order of the Court or an award as to the appointment amongst the several dependants of any sum paid as compensation, or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Court may make such order for the variation of the former order or the award, as in the circumstances of the case the Court may think just.

(9) Any workman receiving weekly payments under this Law shall, if so required by the employer, from time to time submit himself for examination by the District Medical Officer of the district in which such workman resides. If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examination has taken place.

(10) A workman shall not be required to submit himself for examination by the District Medical Officer under paragraph (4) or paragraph (9) of this schedule otherwise than in accordance with the provisions of rules of court, or at more frequent intervals than may be prescribed by these rules.

(11) The District Medical Officer shall give a certificate as to the condition of the workman and his fitness for employment, specifying when necessary the kind of employment for which he is fit, and that certificate shall be conclusive evidence as to the matter so certified.

(12) Any weekly payment may be reviewed on application to the District Court, at the request either of the employer or of the workman, and on such review may be ended, diminished or increased, subject to the maximum above provided :

Provided that when the workman was at the date of the accident under twenty-one years of age and the review takes place more than twelve months after the accident, the amount of the weekly payment may be increased to any amount not exceeding fifty per cent. of the weekly sum which the workman would probably have been earning at the date of the review if he had remained uninjured, but not in any case exceeding ten shillings.

(13) If a workman receiving a weekly payment ceases to reside in Cyprus, he shall thereupon cease to be entitled to receive any weekly payment, unless the District Medical Officer certifies that the incapacity resulting from the injury is likely to be of a permanent nature. If the District Medical Officer so certifies, the workman shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter so long as he proves, in such manner and at such intervals as may be prescribed by rules of court, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

(14) A weekly payment shall not be capable of being assigned, charged or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against the same.

SECOND SCHEDULE.

The Mines Regulations Law, 2 Shaban, 1285	Articles 61 to 67, inclusive
The Excavations Law, 1919.	The whole Law

*This Law was published in the Cyprus Gazette No. 1690
of the 30th April, 1925.*

13 OF 1925.

A.D. 1925.
13 of 1925.

TO AMEND THE LAW RELATING TO MALICIOUS INJURY TO PROPERTY.

MALCOLM STEVENSON.]

[April 29, 1925.

BE it enacted:—

Short title.

1. This Law may be cited as the Malicious Injury to Property (Amendment) Law, 1925, and shall be read as one with the Malicious Injury to Property Law, 1923, (hereinafter referred to as the Principal Law), and the Principal Law and this Law may together be cited as the Malicious Injury to Property Laws, 1923 and 1925.

Amendment
of Law 20 of
1923, sec. 2
(a).

2. The Principal Law, section 2 (a), is hereby amended by the addition thereto of the following proviso:—

Provided that a person who has ceased to reside in a village shall not be deemed to be a tax-paying inhabitant.

Amendment
of Law 20
of 1923, sec.
2 (c).

3. The Principal Law, section 2 (c), is hereby amended by the deletion of the word "owner" and the substitution therefor of the word "occupier."

Repeal of
Law 20 of
1923, sec.
2 (d).

4. The Principal Law, section 2 (d), is hereby repealed.

Amendment
of Law 20
of 1923, sec.
6 (4) (a).

5. The Principal Law, section 6 (4) (a), is hereby amended by the addition after the word "payment" of the words "from a counterfoil book to be furnished to him by the Commissioner of the District."