

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

**Act No. 58, 1960.**

**Elizabeth II,  
No. 58, 1960.**

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, 1st December, 1960.]

**B**E 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:—

Short title,  
citation and  
commence-  
ment.

**1.** (1) This Act may be cited as the "Workers' Compensation (Further Amendment) Act, 1960".

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

(3) (a) The Principal Act, as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1960.

(b) The Workers' Compensation (Amendment) Act, 1960, is amended by omitting subsection two of section one.

(4) This Act, except where otherwise expressly provided, shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

**2.**

2. (1) The Principal Act is amended—

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Amendment  
of Act No.  
15, 1926.

- (a) (i) by omitting from paragraph (a) of subsection Sec. 8.  
one of section eight the words “four thousand (Compensa-  
pounds” and by inserting in lieu thereof the tion pay-  
words “four thousand three hundred pounds”; ments—  
Death.)
- (ii) by omitting from paragraph (b) of the same  
subsection the words “two pounds” and by  
inserting in lieu thereof the words “two pounds  
three shillings”;
- (b) (i) by omitting from paragraph (a) of subsection Sec. 9.  
one of section nine the words “nine pounds (Total or  
fifteen shillings” and by inserting in lieu thereof partial  
the words “ten pounds ten shillings”; incapacity.)
- (ii) by omitting from the same paragraph the words  
“six pounds seven shillings and sixpence” and  
by inserting in lieu thereof the words “seven  
pounds”;
- (iii) by omitting from subparagraph (i) of  
paragraph (b) of the same subsection the words  
“two pounds fifteen shillings” and by inserting  
in lieu thereof the words “three pounds”;
- (iv) by omitting from subparagraph (ii) of the same  
paragraph the words “one pound two shillings  
and sixpence” and by inserting in lieu thereof  
the words “one pound five shillings”;
- (v) by omitting from subparagraph (i) of para-  
graph (c) of the same subsection the words  
“two pounds fifteen shillings” and by inserting  
in lieu thereof the words “three pounds”;
- (vi)

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- (vi) by omitting from subparagraph (ii) of the same paragraph the words "one pound two shillings and sixpence" and by inserting in lieu thereof the words "one pound five shillings";
  
- (vii) by omitting from paragraph (a) of subsection (1A) of the same section the words "Workers' Compensation (Amendment) Act, 1957," and by inserting in lieu thereof the words "Workers' Compensation (Further Amendment) Act, 1960,";
  
- (viii) by omitting from subsection two of the same section the words ", or the sum of fourteen pounds five shillings, whichever is the smaller amount";
  
- (ix) by omitting from subsection four of the same section the words "six pounds" and by inserting in lieu thereof the words "six pounds ten shillings";
  
- (x) by omitting from the same subsection the words "four pounds ten shillings" and by inserting in lieu thereof the words "four pounds seventeen shillings and sixpence";
  
- (xi) by omitting from subsection five of the same section the words "eight pounds ten shillings" and by inserting in lieu thereof the words "nine pounds five shillings";
  
- (xii) by omitting from the same subsection the words "six pounds seven shillings and sixpence" and by inserting in lieu thereof the words "seven pounds";

(c)

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

No. 58, 1960.  
Sec. 16.  
(Compensation for certain injuries.)

TABLE.

Nature of injury.	Amount payable.		
	£	s.	d.
Loss of either arm, or of the greater part thereof ..	2,300	0	0
Loss of lower part of either arm, either hand, or five fingers of either hand .. .. .	1,950	0	0
Loss of a leg or of the greater part thereof ..	2,100	0	0
Loss of the lower part of a leg .. .. .	1,800	0	0
Loss of a foot .. .. .	1,750	0	0
Loss of sight of one eye, with serious diminution of the sight of the other .. .. .	2,100	0	0
*Loss of sight of one eye .. .. .	1,200	0	0
Loss of hearing of both ears .. .. .	1,750	0	0
†Loss of hearing of one ear .. .. .	800	0	0
Loss of a thumb .. .. .	800	0	0
Loss of a forefinger .. .. .	550	0	0
Loss of a joint of a thumb .. .. .	500	0	0
Loss of little finger, middle finger or ring finger ..	300	0	0
Loss of a toe or the joint of a finger .. .. .	250	0	0
Loss of a joint of a toe .. .. .	150	0	0
Loss of great toe .. .. .	550	0	0
Loss of joint of forefinger or of joint of great toe ..	300	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.

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

(2) The amendments made by subparagraph (ii) of paragraph (a) and subparagraphs (i), (ii), (iii), (iv), (v), (vi), (viii), (ix), (x), (xi) and (xii) 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 and institutions in receipt of or entitled to weekly payments under the provisions of section eight or nine of the Principal Act or under the provisions of the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, as well as to all persons and institutions becoming entitled to weekly payments under any of such provisions after such commencement.

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Further  
amendment  
of Act No.  
15, 1926.Sec. 6.  
(Defini-  
tions.)Voluntary  
ambulance  
workers.

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

(a) by inserting next after subsection (14C) of section six the following new subsection :—

(14D) (a) A person who without remuneration or reward voluntarily and without obligation engages in any ambulance work with the consent of or under the authority and supervision of or in co-operation with the New South Wales Ambulance Transport Service Board or any district committee within the meaning of the Ambulance Transport Service Act, 1919, as amended by subsequent Acts, shall be deemed to be a worker employed by the said Board or district committee, as the case may be.

(b) For the purposes of assessing the compensation payable to a person to whom this subsection applies the "average weekly earnings" of such person shall—

(i) if such person was working under a contract of service immediately prior to his engaging in the ambulance work, be computed according to the earnings of such person under that contract of employment;

(ii) if such person was not working under a contract of service immediately prior to his engaging in the ambulance work, be such amount as the Commission considers to be reasonable in the circumstances.

(c) In this subsection "ambulance work" means work in or in connection with the rendering of first aid to, or the transport of sick or injured persons.

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

(b) by omitting from paragraph (b) of subsection one of section seven the words "without his serious and wilful misconduct";

(c)

- (c) by inserting next after subsection one of section sixteen the following new subsection :—

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Sec. 16.  
(Compensation for certain injuries.)

(1A) Where an injury mentioned in the first column of the said table is a disease which is of such a nature as to be contracted by a gradual process and which has not resulted in incapacity, such injury shall, for the purpose of determining a worker's right to the amount indicated in the second column of the said table, be deemed to have happened at the time when such worker makes his claim for compensation.

Coates v. The Commissioner for Railways.

In this subsection "disease" includes the condition known as "boilermaker's deafness" and any deafness of the like origin and total or partial loss of sight which is of gradual onset.

- (d) by inserting at the end of section twenty-four the following new subsection :—

Sec. 24.  
(Application of deposit.)

(3) Nothing in this section shall operate to impose any liability on the Treasurer where, in compliance with a requirement made under the Insurance Act 1932 of the Parliament of the Commonwealth of Australia, or any Act amending or replacing that Act, he refunds any sum of money deposited under this Act.

- (e) by omitting from subsection one of section thirty-six the words "The Commission" and by inserting in lieu thereof the words "Subject to section thirty-seven of this Act, the Commission";

Sec. 36.  
(Jurisdiction.)

- (f) (i) by omitting from subsection one of section thirty-seven the words "No award" and by inserting in lieu thereof the words "Subject to subsection four of this section, no award";

Sec. 37.  
(Decision of Commission to be final.)

- (ii) by inserting at the end of subsection three of the same section the words "otherwise than in accordance with subsection four of this section";

(iii)

No. 58, 1960.

Appeals  
and stated  
cases.

(iii) by omitting subsections four, five, six and seven of the same section and by inserting in lieu thereof the following subsection :—

(4) (a) (i) If any party to any proceedings before the Commission is aggrieved by an award, order, ruling, direction or decision of the Commission in point of law or in relation to the admission or rejection of any evidence, such party may appeal from the same to the Supreme Court upon notice of motion as hereinafter provided. No rule nisi or order to show cause shall be necessary.

(ii) Such notice of motion shall state the grounds of appeal, shall be served on every party directly affected and be filed in the Supreme Court within such time after the date of the award, order, ruling, direction or decision complained of as may be prescribed by rules made under this Act.

(iii) The Supreme Court shall hear and determine the appeal and may make such order with respect to the costs thereof as the said court may think proper.

(b) When any question of law or of the admission or rejection of any evidence arises in any proceedings before the Commission, the Commission may of its own motion, and shall, if in the manner and within the time prescribed by rules made under this Act any party to the proceedings so requests, state a case for the decision of the Supreme Court thereon. A case may be stated under this subsection notwithstanding that an award, order, ruling, direction or decision has been made or given by the Commission.

(c) The judges of the Supreme Court, or any two of them, may make rules with regard to the setting down of any appeal or case for argument, and the hearing and decision of the same, and the notification of the decision of the Supreme Court thereon to the Commission.

(d)

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(d) The decision of the Supreme Court No. 58, 1960. upon the hearing of such appeal or case shall be binding upon the Commission and upon all the parties to such proceedings.

(e) The Supreme Court for the purpose of exercising any jurisdiction under this subsection shall consist of three judges.

(f) The Commission may order a stay of proceedings, on such terms as the Commission may think fit, in respect of any award, order, ruling, direction or decision the subject of an appeal or a stated case or a request for a stated case under this subsection. In the absence of such order the notice of appeal or the stated case or the request for a stated case shall not operate as a stay of proceedings.

(g) by omitting from subsection one of section forty-one the words "an amount of five thousand pounds" and by inserting in lieu thereof the words "the amounts referred to in subsection three of section 18c of this Act". Sec. 41. (Constitution of fund.)

(2) Paragraph (f) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) The Workers' Compensation (Amendment) Act, 1929, is amended by omitting section eight. Amendment of Act No. 36, 1929, s. 8. (Consequential.)

4. (1) (a) The compensation prescribed by section eight of the Principal Act as amended by paragraph (a) of subsection one of section two of this Act shall be payable in accordance with the said section eight in respect of the death of any worker which after the commencement of this Act results from an injury received whether before or after such commencement. Retrospective operation of certain provisions.

(b)



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(b) The compensation prescribed by section eight of the Principal Act, as enacted immediately after the commencement of the Workers' Compensation (Amendment) Act, 1958, shall be payable in accordance with the said section in respect of the death of any worker which after such commencement and before the commencement of this Act resulted from an injury received whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1958.

(2) Where after the commencement of this Act a worker becomes entitled to any amount under section sixteen of the Workers' Compensation Act, 1926-1960, upon an election made by him after such commencement, the compensation payable to him under that section shall, whether the injury was received before or after such commencement, be the appropriate amount indicated in the table set forth at the end of that section and as substituted by this Act.

(3) (a) The amendment made by paragraph (b) of subsection one of section three of this Act shall be deemed to have commenced on the twenty-seventh day of June, one thousand nine hundred and fifty-one.

(b) Nothing in this subsection shall affect the rights of any parties to any claim, action, suit or proceeding which has before the commencement of this Act been determined where the time within which an appeal, including an application to Her Majesty in Council, from any such determination might have been made, has expired before such commencement.

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

**5.** 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

commencement of this Act and such compensation is payable <sup>No. 58, 1960.</sup> 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.

**6.** (1) The Workmen's Compensation (Broken Hill) Act, Citation. 1920, as amended by subsequent Acts and by this Act, may be cited as the Workmen's Compensation (Broken Hill) Act, 1920-1960.

(2) The Workmen's Compensation (Broken Hill) Acts, 1920-1957, is amended— <sup>Amendment of Act No. 36, 1920.</sup>

(a) by omitting from subsection one of section seventeen the words "fifteen shillings" and by inserting in lieu thereof the words "thirty shillings"; <sup>Sec. 17. (Nutrition allowance.)</sup>

(b) (i) by omitting from subparagraph (a) of paragraph 6 of Part II of the Schedule the figures "3 0 0" wherever occurring and by inserting in lieu thereof the figures "3 5 0"; <sup>Schedule, par. 6.</sup>

(ii) by omitting from the same subparagraph the figures "1 2 6" wherever occurring and by inserting in lieu thereof the figures "1 5 0";

(iii) by omitting from the same subparagraph the figures "5 5 0" and by inserting in lieu thereof the figures "5 15 0";

(iv) by omitting from subparagraph (b) of the same paragraph the figures "1 2 6" and by inserting in lieu thereof the figures "1 5 0";

(v) by omitting from subparagraph (g) of the same paragraph the symbol and figures "£60" and by inserting in lieu thereof the symbol and figures "£70";

(vi) by omitting from subparagraph (h) of the same paragraph the symbols and figures "£10 5s." and by inserting in lieu thereof the symbol and figures "£12";

(c)

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**Schedule,**  
**par. 6A.**

- (c) (i) by omitting from subparagraph (b) of paragraph 6A of Part II of the Schedule the figures "4 10 0" wherever occurring and by inserting in lieu thereof the figures "5 10 0";
- (ii) by omitting from the same subparagraph the figures "2 12 6" and by inserting in lieu thereof the figures "3 2 6".

(3) The amendments made by paragraph (a), paragraph (b) (subparagraph (v) excepted) and paragraph (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) Acts, 1920-1957, as well as to all persons becoming entitled to compensation thereunder after such commencement.

