

**WORKERS' COMPENSATION (AMENDMENT)
ACT.**

Act No. 32, 1958.

An Act to increase the compensation payable on the death of a worker; for this and other purposes to amend the Workers' Compensation Act, 1926-1957; and for purposes connected therewith. [Assented to, 9th December, 1958.]

Elizabeth II,
No. 32, 1958.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows : —

1. (1) This Act may be cited as the "Workers' Compensation (Amendment) Act, 1958".

Short title
and
citation.

(2) The Workers' Compensation Act, 1926, as amended by subsequent Acts and by this Act, may be cited as the Workers' Compensation Act, 1926-1958.

2.

No. 32, 1958. 2. The Workers' Compensation Act, 1926-1957, is amended—

Amendment
of Act No.
15, 1926.

Sec. 7.

(Liability
of employers
to workers
for injuries.)

(a) (i) by inserting at the end of subsection one of section seven the following new paragraph :—

(f) In this subsection the expression "place of abode" includes the place where the worker has spent the night preceding his journey and from which he is journeying and the place to which he is journeying with the intention of there spending the night following his journey.

For the purposes of this subsection the word "night" shall, in the case of a worker employed on shift work, night work or overtime, be given a meaning appropriate to the circumstances of his employment.

(ii) by inserting next after subsection (4B) of the same section the following new subsection :—

(4C) Total or partial loss of sight which is of gradual onset shall for the purposes of subsection four of this section be deemed to be a disease and to be of such a nature as to be contracted by a gradual process.

Sec. 8.

(Compensation
payments—
Death.)

(b) (i) by omitting paragraphs (a) and (b) of subsection one of section eight and by inserting in lieu thereof the following paragraphs and words :—

(a) the sum of four thousand pounds; and

(b) in addition thereto, a weekly payment of two pounds per week in respect of each child and stepchild of the worker under the age of sixteen years who was wholly or in part dependent on the earnings of the worker and in respect of each child under the age of sixteen years

years to whom the worker stood in loco parentis and who was so dependent, such payments to continue in respect of each such child, stepchild or child to whom the worker stood in loco parentis until he dies or attains the age of sixteen years, whichever event first occurs. No. 32, 1958.

The amount of any weekly payments made under this Act, and any lump sum paid in redemption thereof or any lump sum paid as compensation under this Act, shall not be deducted from the amounts referred to in paragraphs (a) and (b) of this subsection.

(ii) by inserting next after the same subsection the following new subsection : —

(1A) Any compensation payable under paragraph (b) of subsection one of this section shall : —

- (a) where the worker left a widow or widower be paid to such widow or widower unless the Commission otherwise orders;
- (b) where the worker leaves no widow or widower as aforesaid or where the worker leaves a widow or widower as aforesaid and such widow or widower dies or where the Commission otherwise orders under paragraph (a) of this subsection be paid to such person or institution as the Commission may direct.

Where the Commission makes an order pursuant to this subsection such compensation shall be paid in accordance with the terms of such order.

(iii)

No. 32, 1958.

(iii) by omitting from subsection two of the same section the words "paragraph (a) of";

Sec. 9.
(Total or
partial
incapacity.)

(c) by inserting next after subsection four of section nine the following new subsection :—

(4A) The compensation payable pursuant to this section to a worker who before the commencement of the Workers' Compensation (Amendment) Act, 1958, received or after such commencement receives an injury and who at the date of the injury was under twenty-one years of age and who—

(a) attained that age before such commencement shall as from such commencement;

(b) attains that age after such commencement shall as from his attaining that age,

be increased, where such worker's average weekly earnings referred to in paragraph (a) of subsection one of this section are less than the weekly sum which he would probably have been earning on his attaining that age if he had remained uninjured, to such an amount as would have been so payable if such average weekly earnings had been equivalent to such weekly sum.

Sec. 18.
(Compulsory
insurance.)

(d) by omitting from subsection one of section eighteen the words "three thousand pounds" and by inserting in lieu thereof the words "twenty thousand pounds";

Sec. 18C.
(Uninsured
liability
scheme.)

(e) (i) by omitting paragraph (b) of subsection two of section 18C;

(ii) by inserting at the end of the same subsection the following words :—

Such claim may be in respect of so much of the compensation awarded, and costs, as has not been paid.

(iii)

- (iii) by omitting from paragraph (a) of the proviso No. 32, 1958. —
to subsection three of the same section the words "five thousand pounds" and by inserting in lieu thereof the words "ten thousand pounds";

- (f) by inserting at the end of section fifty-one the following new subsection : —
Sec. 51.
(Medical inspection.)

(12) Where pursuant to this section a worker submits himself for examination by a medical referee or a medical board he shall, unless the matter was referred to such referee or board on the application of the worker and the Commission holds such application to have been unreasonable or unnecessary, be entitled to recover from the employer, in addition to any compensation otherwise provided, the amount of any wages lost by him by reason of his so submitting himself for examination together with the cost to him of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in so submitting himself.

- (g) (i) by inserting in subsection one of section fifty-seven after the word "death" the words "other than the payment referred to in paragraph (b) of subsection one of section eight of this Act,";
Sec. 57.
(Payment into Commission on death.)

- (ii) by inserting at the end of subsection two of the same section the following proviso : —

Provided that where the injury was received after the commencement of the Workers' Compensation (Amendment) Act, 1958, and a widow under no disability is the only person entitled thereto or a widow and dependants referred to in paragraph (b) of subsection one of section eight of this Act are the only persons entitled thereto the compensation shall be paid out to such widow in a lump sum unless where there are any such dependants the Commission is of the opinion that such widow will not undertake

No. 32, 1958.

undertake or is not a fit and proper person to undertake the care, maintenance and upbringing of those dependants.

Sec. 60.
(Review.)

- (h) (i) by omitting from subsection two of section sixty the words "or within six months after";
- (ii) by omitting from the same subsection the words "within six months after" where secondly occurring and by inserting in lieu thereof the word "before".

Subsisting
policies.
Act No. 20,
1951, s. 6.

3. (1) Any policy of insurance against liability under the Workers' Compensation Act, 1926, or any amendment of that Act, being maintained in force at the commencement of this Act shall be deemed to insure the employer and always to have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Workers' Compensation Act, 1926, as amended by subsequent Acts, made by this Act. Where a person is in receipt of compensation at the commencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

cf. Act No.
21, 1953,
s. 6 (2).

(2) Any policy of insurance or indemnity against liability under the Workers' Compensation Act, 1926, or any amendment of that Act, being maintained in force at the commencement of this Act, shall where such policy does not insure the employer against his liability independently of the Workers' Compensation Act, 1926-1958, for an amount of at least twenty thousand pounds for any injury to any worker employed by him, be deemed to insure the employer against his liability independently of that Act to the extent of twenty thousand pounds in respect of any injury to any worker employed by him. This subsection shall apply only to and in respect of injuries received after the commencement of this Act.