

WORKERS' COMPENSATION (AMENDMENT) ACT.

New South Wales.



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 77, 1971.

An Act to increase rates of workers' compensation and otherwise to amend the law relating to workers' compensation; for these purposes to amend the Workers' Compensation Act, 1926, the Workers' Compensation (Dust Diseases) Act, 1942, and the Workmen's Compensation (Broken Hill) Act, 1920; and for purposes connected therewith. [Assented to, 21st December, 1971.]

BE

Workers' Compensation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by **No. 77, 1971** 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, 1971". Short title, commencement and construction.

(2) This Act, sections three and seven excepted, shall commence upon a day (in this Act referred to as the appointed day) to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) In this Act the Workers' Compensation Act, 1926, is referred to as the Principal Act.

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 "twelve thousand five hundred dollars" and by inserting in lieu thereof the words "thirteen thousand two hundred and fifty dollars"; Sec. 8. (Compensation payments (Death).)

(ii) by omitting from paragraph (b) of the same subsection the words "six dollars twenty-five cents" and by inserting in lieu thereof the words "seven dollars fifty cents";

(iii) by omitting from subsection three of the same section the words "three thousand five hundred dollars" and by inserting in lieu thereof the words "three thousand seven hundred and fifty dollars";

(b)

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No. 77, 1971
Sec. 9.
(Total or
partial
incapacity.)

- (b) (i) by omitting from paragraph (a) of subsection one of section nine the words "eighty per centum" and by inserting in lieu thereof the words "eighty-five per centum";
- (ii) by omitting from the same paragraph the words "thirty-two dollars fifty cents" and by inserting in lieu thereof the words "forty-three dollars";
- (iii) by omitting from the same paragraph the words "twenty-two dollars" and by inserting in lieu thereof the words "twenty-eight dollars";
- (iv) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words "nine dollars" and by inserting in lieu thereof the words "eleven dollars";
- (v) by omitting from subparagraph (ii) of the same paragraph the words "four dollars" and by inserting in lieu thereof the words "five dollars";
- (vi) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words "nine dollars" and by inserting in lieu thereof the words "eleven dollars";
- (vii) by omitting from subparagraph (ii) of the same paragraph the words "four dollars" and by inserting in lieu thereof the words "five dollars";
- (viii) by omitting from paragraph (a) of subsection (1A) of the same section the figures "1970" and by inserting in lieu thereof the figures "1971";

(ix)

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- (ix) by omitting from subsection four of the same No. 77, 1971 section the words "twenty dollars" and by inserting in lieu thereof the words "twenty-five dollars";
 - (x) by omitting from the same subsection the word "eighty" and by inserting in lieu thereof the word "eighty-five";
 - (xi) by omitting from the same subsection the words "sixteen dollars" and by inserting in lieu thereof the words "twenty-one dollars";
 - (xii) by omitting from subsection five of the same section the words "twenty-nine dollars" and by inserting in lieu thereof the words "thirty-three dollars";
 - (xiii) by omitting from the same subsection the word "eighty" and by inserting in lieu thereof the word "eighty-five";
 - (xiv) by omitting from the same subsection the words "twenty-three dollars" and by inserting in lieu thereof the words "twenty-eight dollars";
- (c) (i) by inserting in paragraph (a) of subsection (1B) of section sixteen after the words "mentioned in" the words "subsection (1BA) of this section or"; Sec. 16.
(Compensation for certain injuries.)
- (ii) by omitting from the same paragraph the words "six hundred and fifty dollars" and by inserting in lieu thereof the words "seven hundred dollars";

(iii)

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- (iii) by omitting from paragraph (a1) of the same subsection the words "seven hundred and fifty dollars" wherever occurring and by inserting in lieu thereof the words "one thousand five hundred dollars";
- (iv) by omitting from the same paragraph the words "five hundred dollars" and by inserting in lieu thereof the words "one thousand dollars";
- (v) by inserting next after the same subsection the following new subsection :—

(1BA) (a) A worker who has received an injury which consists in the loss of an eye shall be entitled to receive from his employer by way of compensation for that injury, in addition to any other compensation prescribed—

- (i) by this section in respect of the loss of the sight, if any, of that eye; and
- (ii) by the provisions of this Act, other than this section, in respect of the injury,

the compensation payable under paragraph (b) of this subsection.

(b) The compensation payable under this paragraph is—

- (i) where the eye was sighted—the sum of two thousand dollars;
- (ii) where the eye was sightless—such sum not exceeding two thousand dollars as may be agreed upon or, in default of agreement, as the Commission considers appropriate having regard to the possibility that the
sight

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sight of the eye would, but for the No. 77, 1971 injury, have been, in whole or in part, gained or regained, and to such other matters as the Commission may take into account.

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

TABLE

Nature of Injury.	Amount payable.
	\$
Loss of either arm, or of the greater part thereof	7,000
Loss of lower part of either arm, either hand, or five fingers of either hand	6,000
Loss of a leg or of the greater part thereof	6,400
Loss of the lower part of a leg	5,500
Loss of a foot	5,300
Loss of sight of one eye, with serious diminution of the sight of the other	6,400
Loss of the sight of both eyes	9,000
* Loss of sight of one eye	3,700
Loss of hearing of both ears	5,500
† Loss of hearing of one ear	2,600
‡ Loss of power of speech	5,500
Loss of a thumb	2,600
Loss of a forefinger	1,700
Loss of a joint of a thumb	1,600
Loss of a little finger, middle finger or ring finger	900
Loss of a toe or the joint of a finger	800
Loss of a joint of a toe	500
Loss of a great toe	1,700
Loss of joint of forefinger or of joint of great toe	900

* 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.

‡ For the partial loss of the power of speech there shall be payable such percentage of the amount that would be payable for the total loss of that power as is equal to the percentage of the diminution of that power.

(2)

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(2) (a) The amendments made by subparagraph (ii) of paragraph (a) and by paragraph (b) of subsection one of this section shall be deemed to extend to and, on and from the appointed day, apply in respect of all persons and institutions who or which immediately before that day were in receipt of or entitled to weekly payments under the provisions of section eight or nine of the Principal Act or under those provisions of the Workers' Compensation (Dust Diseases) Act, 1942, which prescribe weekly payments by reference to the Principal Act, as well as to all persons and institutions becoming entitled to weekly payments under any of such provisions on or after that day.

(b) The compensation prescribed by section eight of the Principal Act, as amended by paragraph (a) of subsection one of this section, shall be payable in accordance with the said section eight in respect of the death of any worker which on or after the appointed day results from an injury whether received before, on or after that day.

(c) Subject to paragraphs (d) and (e) of this subsection, the compensation prescribed by section sixteen of the Principal Act, as amended by paragraph (c) of subsection one of this section, for an injury of a particular kind shall be payable for—

- (i) any injury of that kind received on or after the appointed day; and
- (ii) any injury of that kind received before the appointed day by a worker who has not before that day been awarded, or has not received or agreed to receive for that injury the compensation prescribed by section sixteen of the Principal Act, as enacted immediately before that day.

(d) The compensation prescribed by section sixteen of the Principal Act, as amended by subparagraph (v) of paragraph (c) of subsection one of this section, for an injury which consists in the loss of an eye shall not be payable for an injury of that kind received before the appointed day.

(e)

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(e) The compensation prescribed by section sixteen of the Principal Act, as amended by subparagraph (vi) of paragraph (c) of subsection one of this section, for an injury which consists in the loss of the sight of both eyes shall not be payable where the injury was received before the appointed day and the worker received or agreed to receive before that day the compensation prescribed by section sixteen of the Principal Act, as enacted immediately before that day.

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

Further
amendment
of Act No.
15, 1926.

- (a) by inserting in subsection two of section ten next after the definition of "Hospital" the following new definition :—
- Sec. 10.
(Medical
and
hospital
treatment,
&c.)
- "Public hospital" means an incorporated hospital, or separate institution, within the meaning of the Public Hospitals Act, 1929.
- (b) by inserting in paragraph (a) of subsection three of the same section after the words "in-patient shall" the words ", except where the treatment is afforded at a public hospital,";
- (c) by inserting in paragraph (b) of the same subsection after the words "out-patient shall" the words ", except where the treatment is afforded at a public hospital,";
- (d) by inserting next after the same paragraph the following new paragraphs :—
- (b1) The sum for which an employer shall be liable in respect of the hospital treatment of a worker at a public hospital as an in-patient shall, for

each

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each day or part of a day, be the daily average cost to that hospital of the hospital treatment of in-patients, as estimated by the Minister for Health and last notified.

(b2) The sum for which an employer shall be liable in respect of the hospital treatment of a worker at a public hospital as an out-patient shall, for each attendance for treatment, be the average cost to that hospital, for each attendance for treatment, of the hospital treatment of out-patients, as estimated by the Minister for Health and last notified.

(b3) The estimated costs referred to in paragraphs (b1) and (b2) of this subsection shall, in respect of any public hospital, be based, wherever practicable, on the costs incurred by that hospital for the year which ended on the thirtieth day of June next preceding any date on which it is proposed to notify the costs, pursuant to either of those paragraphs, in respect of that hospital.

(b4) For the purposes of paragraphs (b1) and (b2) of this subsection "notified" means notified in the Gazette by the Minister for Health.

(2) The amendments made by subsection one of this section shall apply to and in respect of hospital treatment afforded on or after the day appointed for the commencement of this section for an injury whether received before, on or after that day.

(3) This section shall commence upon a day to be appointed by the Governor for the purposes of this section and notified by proclamation published in the Gazette.

*Workers' Compensation (Amendment).***4. The Principal Act is further amended—****No. 77, 1971**Further
amendment
of Act No.
15, 1926.

- (a) by omitting subsection two of section sixty and by inserting in lieu thereof the following subsection :—

Sec. 60.
(Review.)

(2) The amount of weekly payments payable in respect of an injury, whether received before or after the commencement of the Workers' Compensation (Amendment) Act, 1971, may be increased to such an amount as would have been awarded if the worker had, at the time of the injury, been earning the wage or salary which he would probably have been earning, at the date of the review, if he had remained uninjured and continued to be employed in the same or some comparable employment.

- (b) by omitting subsection three of the same section.

5. (1) A policy of insurance against liability under the Principal Act being maintained in force on the appointed day 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 made by this Act.

Subsisting
policies.

(2) Where a person is in receipt of compensation on the appointed day 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.

6. (1) The Workers' Compensation (Dust Diseases) Act, 1942, is amended—

Amendment
of Act No.
14, 1942.

- (a) by omitting from subparagraph (i) of paragraph (b) of subsection (2B) of section eight the words "five thousand dollars" and by inserting in lieu thereof the words "five thousand five hundred dollars";

Sec. 8.
(Certificate
of medical
authority.)

(d)

(b)

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(b) by omitting from subparagraph (ii) of the same paragraph the words "twenty dollars" and by inserting in lieu thereof the words "twenty-five dollars";

(c) by omitting from subparagraph (iii) of the same paragraph the words "six dollars twenty-five cents" and by inserting in lieu thereof the words "seven dollars fifty cents".

(2) The amendments made by paragraphs (b) and (c) of subsection one of this section, in so far as those amendments increase weekly payments, shall be deemed to extend to and, on and from the appointed day, apply in respect of all persons who, immediately before that day, were in receipt of or entitled to weekly payments under the Workers' Compensation (Dust Diseases) Act, 1942, in respect of the death of any person, as well as to all persons becoming entitled to weekly payments under any of such provisions on or after that day.

(3) The compensation prescribed by subparagraph (i) of paragraph (b) of subsection (2B) of section eight of the Workers' Compensation (Dust Diseases) Act, 1942, as amended by paragraph (a) of subsection one of this section, shall be payable in accordance with the firstmentioned paragraph in respect of the death of a person on or after the appointed day, whether or not anything on which entitlement to compensation under that paragraph depends happened, or was done or suffered, before that day.

Amendment of Act No. 36, 1920. 7. (1) The Workmen's Compensation (Broken Hill) Act, 1920, is amended—

Schedule. (a) by omitting from paragraph 6 of Part II of the Schedule the figures "4.00" wherever occurring and by inserting in lieu thereof the figures "5.00";

(b)

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- (b) by omitting from subparagraph (b) of paragraph No. 77, 1971 6A of the same Part the figures "20.50" wherever occurring and by inserting in lieu thereof the figures "31.00";
- (c) by omitting from the same subparagraph the figures "4.00" and by inserting in lieu thereof the figures "6.00";
- (d) by omitting from the same subparagraph the figures "10.00" and by inserting in lieu thereof the figures "15.00";
- (e) by inserting next after the same paragraph the following new paragraph :—

6B. Where a person and his spouse (if any) or a person or his spouse (if any) would, but for the weekly payments of compensation payable to such person, or for which he is eligible under this Scheme, be qualified to receive an age, invalid or widow's pension under the Social Services Consolidation Act 1947 of the Parliament of the Commonwealth, as amended by subsequent Acts of that Parliament, or any other pension, allowance or benefit under any Act or an Act of that Parliament, the joint committee may, in order that such person and his spouse (if any) or such person or his spouse (if any) may become so qualified, make an order that the weekly payments of compensation payable to such person, or to which he is eligible, under any provisions of this Scheme that are specified in the order shall be such amount, less than that prescribed by those provisions, as the joint committee may so specify, or that no compensation shall be paid to him under any provisions

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provisions so specified. While such order remains in force the provisions of this Scheme shall be deemed to be varied to the extent necessary to give effect to the order.

(2) The amendments made by subsection one of this section shall be deemed to extend to, and, on and from the commencement of this section, apply in respect of all persons who were immediately before that commencement in receipt of or entitled to compensation under the Workmen's Compensation (Broken Hill) Act, 1920, as well as to all persons becoming entitled to compensation thereunder after that commencement.

(3) This section shall commence on a day to be appointed by the Governor for the purposes of this section and notified by proclamation published in the Gazette.

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