SECOND CARNEGIE INQUIRY INTO POVERTY
AND DEVELOPMENT IN SOUTHERN AFRICA

Workmen's compensation in
South Africa: A brief overview
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INTRODUCTION

The intention of this paper is to sketch the development and main features of Workmen's Compensation (WC) legislation in South Africa, as well as highlighting its main problems. In this we will rely mainly on the seminal works of Budlender and Rozenzergarten. This will be preceded by a short investigation of why workers suffer occupational injury or disease, under capitalism.

SECTION ONE : THE ROOTS OF INJURY AND ILL HEALTH

'John Stuart Mill says in his Principles of Political Economy: "It is questionable if all the mechanical inventions yet made have lightened the day’s toil of any human being". That is, however, by no means the aim of the capitalistic application of machinery. Like every other increase in the productiveness of labour, machinery is intended to cheapen commodities, and, by shortening that portion of the working day, in which the labourer works for himself, to lengthen the other portion that he gives, without an equivalent, to the capitalist. In short, it is a means for producing surplus-value. In manufacture, the revolution in the mode of production begins with the labour-power, in modern industry it begins with the instruments of labour ... The starting point of Modern Industry is ... the revolution in the instruments of labour, and this revolution attains its most highly developed form in the organised system of machinery in a factory'.

Within these quotations from Marx lie the key to understanding why it is that so many workers are injured and maimed at work, or contract often fatal diseases there. This understanding pertains essentially to two related phenomena, the one obvious in the quotes above, the other far more concealed. The first is the near-frantic efforts on the part of capital, owners of the means of production, to improve and increase the machinery that make up such a large part of this means of production. The second is that, despite this headlong increase, refinement and sophistication in the techniques of production, the development of the environment in which production takes place has not kept pace. Simply put, while the capitalist has constantly revolutionised the techniques of production by introducing more (and more sophisticated) machinery into the work place, the worker who sets to work this machinery, has not seen a corresponding revolutionising of the conditions under which he works.

It is our contention that it is the iron laws of capitalist development themselves, its internal contradictions, that prevent the corresponding development of machinery and working conditions, so that, to a large extent, the one is achieved at the expense of the other. Thus, the increasing use of machinery and chemicals in factories exposes more and more workers to the threat of injury, mutilation and disease. On the other hand, the perpetuation of conditions in the workplace which compound these risks contribute very directly to the possibility of introducing new machinery.

While the introduction of machinery, as Marx points out, is a means for producing surplus-value, for the capitalist this does not happen free of contradiction. The increasing outlay on more and better machines increases his constant capital. The capitalist is compelled to reduce his variable capital in order to ensure profit. This takes the form of driving down workers' wages. But the capitalist, for various reasons, can reduce the workers' wages only so far. The continued increase in constant capital which the capitalist cannot wholly offset by a reduction in variable capital, leads ultimately to a drop in the rate of profit for the capitalist. The capitalist now looks for ways of maintaining an equitable rate of profit outside of just keeping wages low, since this is not enough. It is in this context that the maintenance of often primitive working conditions must be understood. Faced with a declining rate of profit, the capitalist will not (indeed cannot, without further lowering profit) engage in an outlay of capital on improving working conditions, especially not under conditions where it has readily available a large reserve army of unemployed, created by the same drive for mechanisation, which can simply replace injured workers. Thus it is the workers who toil under the most appalling conditions who bear the brunt of this contradiction. It is this internal contradiction of capitalist development that explains the broader contradiction that today, in the era of monopoly capital, the most technologically advanced capitalist country, America, which can let men ride go-carts on the Moon, can at the same time boast the somewhat dubious distinction of its workers experiencing 5.6 million work-related injuries in the early 'seventies, while in 1972 390 000 new cases of occupationally related diseases resulting in disablement were identified in that country.¹

So, by keeping wages low and working conditions at a rudimentary level, the capitalist is assured of a reasonably equitable rate of profit, which allows for further investment in new techniques of production, in newer or more machines, thereby exposing workers to greater risk. (There is an aspect of the introduction of new machinery which we have not mentioned, that is, the intensification of labour that accompanies it. This intensification of labour has the physical effect on the worker of demanding more out of him in a shorter time, exhausting him in the process and thereby increasing the risk of injury. It is an aspect that relates to a number of others, such as the need on the part of the capitalist to compensate as soon as possible for the outlay on the new machinery, etc. and will not be pursued here. It is, however, deserving of greater attention in the study of health and safety of work, both empirically and theoretically). Under conditions of monopoly capital, characterised as it is by an ever-increasing organic composition of capital, and a resultant declining rate of profit, workers cannot expect capital of its own accord to improve fundamentally conditions of safety and health at work. It is only through better standards of safety and health becoming a conscious part of workers' daily organised struggles at work that Capital will be forced to improve present standards. Even then it will attempt to do so haltingly and in piece-meal fashion, given the contradictions it presently faces. Of course, this will not happen uniformly, since the rate of profit varies from industry to industry, depending on the nature of the industry itself; thus some industries might be characterised by much better conditions of health and safety than others. Even then, the lesson for workers must be that occupational injury and disease are inherent in the capitalist labour process.

SECTION TWO: WORKING CLASS STRUGGLE AND WORKMEN'S COMPENSATION

The working class does not passively accept the mechanisation of the labour process, whatever the dictates of the internal dynamics of capitalist development. As much as the introduction of the eight-hour working day signalled a victory for the struggles of the international working class, just so did the introduction of legislation which afforded compensation to workers in respect of occupational injury or disease. Before the

1. See Appendix One - ILO Convention on Workmen's Compensation.
introduction of legislation, most injured workers could obtain compensation only by suing their employers. But this entailed engaging lawyers which was costly, and the entire process was very slow. Furthermore, the onus was on the worker to prove to the court that the employer had been guilty of personal negligence. The doctrine that the worker had agreed to his employment conscious of the risk, most often led to workers losing their case.1

The first Workmen's Compensation legislation was introduced in Germany in 1884, and in Britain in 1897. The German system stipulated compulsory insurance against accidents of his workers by the employer with non-profit making organisations. A Federal Insurance Office supervised the scheme, with disputes adjudicated via special courts. Under British legislation, employers were liable for industrial injuries but were not obliged to insure their workmen. The biggest capitalists insured their workers with private insurance companies, and claims for compensation were negotiated between the worker, the employer and the insurance company. In the event of failure to settle a dispute, the matter would be resolved in an ordinary court of law. This often happened, as the insurance companies sought to exploit legal loopholes to shirk liability.

It is on the basis of British WC legislation that the first such legislation was passed in South Africa. Before turning to an examination of this legislation, we need first to address ourselves to why capital pays compensation to injured workmen. As already pointed out, the first introduction of WC legislation was a direct result of working class struggle, and, as such, represents a victory for the working class. Capital, however, gains in a very definite sense from the payment of compensation. Compensation, from the point of view of capital, has to be viewed in the same light as we do wages. The wage of a worker is calculated to be just sufficient to ensure the physical reproduction of the worker, that is, the reproduction of the worker's labour-power, so that he may continue to work, as well as the physical reproduction of his family, so as to ensure future generations of workers. Without a working class from which to extract surplus-value, capital cannot continue to exist. The physical well-being and reproduction of the working class is therefore as vital to

capital as it is to that class itself. The WC paid out by capital, by facilitating the patching up of temporarily disabled workers, whether it be via medical care or cash payments, and via remuneration to permanently disabled workers and their families, contributes to this reproduction of the working class as a whole, and, ultimately, to the continued accumulation of capital. Furthermore, by off-loading the responsibility of WC onto the state, as in South Africa, capital is able to distance itself from occupational injury and disease, while the state derives the benefit of appearing before the working class as its benefactor, thereby strengthening the apparatus of Bourgeois ideology.

Workmen's Compensation in South Africa

We will now look briefly at the development of WC in South Africa, and isolate its main features and problems. The WCA of 1914 afforded workers the choice of claiming for compensation either under the provision of the Act or under common law, which had hitherto been the only recourse open to injured workers. Via written notice of the accident, the employer had together with the employee to reach agreement on compensation. Where no agreement could be reached, the matter would be referred to a magistrate for resolution. Compensation for industrial diseases, left out of the original Act, was first included in 1917, by means of a schedule of diseases and accompanying industries in which their occurrence would be compensated.

As Budlender points out, in the early stages the Act was ineffective, the main problem being that employers were not obliged to induce their workmen against injury. Often, (especially the small) employers could not afford to pay compensation. In 1934 the Act was again amended to make compulsory the insurance of workers against injury by all employers. Also provided for was a WC Commissioner, whose task it was to supervise the Act. While the provision of private agreements between worker and employer within two weeks was retained, henceforth in the event of a deadlock, the dispute had to be referred to the Commissioner. If he could not resolve the dispute, then only could the matter be referred to court. This marked an important turning point in the provision of WC in South Africa, as workers now effectively forfeited the right to common law, except in cases where the

1. This excluded the mines, mineworkers being covered from 1894 onwards via the Rand Mutual Assurance Company, started by the mineowners. Thus, today mineworkers are still covered by a separate WC scheme.
employer had been negligent. Where fellow-workmen (classified as 'strangers' in terms of the Act) caused a worker injury, the Act provided no cover, just as it did in cases where workers were responsible for injuring themselves. Employers all insured themselves with private insurance companies. A further aspect of the 1934 amendment was that it introduced for the first time free medical aid to all workers injured at work. This covered free aid on the factory premises, free transport to hospital, in addition to other WC benefits such workers were entitled to. All this was to be paid out of the insurance.

The 1941 amendment profoundly affected the Act. A state-administered insurance and compensation scheme was initiated for the first time. All accidents had to be reported directly to the WC Commissioner - thus doing away with private agreements - who paid out compensation from a state fund. This fund was contributed to solely by employers, the size of contributions being determined by their wage budgets. A system of rebates according to reported accident rates was also introduced. (We will see below how this rebate system has led to much abuse by employers). The 1941 Act also included substantial increases in the rate of compensation paid.

It is necessary at this point to identify the single most characteristic aspect of WC in South Africa, that is, the phenomenon of discrimination against unskilled labour in its application. Until 1941, this discrimination assumed a dual character. Firstly, it took on an overtly racial tone from 1914, by excluding from compensation 'all those workers whose contracts of labour were governed by the Native Labour Regulation Act', which itself provided for 'compensation'. Although these workers were included in the main Act in 1934, the latter retained different WC rates and conditions for African workers. From 1941 onwards African workers were no longer overtly discriminated against. African workers, constituting by far the bulk of the unskilled workforce, were, however, not the only ones discriminated against. The second aspect of discrimination was perpetrated by means of WC being based on a percentage of wages earned by injured workers. Thus, no fixed amount would be paid to workers losing an arm, for example. Instead, compensation would be determined by how much a particular worker earned. In this way, all unskilled workers were discriminated against, to a lesser or greater extent. We will return to this discussion below, given its vital importance even today for the practice of WC in South Africa.

Despite the inclusion of African workers within its scope, the Act of 1941 still excluded agricultural and domestic workers, most of whom were African. Exempted were all employers with five or less employees. The main features of the 1941 Act remain very much in force today, although the Act has undergone numerous amendments subsequently. In 1964 all agricultural workers were finally incorporated under the Act. Domestic workers, together with other categories of workers remain excluded till this day from the scope of the Act. Also excluded are all state employees, members of the South African Police Force, the South African Defence Force, persons earning more than R12 000 per year, out workers who are given materials by employers but do not work on the employer's premises, as well as casual employees not employed for the purpose of the employer's business. There is no apparent reason for the exclusion of most of these categories of workers. State employees are nevertheless paid compensation through either a separate compensation scheme or directly by the state.

Following Rozengarten it appears that workers in the dependent homelands are included in the Act, although the infrastructure seems not to exist there to apply WC meaningfully, while the 'independent' homelands boast their own workmen's compensation schemes. We will return to WC and migrant workers below.

Thus, in South Africa today, WC looks something like this: compensation is payable in three categories. The first is compensation for temporary partial or total disablement, secondly; compensation for permanent disability, and thirdly, compensation for the death of a worker. While no workers are excluded from the Act on the ground of colour, certain categories of workers, mainly domestic workers, are excluded from its provisions. Compensation is also payable for certain diseases, which are scheduled under the Act, together with a list of industries in which their occurrence is compensationable. Compensation is payable on the basis of a percentage of wages earned.

What then, are the main problems with WC?

The first major problem relates to the reporting of accidents. Under the present scheme, reporting of accidents to the Commissioner rests with employers.

1. See Budlender for a fuller discussion of this.
2. Rozengarten, p.78.
But, given the tandem operation of a system of reduced premiums and even rebates depending on a particular factory's reported accident rate, it is to be expected that the number of accidents reported are but, in fact, only a fraction of the total number of accidents that actually take place. Let us examine this more closely. The accident fund from which the WC is paid, is wholly sponsored by capital in the form of a levy on individual capitalists. This levy, or assessment rate, is calculated on the basis of annual wage rates, as well as the nature of a particular industry and a particular employer's accident record. This assessment can be increased or decreased at the discretion of the Commissioner, depending on whether a particular employer contributes more to the fund than his workers will claim for compensation or vice versa. There is therefore a clear incentive for employers to report as few accidents as possible. Rozengarten¹ points out that by February 1981, 45 out of 111 assessment rates had been reduced, despite the fact that the reported accident rate in the period before this remained still over the 300 000 mark. In addition to reduced premiums, a system of rebates also exists. The 1973 Annual Report of the Department of Labour explains:

'It in terms of Section 71(3) of the Act, merit rebates are paid triennially to employers whose accident experience is below a certain percentage of the assessments paid by them over a period of three years. This serves as an incentive to employers to take steps for the prevention of accidents. For the 1971/73 cycle, provision has been made for the payment of merit rebates amounting to R20 636 274.' (p.32)

We would propose that far from serving as 'an incentive for employers to take steps for the prevention of accidents', the system of rebates serves merely as an incentive for employers simply not to report accidents. This aspect of WC definitely deserves fuller research.

At this point it is necessary to look at a related issue, namely, the number of employers registered with the Accident Fund.

¹. Rozengarten, p.104.
TABLE 1
NUMBER OF EMPLOYERS REGISTERED WITH THE
ACCIDENT FUND

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Employers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>119 844</td>
</tr>
<tr>
<td>1961</td>
<td>134 561</td>
</tr>
<tr>
<td>1962</td>
<td>138 636</td>
</tr>
<tr>
<td>1963</td>
<td>142 808</td>
</tr>
<tr>
<td>1964</td>
<td>146 796</td>
</tr>
<tr>
<td>1965</td>
<td>164 815</td>
</tr>
<tr>
<td>1966</td>
<td>170 985</td>
</tr>
<tr>
<td>1967</td>
<td>171 889</td>
</tr>
<tr>
<td>1968</td>
<td>178 917</td>
</tr>
<tr>
<td>1969</td>
<td>181 786</td>
</tr>
<tr>
<td>1970</td>
<td>184 314</td>
</tr>
<tr>
<td>1971</td>
<td>185 735</td>
</tr>
<tr>
<td>1972</td>
<td>187 183</td>
</tr>
<tr>
<td>1973</td>
<td>184 606</td>
</tr>
<tr>
<td>1974</td>
<td>185 000</td>
</tr>
<tr>
<td>1975</td>
<td>184 000</td>
</tr>
<tr>
<td>1976</td>
<td>182 000</td>
</tr>
<tr>
<td>1977</td>
<td>179 000</td>
</tr>
<tr>
<td>1978</td>
<td>178 000</td>
</tr>
<tr>
<td>1979</td>
<td>179 000</td>
</tr>
<tr>
<td>1980</td>
<td>182 900</td>
</tr>
<tr>
<td>1981</td>
<td>185 310</td>
</tr>
<tr>
<td>1982</td>
<td>185 645</td>
</tr>
</tbody>
</table>

Sources: Department of Labour Annual Reports
         WC Commissioner Annual Reports

A study of the table indicates variance in the number of employers registered from 1972 onwards (until this point the number increased constantly, but thereafter it fluctuates) through to the present, ranging between 187 183 in 1972 and 178 000 in 1978, back up to 185 645 in 1982. This represents quite a major disparity, and requires serious
investigation, for, while bankruptcies, mergers and take-overs may explain some of the shrinkage, it could well be that other forces too are at play here. This period coincides with severe recession in South Africa and employers may have simply chosen not to register with the Fund (thereby saving on their assessment levies), despite registration being compulsory. This would mean that thousands of workers were exposed to occupational injury and disease without any protection in terms of the Act, in all probability without their knowledge. Research in this area must therefore be a priority.

The second major problem, which we have already mentioned, is that when compensation is paid, this is calculated on the basis of a percentage of wages earned. We have indicated that this immediately places the lower paid (predominantly African) unskilled and semi-skilled workers, who are most exposed to injury and occupational disease, at an enormous disadvantage in terms of the amount of compensation received. Budlender and Rozengarten cite more than substantive evidence for this. (It would, however, be mystification to stress the seemingly racial discrimination of WC above its discrimination against unskilled workers. The one, the racial discrimination, is but a mirror-image, albeit a somewhat distorted one, of the other; the fact that most unskilled workers are African must mean that it is mostly African workers who will receive less compensation. Where two unskilled workers of different colour sustain a similar injury, the compensation paid to them will be the same if their wages are the same). An interesting observation can be made when we study table two below.

<table>
<thead>
<tr>
<th>Year</th>
<th>White, Asian, Coloured</th>
<th>African</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970</td>
<td>90,7</td>
<td>52,9</td>
</tr>
<tr>
<td>1971</td>
<td>103,9</td>
<td>57,7</td>
</tr>
<tr>
<td>1972</td>
<td>146,8</td>
<td>60,5</td>
</tr>
<tr>
<td>1973</td>
<td>130,0</td>
<td>71,7</td>
</tr>
<tr>
<td>1974</td>
<td>138,0</td>
<td>81,8</td>
</tr>
<tr>
<td>1975</td>
<td>137,4</td>
<td>100,0</td>
</tr>
</tbody>
</table>

Source: WC Commissioner Annual Reports.

These statistics include compensation paid by other insurance companies.
The average compensation paid to African workers against the average compensation paid to 'White, Asian and Coloured' workers is increasing. If for 'African' we read rather 'unskilled', it appears that this category of workers is now receiving more compensation (that is, increased benefit). Thus, in 1970, the average compensation of an African worker amounted to 58.3% of the average compensation paid to 'Whites, Asians and Coloureds'. By 1975 this gap had closed with African workers receiving 72.8% of the average compensation paid to the others. This could be explained by a decrease in the number of African workers awarded compensation, but Table three below indicates differently, that is, that the number of reported accidents involving African workers in this period was actually increasing, while for the 'Whites, Asians and Coloureds' the number of accidents was generally declining. If the total compensation paid to the latter group were declining in this period, and the obverse obtained for African workers, then the problem would be solved. But the total compensation paid to both groups has increased consistently. Unfortunately, the WC Commissioner's annual reports stop giving a racial breakdown of the average compensation after 1975, so that this trend could not be confirmed. It could serve as a more than useful area of inquiry.

**TABLE 3**

**NUMBER OF REPORTED ACCIDENTS**

<table>
<thead>
<tr>
<th>Year</th>
<th>White, Asian, Coloured</th>
<th>African</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970</td>
<td>127 975</td>
<td>219 978</td>
</tr>
<tr>
<td>1971</td>
<td>128 748</td>
<td>229 081</td>
</tr>
<tr>
<td>1972</td>
<td>121 750</td>
<td>225 219</td>
</tr>
<tr>
<td>1973</td>
<td>124 899</td>
<td>233 897</td>
</tr>
<tr>
<td>1974</td>
<td>120 882</td>
<td>238 876</td>
</tr>
<tr>
<td>1975</td>
<td>122 107</td>
<td>233 508</td>
</tr>
</tbody>
</table>

Source: WC Commissioner Annual Reports
Department of Labour Annual Reports
* Statistics include accidents reported with other carriers.

A breakdown of statistics along the lines of skilled and unskilled would, we believe, sketch a truer picture of what is happening with WC in South Africa. This applies very much to the number of reported accidents per
year. It is very likely that the graph for African workers in Figure One below would be appreciably higher if statistics were broken down along the suggested lines, while the graph for 'White, Asian and Coloured' workers would flatten out much more. White workers, and to a much lesser extent, Asian and Coloured workers, have historically occupied skilled jobs. Given their value to capital and the nature of their work, they have not been exposed to injury and occupational disease to the same extent as have their unskilled counterparts.

There are numerous other problems related to WC as it is presently administered. Injured workers off work for less than two weeks are not paid for the first three days. More importantly, compensation is not equal to wages lost due to injury. Also, due to the highly bureaucratic administration of WC (compounded by a 25% staff shortage)¹, workers often have to wait very long intervals before they receive any money. While WC is paid for certain diseases, the schedule contains only 16 accepted occupational diseases (compared to 49 in Britain). Important categories of workers, such as domestic workers and art workers, are excluded from the Act. While free medical aid is provided for by the Act, most workers are not even aware that they have been awarded compensation, as the long list of unclaimed compensation in the Government Gazettes often attests. This applies particularly to contract workers, whom employers find more expedient to 'relocate' once injured. Despatched as they are to the desolation of the homelands, together with ignorance of their rights, these workers never see the compensation that is rightfully theirs. The situation is compounded by the fact that WC cheques are sent to the employer rather than directly to the injured workman. Furthermore, workers still do not have recourse to common law where they can sue employers for damages. This list is by no means exhaustive, and there are no doubt many other problems and frustrations workers suffer in their day to day struggles around WC.

The state has this year introduced proposed amendments to the WCA. The main feature of the proposals is for the formation of an Objection Committee consisting of a worker representative and employer representative, both appointed by the Minister, and a chairman. Workers not happy with decisions of the Commissioner can now appeal to this Committee which is to consider the latter and then make recommendations to the Commissioner.

¹. Rozengarten, p.90.
FIGURE ONE: NO. OF REPORTED ACCIDENTS

- = African Workers
.... = White, Asian, Coloured

Source: WC Commissioner Annual Reports
Should a worker still not be satisfied, recourse can then be had to a revision board consisting of a presiding officer and a worker and employer representative, as well as one or more medical assessors where necessary. In the event of no satisfaction here, the worker can then appeal to the Supreme Court. An increase in benefits is also proposed.

CONCLUSION

Work in South Africa is exceptionally dangerous. The statistics of reported accidents and fatalities clearly reflect this. This danger derives directly from the nature of the capitalist labour process, especially in the present epoch, when it is characterised by the need for constant innovation and more machinery, accompanied by the increasing use of dangerous chemicals, in the search for cheaper and cheaper commodities. However, Capital is reluctant and often cannot afford to increase the working conditions of workers at a corresponding rate. Thus, more and more workers are exposed to injury and occupational diseases. For Capital accidents are cheaper than safety provisions, especially in the presence of a large army of unemployed. Injured workers can simply be replaced, especially since most injured workers are either unskilled or semi-skilled. Working class struggles, however, have forced Capital into paying compensation to injured workers. But Capital finds this not entirely to its disadvantage: it has a vested interest in the physical reproduction of the working class as a whole over time. It therefore contributes very directly to this process. Furthermore, such is the nature of the practice of WC in South Africa, that it is heavily biased against unskilled workers who constitute the bulk of workers injured at work. In addition, the system of employer self-reporting, lower premiums and rebates encourages individual capitalists not to report accidents. Many workers eligible for compensation therefore never receive any. Finally, the WC is skewed towards medical aid rather than compensation. In 1982, out of a total of 491 198 workers who were awarded benefits under WC, 388 148 were for medical aid and 103 050 for compensation. Medical aid, like day hospitals, is more productive expenditure from the point of view of Capital, for the worker can be

1. Source: Department of Manpower Report, 1983, Table 5.10.
patched up quickly and sent back to work with minimal disruption of production.

For the working class, health and safety have hitherto not been major issues in its struggle at work. But it is clear that workers cannot expect Capital of its own accord to improve factory conditions. Unless health and safety at work become a conscious part of the organised struggles of workers, the present situation, no matter what changes the WCA undergo, will not improve radically.
Article 1

Each Member of the International Labour Organisation which ratifies this Convention undertakes to ensure that workmen who suffer personal injury due to an industrial accident, or their dependants, shall be compensated on terms at least equal to those provided by this Convention.

Article 2

1. The laws and regulations as to workmen's compensation shall apply to workmen, employees and apprentices employed by any enterprise, undertaking or establishment of whatever nature, whether public or private.

2. It shall nevertheless be open to any Member to make such exceptions in its national legislation as it deems necessary in respect of—
   (a) persons whose employment is of a casual nature and who are employed otherwise than for the purpose of the employer's trade or business;
   (b) out-workers;
   (c) members of the employer's family who work exclusively on his behalf and who live in his house;
   (d) non-manual workers whose remuneration exceeds a limit to be determined by national laws or regulations.

Article 3

This Convention shall not apply to—
(1) seamen and fishermen for whom provision shall be made by a later Convention;
(2) persons covered by some special scheme, the terms of which are not less favourable than those of this Convention.

Article 4

This Convention shall not apply to agriculture, in respect of which the Convention concerning workmen's compensation in agriculture adopted by the International Labour Conference at its Third Session remains in force.

Article 5

The compensation payable to the injured workman, or his dependants, where permanent incapacity or death results from the injury, shall be paid in the form of periodical payments; provided that it may be wholly or partially paid in a lump sum, if the competent authority is satisfied that it will be properly utilised.

Article 6

In case of incapacity, compensation shall be paid not later than as from the fifth day after the accident, whether it be payable by the employer, the accident insurance institution, or the sickness insurance institution concerned.

Article 7

In cases where the injury results in incapacity of such a nature that the injured workman must have the constant help of another person, additional compensation shall be provided.

Article 8

The national laws or regulations shall prescribe such measures of supervision and methods of review as are deemed necessary.
Article 9

Injured workmen shall be entitled to medical aid and to such surgical and pharmaceutical aid as is recognised to be necessary in consequence of accidents. The cost of such aid shall be defrayed either by the employer, by accident insurance institutions, or by sickness or invalidity insurance institutions.

Article 10

1. Injured workmen shall be entitled to the supply and normal renewal, by the employer or insurer, of such artificial limbs and surgical appliances as are recognised to be necessary: provided that national laws or regulations may allow in exceptional circumstances the supply and renewal of such artificial limbs and appliances to be replaced by the award to the injured workman of a sum representing the probable cost of the supply and renewal of such appliances, this sum to be decided at the time when the amount of compensation is settled or revised.

2. National laws or regulations shall provide for such supervisory measures as are necessary, either to prevent abuses in connection with the renewal of appliances, or to ensure that the additional compensation is utilised for this purpose.

Article 11

The national laws or regulations shall make such provision as, having regard to national circumstances, is deemed most suitable for ensuring in all circumstances, in the event of the insolvency of the employer or insurer, the payment of compensation to workmen who suffer personal injury due to industrial accidents, or, in case of death, to their dependants.

Article 12: Ratifications: standard final provision.

Article 13: Entry into force immediately following registration of two ratifications. Thereafter, entry into force for other Members on the date on which their ratification is registered.

Article 14: Notification of ratifications to Members: standard final provision.

Article 15: Ratifying States to bring the provisions of the Convention into operation not later than 1 January 1927.

Article 16: Application to non-metropolitan territories in accordance with article 35 of the Constitution.

Article 17: Denunciation: as paragraph 1 of the standard final provision except that this provision substitutes "five years" for "ten years", so that the Convention became open to denunciation five years after it came into force.

Article 18: Examination of revision: standard final provision.

Article 19: Authoritative texts: standard final provision.
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Quoting (in context) from these preliminary papers with due acknowledgement is of course allowed, but for permission to reprint any material, or for further information about the Inquiry, please write to:

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