

WORKERS' COMPENSATION (AMENDMENT) ACT.

Act No. 22, 1957.

Elizabeth II,
No. 22, 1957. An Act to provide for certain increases in amounts payable by way of compensation under the Workers' Compensation Act, 1926, the Workers' Compensation (Silicosis) Act, 1942, and the Workmen's Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts; for this and other purposes to amend the said Acts; and for purposes connected therewith. [Assented to, 29th April, 1957.]

BE

BE it enacted by the Queen's Most Excellent Majesty, No. 22, 1957.
 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:—

I. (1) This Act may be cited as the "Workers' Compensation (Amendment) Act, 1957". Short title and citation.

(2) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1957.

2. (1) The Principal Act is amended—

Amendment
of Act No.
15, 1926.

(a) (i) by omitting from paragraph (a) of subsection one of section eight the words "two thousand five hundred pounds" and by inserting in lieu thereof the words "two thousand seven hundred and fifty pounds"; Sec. 8.
(Compensation payments—Death.)

(ii) by omitting from paragraph (b) of the same subsection the words "one hundred pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";

(b) (i) by omitting from paragraph (a) of subsection one of section nine the words "eight pounds sixteen shillings" and by inserting in lieu thereof the words "nine pounds fifteen shillings"; Sec. 9.
(Total or partial incapacity.)

(ii) by omitting from the same paragraph the words "five pounds fifteen shillings" and by inserting in lieu thereof the words "six pounds seven shillings and sixpence";

(iii) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words "two pounds ten shillings" and by inserting in lieu thereof the words "two pounds fifteen shillings";

(iv)

Workers' Compensation (Amendment) Act.

No. 22, 1957.

- (iv) by omitting from subparagraph (ii) of the same paragraph the words "one pound" and by inserting in lieu thereof the words "one pound two shillings and sixpence";
- (v) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words "two pounds ten shillings" and by inserting in lieu thereof the words "two pounds fifteen shillings";
- (vi) by omitting from subparagraph (ii) of the same paragraph the words "one pound" and by inserting in lieu thereof the words "one pound two shillings and sixpence";
- (vii) by omitting from paragraph (a) of subsection (1A) of the same section the figures "1953" and by inserting in lieu thereof the figures "1957";
- (viii) by omitting from the same paragraph the words "or the basic wage" and by inserting in lieu thereof the words "the basic wage or the State basic wage";
- (ix) by omitting from the same paragraph the words "the basic wage" where secondly occurring and by inserting in lieu thereof the words "the State basic wage";
- (x) by inserting in paragraph (c) of the same subsection after the words "this Act" in the definition of "basic wage" the words "as enacted immediately before the commencement of the Workers' Compensation (Amendment) Act, 1957";
- (xi) by inserting at the end of the same paragraph the following new definition:—

"State basic wage" means the basic wage for adult males or adult females, as the case may require, assessed and calculated under and
in

in accordance with paragraph (a) ^{No. 22, 1957.}
or (b) of subsection two of section
61K of the Industrial Arbitration
Act, 1940-1956.

- (xii) by omitting from subsection two of the same section the words "twelve pounds sixteen shillings" and by inserting in lieu thereof the words "fourteen pounds five shillings";
- (xiii) by omitting from subsection four of the same section the words "five pounds five shillings" and by inserting in lieu thereof the words "six pounds";
- (xiv) by omitting from the same subsection the words "four pounds five shillings" and by inserting in lieu thereof the words "four pounds ten shillings";
- (xv) by omitting from subsection five of the same section the words "seven pounds thirteen shillings" and by inserting in lieu thereof the words "eight pounds ten shillings";
- (xvi) by omitting from the same subsection the words "five pounds fifteen shillings" and by inserting in lieu thereof the words "six pounds seven shillings and sixpence";
- (e) (i) by omitting from paragraph (b) of subsection one of section eleven the figures "1951" and by inserting in lieu thereof the figures "1957"; ^{Sec. 11. (Partial incapacity.)}
- (ii) by omitting from the same paragraph the words "or the basic wage" and by inserting in lieu thereof the words "the basic wage or the State basic wage";
- (iii)

Workers' Compensation (Amendment) Act.

No. 22, 1957.

(iii) by omitting from the same paragraph the words "the basic wage" where secondly and thirdly occurring and by inserting in lieu thereof the words "the State basic wage";

(iv) by omitting from paragraph (c) of the same subsection the figures "1951" and by inserting in lieu thereof the figures "1957";

(v) by omitting from the same paragraph the words "basic wage" and by inserting in lieu thereof the words "State basic wage";

(vi) by inserting in paragraph (d) of the same subsection in the definition of "basic wage" after the words "this Act" the words "as enacted immediately before the commencement of the Workers' Compensation (Amendment) Act, 1957";

(vii) by inserting at the end of the same paragraph the following new definition:—

"State basic wage" means the basic wage for adult males or adult females, as the case may require, assessed and calculated under and in accordance with paragraph (a) or (b) of subsection two of section 61k of the Industrial Arbitration Act, 1940-1956.

Sec. 14.
(Computation of average weekly earnings.)

(d) by omitting subsection two of section fourteen and by inserting in lieu thereof the following subsection:—

(2) In this section "basic wage" means the basic wage for adult males or adult females, as the case may require, assessed and calculated under and in accordance with paragraph (a) or (b) of subsection two of section 61k of the Industrial Arbitration Act, 1940-1956.

(e)

(e) by omitting the Table set forth at the end of section sixteen and by inserting in lieu thereof the following Table:—

No. 22, 1957.
 Sec. 16.
 (Compensation for certain injuries.)

TABLE.

Nature of injury.	Amount payable.		
	£	s.	d.
Loss of either arm, or of the greater part thereof	2,100	0	0
Loss of lower part of either arm, either hand, or five fingers of either hand ...	1,800	0	0
Loss of a leg or of the greater part thereof	1,950	0	0
Loss of the lower part of a leg	1,650	0	0
Loss of a foot	1,600	0	0
Loss of sight of one eye, with serious diminution of the sight of the other...	1,950	0	0
*Loss of sight of one eye	1,100	0	0
Loss of hearing	1,600	0	0
Complete deafness of one ear	725	0	0
Loss of a thumb	725	0	0
Loss of a forefinger	500	0	0
Loss of joint of a thumb	450	0	0
Loss of little finger, middle finger or ring finger	275	0	0
Loss of a toe or the joint of a finger ...	225	0	0
Loss of a joint of a toe	135	0	0
Loss of great toe	500	0	0
Loss of joint of forefinger or of joint of great toe	275	0	0

* For the partial loss of sight of one eye there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

Workers' Compensation (Amendment) Act.**No. 22, 1957.**Increased
weekly
payments—
retroactive.Act No. 21,
1953, s. 3
(2).

(2) The amendments made by subparagraphs (i), (ii), (iii), (iv), (v), (vi), (xii), (xiii), (xiv), (xv) and (xvi) of paragraph (b) of subsection one of this section shall be deemed to extend to, and from the commencement of this Act, apply in respect of all persons in receipt of weekly payments under the provisions of section nine of the Principal Act and under the provisions of the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

Further
amendment
of Act No.
15, 1926.**3. The Principal Act is further amended—**Sec. 6.
(Defini-
tions.)

(a) (i) by omitting paragraph (a) of the definition of "Worker" in subsection one of section six;

(ii) by inserting at the end of subsection (14c) of the same section the words "Provided that a person who takes part in a bona fide amateur contest or performance conducted or held by a charity registered under the Charitable Collections Act, 1934-1941, or which is exempted from registration by or under that Act, shall not, for the purposes of this subsection, be deemed to be engaged for fee or reward by reason only of the fact that a trophy or certificate is offered or awarded as a prize in such contest or performance";

Sec. 7.
(Liability of
employers to
workers for
injuries.)

(b) (i) by omitting subsection (1A) of section seven and by inserting in lieu thereof the following subsection:—

(1A) Where an employer has a place of employment in New South Wales or is for the time being present in New South Wales and there employs a worker, and such worker whilst outside New South Wales
receives

receives an injury under circumstances ^{No. 22, 1957.} which had the injury been received in New South Wales would entitle him to compensation in accordance with this Act, such worker (and in the case of the death of the worker, his dependants) shall receive compensation in accordance with this Act, and the provisions of this Act shall apply, mutatis mutandis, to and in respect of such injury:

Provided that—

- (a) compensation shall not be payable pursuant to this subsection if in respect of such injury the worker has (and in the case of the death of the worker, his dependants have) received workers' compensation under the laws of any country, any part of the Commonwealth of Australia (other than New South Wales), the Commonwealth of Australia or any territory under the authority of the Commonwealth of Australia or obtained judgment against his employer independently of this Act;
- (b) if the worker receives compensation pursuant to this subsection in respect of such injury and subsequently in respect of such injury receives workers' compensation under the laws of any country, any part of the Commonwealth of Australia (other than New South Wales), the Commonwealth of Australia or any territory under the authority of the Commonwealth of Australia or obtains judgment against his employer independently

No. 22, 1957.

of this Act, such employer shall be entitled to recover from such worker the amount of compensation paid by him pursuant to this subsection.

(ii) by inserting at the end of subsection (2B) of the same section the words "The provisions of this subsection shall be deemed to extend to and, from the commencement of the Workers' Compensation (Amendment) Act, 1957, apply to all workers in receipt of weekly payments under the provisions of section nine of this Act in respect of injuries received before the commencement of the Workers' Compensation (Amendment) Act, 1953, as well as to all persons entitled to weekly payments under the said provisions in respect of injuries received after the commencement of the Workers' Compensation (Amendment) Act, 1953."

(iii) by inserting next after subsection (2c) of the same section the following new subsection:—

(2b) (a) Where in respect of any period of incapacity a worker is entitled to receive any payment, allowance or benefit for sick leave under any Act, award, industrial agreement or contract of employment, and the worker does not make an election pursuant to subsection (2c) of this section, the employer may, notwithstanding the provisions of such Act, award, agreement or contract, pay to the worker the difference between the amount of compensation applicable in respect of such period of incapacity and the ordinary remuneration which the worker, had he not been incapacitated, would have been entitled to receive or would normally have received in respect of such period of incapacity.

(b)

(b) Any payment made by an employer pursuant to this subsection in respect of such period of incapacity shall not exceed the payment, allowance or benefit for sick leave which the worker is entitled to receive as aforesaid in respect of such period of incapacity and shall be in addition to the amount of compensation applicable in respect of such period of incapacity. No. 22, 1957.

(c) Where the payment made by an employer pursuant to this subsection in respect of such period of incapacity is equivalent to the payment, allowance or benefit for sick leave which the worker is entitled to receive as aforesaid in respect of such period of incapacity the worker's entitlement to such payment, allowance or benefit for sick leave shall cease and determine.

(d) Where the payment made by an employer pursuant to this subsection in respect of such period of incapacity is less than the payment, allowance or benefit for sick leave which the worker is entitled to receive as aforesaid in respect of such period of incapacity the worker's entitlement to such payment, allowance or benefit for sick leave shall be reduced by an amount which bears to such payment, allowance or benefit for sick leave the same proportion as the payment made by the employer pursuant to this subsection in respect of such period of incapacity bears to the ordinary remuneration which the worker, had he not been incapacitated, would have been entitled to receive or would normally have received in respect of such period of incapacity.

Workers' Compensation (Amendment) Act.

No. 22, 1957.

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

Milne v.
International
Combustion
Australia
Limited.
[1953]
W.C.R. 80.

(4B) The condition known as "boiler-maker's deafness", and any deafness of like origin, 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.)

(c) by inserting at the end of paragraph (b) of subsection one of section eight the words "and in respect of each child under the age of sixteen years to whom the worker stood in loco parentis and who was so dependent";

New sec. 10B.

(d) by inserting next after section 10A the following new section:—

Damage to
clothing.

10B. A worker who has met with an accident arising out of and in the course of his employment and whose clothing has, as a result thereof, been damaged shall be entitled to receive by way of compensation from his employer the reasonable cost of repairing or, if necessary, replacing the articles of clothing so damaged but shall not, in respect of damage resulting from any such accident, be entitled under this section to a sum exceeding twenty-five pounds, or such greater sum as may be prescribed, unless the Commission, upon application made from time to time by or on behalf of the worker, directs that the worker shall be paid a further sum to be specified in the order.

The provisions of subsection three of section seven and sections forty and fifty-three and Part VIII of this Act shall apply, mutatis mutandis, to any damage sustained by a worker to which this section applies.

4. The Principal Act is further amended—

No. 22, 1957.

Further
amendment
of Act No.
15, 1926.

- (a) (i) by inserting in paragraph (i) of the definition of "Injury" in subsection one of section 17B after the word "operations" the words "or preparatory work";
- (ii) by inserting in paragraph (ii) of the same definition after the words "carried out" the words "or preparatory work was or is to be carried out";
- (iii) by inserting in the same definition after the words "preventive operations" where thirdly, fourthly and fifthly occurring the words "or preparatory work";
- (iv) by inserting at the end of the same subsection the following new definition:—

"Preparatory work" means—

- (a) the training or instruction of persons, by means of demonstrations, exercises, competitions or otherwise, in the fighting of bush fires, or in the carrying out of bush fire preventive operations, or
- (b) the examination, preparation, maintenance, adjustment or repair of any vehicle, equipment or thing used or intended to be used by a bush fire brigade for the fighting of bush fires or for the carrying out of bush fire preventive operations,
- and the giving or receiving of such training or instruction, or the carrying

No. 22, 1957.

carrying out or assisting to carry out such examination, preparation, maintenance, adjustment or repair, shall be deemed to be carrying out preparatory work.

Sec. 17c.
(Compensation payable to fire fighters for injury received.)

- (b) by inserting in subsection three of section 17c after the words "bush fire preventive operations" the words "or preparatory work";

Sec. 17d.
(Indemnity for destruction of or damage to personal effects, vehicles, etc.)

- (c) (i) by inserting in paragraph (a) of section 17d after the words "bush fire preventive operations" the words "or preparatory work";
- (ii) by inserting in paragraph (b) of the same section after the words "bush fire preventive operations" the words "or preparatory work";
- (iii) by inserting in the same paragraph after the words "such operations were" the words "or such work was";
- (iv) by inserting in the same section after the words "deputy group captain" where secondly occurring the following word and new paragraph:—

"or

(c) any vehicle—

- (i) used for the conveyance of a fire fighter between his place of abode or place of employment, or the place from which he was called, and the bush fire, and owned by or in the possession or custody of the fire fighter, or

(ii)

- (ii) used for the conveyance of the No. 22, 1957.
 captain, deputy captain, or
 any member of a bush fire bri-
 gade or the group captain or
 deputy group captain of any
 bush fire brigades between his
 place of abode or place of
 employment, or the place from
 which he was called and the
 place where bush fire pre-
 ventive operations or prepara-
 tory work were or was being
 or are or is to be carried out
 and owned by or in the posses-
 sion or custody of such cap-
 tain, deputy captain, member,
 group captain or deputy group
 captain,

where such conveyance was made
 exclusively and bona fide for the
 purpose of fighting the bush fire, or
 of carrying out the bush fire pre-
 ventive operations or preparatory
 work, as the case may be;”.

5. (1) The Principal Act is further amended—

Further
 amendment
 of Act No.
 15, 1926.

- (a) by inserting at the end of subsection ten of Sec. 30A.
 section 30A the words “The chairman shall be (Insurance
 entitled to receive such remuneration by way Premiums
 of fees, travelling allowances or otherwise as Committee.)
 may be prescribed by regulations made under
 this Act and until the regulations so prescribe
 remuneration at the rate of two hundred and
 fifty pounds per annum”;

- (b) by inserting next after section 53A the following New sec.
 new section:— 53B.

53B. Where a worker after receiving an injury Statements
 makes any statement in writing in relation to by injured
 that injury to his employer or to an insurer or workers.
 to

Workers' Compensation (Amendment) Act.

No. 22, 1957.

to any person acting on behalf of such employer or insurer, such statement shall not be admitted in evidence or used in any proceedings before the Commission unless the employer or insurer has at least fourteen days before the hearing furnished to the worker or to the solicitor or agent acting on behalf of the worker in the proceedings a copy in writing of such statement.

New sec.
62A.

(c) by inserting next after section sixty-two the following new section:—

Interest on
awards and
orders.

62A. Every award or order of the Commission for the payment of compensation shall carry interest at the rate of five per centum per annum from the time when the award or order is entered up or made, or from the time when the money is payable pursuant thereto (whichever of such times is the later) until the money is paid, and such interest shall be deemed to be compensation payable pursuant to the award or order.

(2) The amendment made by paragraph (a) of subsection one of this section shall be deemed to have commenced upon the first day of July, one thousand nine hundred and fifty-four.

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

6. 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.

7.

7. (1) The Workmen's Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts and by this Act, may be cited as the Workmen's Compensation (Broken Hill) Act, 1920-1957.

No. 22, 1957.
Citation.

(2) The Workmen's Compensation (Broken Hill) Act, 1920-1953, is amended—

Amendment
of Act
No. 36, 1920.

(a) by omitting from paragraph three of Part II of the Schedule the words "basic wage for adult males assessed on the index number for Broken Hill contained in the Retail Price Index Numbers published by or by the direction of the Commonwealth Court of Conciliation and Arbitration for the next preceding calendar quarter" and by inserting in lieu thereof the words "basic wage for adult males assessed and calculated under and in accordance with subparagraph (i) of paragraph (a) of subsection three of section 61k of the Industrial Arbitration Act, 1940-1956";

Schedule
par. 3.

(b) (i) by omitting from subparagraph (e) of paragraph six of Part II of the Schedule the words "basic wage for adult males assessed on the index number for Broken Hill contained in the Retail Price Index Numbers published by or by the direction of the Commonwealth Court of Conciliation and Arbitration for the next preceding calendar quarter" and by inserting in lieu thereof the words "basic wage for adult males assessed and calculated under and in accordance with subparagraph (i) of paragraph (a) of subsection three of section 61k of the Industrial Arbitration Act, 1940-1956";

Schedule
par. 6.

(ii) by omitting from the same paragraph the words "Provided further that no compensation shall be awarded in respect of a wife or child of a marriage contracted after the commencement of the Workers' Compensation (Amendment) Act, 1929, or the date of the certificate of the medical authority under paragraph three (whichever is the later)";

(c)

Workers' Compensation (Amendment) Act.

No. 22, 1957.
Schedule
par. 6A.

(c) by omitting subparagraph (b) of paragraph 6A of Part II of the Schedule and by inserting in lieu thereof the following subparagraph:—

(b) The additional amounts of compensation shall, subject to any deductions required to be made by subparagraph (c) of this paragraph, be as follows:—

			Per week.		
			£	s.	d.
(i)	Single man or widower .. ..	.. ..	5	10	0
(ii)	Married man ..	..	5	10	0
	Additional payment in respect of wife .. ..	.. ..	1	10	0
(iii)	Each widow until remarriage ..	..	3	2	6

(3) The amendments made by paragraphs (b) and (c) of subsection two of this section shall be deemed to extend to, and from the commencement of this Act apply in respect of all persons who were immediately before such commencement in receipt of compensation under the Workmen's Compensation (Broken Hill) Act, 1920-1953, as well as to all persons becoming entitled to compensation thereunder after such commencement.

(4) (a) Notwithstanding anything contained in this section, any additional amount of compensation which is payable by virtue of the operation of this section in respect of any mine worker who was on or before the first day of May, one thousand nine hundred and nineteen, last employed by Amalgamated Zinc (De Bavay's) Limited shall be paid by the joint committee out of the amount paid to the joint committee under paragraph twenty-two of the Schedule to the Workmen's Compensation (Broken Hill) Act, 1920-1953, by Amalgamated Zinc (De Bavay's) Limited.

(b)

(b) Any additional amount of compensation payable under the Workmen's Compensation (Broken Hill) Act, 1920-1953, as amended by this section, in respect of any such mine worker, shall, when the amount paid to the joint committee as referred to in paragraph (a) of this subsection is exhausted, be paid out of the fund established under Part III of the Schedule to the said Act. ^{No. 22, 1957.}
