



ANNO UNDECIMO

GEORGII VI REGIS.

A.D. 1947.

\*\*\*\*\*

No. 52 of 1947.

An Act to amend the Workmen's Compensation Act, 1932-1944.

[Assented to 11th December, 1947.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short titles.

1. (1) This Act may be cited as the "Workmen's Compensation Act Amendment Act, 1947".

(2) The Workmen's Compensation Act, 1932-1944, as amended by this Act, may be cited as the "Workmen's Compensation Act, 1932-1947".

(3) The Workmen's Compensation Act, 1932-1944, is hereinafter called "the principal Act".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

Amendment of s. 3 of the principal Act—

3. Section 3 of the principal Act is amended by adding at the end thereof the following passage :—

Interpretation.

In this Act the words "wife" and "widow" shall respectively include the husband or widower of a woman who is a workman within the meaning of this Act.

Amendment of s. 7 of the principal Act—  
Meaning of "workman".

4. Section 7 of the principal Act is amended—

(a) by striking out the word "ten" in the ninth line of subsection (1) and inserting in lieu thereof the word "fifteen" :

(b) by striking out the words "during the continuance of the present war and" in the fourth line of subsection (2):

(c) by striking out the last six lines of subsection (2).

5. (1) Subsection (1) of section 16 of the principal Act is repealed and the following subsection is enacted in lieu thereof:—

Amendment  
of s. 16 of the  
principal  
Act—

Amount of  
compensation  
when work-  
man dies  
leaving  
dependants.

(1) Where a workman dies as the result of his injury and leaves dependants wholly dependent upon his earnings the amount of compensation shall, subject to the limits prescribed in this section, be a sum equal to his earnings in the employment of the same employer during the four years next preceding the injury, plus fifty pounds for each dependent child: Provided that the amount of compensation payable under this subsection shall be—

(a) not less than five hundred pounds, plus fifty pounds for each dependent child:

(b) not more than nine hundred pounds, plus fifty pounds for each dependent child.

(2) Subsection (3) of section 16 is amended by adding at the end thereof the following:—

Provided that if the workman dies leaving a widow wholly dependent upon his earnings, or a dependent child, the amount payable under subsection (1) of this section, after deducting the weekly payments and the lump sum mentioned in this subsection, shall be not less than five hundred pounds, plus fifty pounds for each dependent child.

(3) Subsection (4) of section 16 is amended by striking out the word "three" in the second and third lines and inserting in lieu thereof in each case the word "four" and by striking out the words "one hundred and fifty-six" in the fourth line and inserting in lieu thereof in each case the words "two hundred and eight".

(4) The following subsections are inserted at the end of section 16:—

(5) In this section "dependent child" means a child who was under the age of sixteen years at the time of the workman's death and who was at that time wholly dependent on the earnings of the workman.

(6) In determining, for purposes of this section, whether or to what extent a child is dependent on the earnings of

a workman, no regard shall be paid to any payments which have been or may be paid in respect of the child under the Commonwealth Act known as the Child Endowment Act, 1941-1945, or any amendment thereof.

Amendment  
of s. 18 of the  
principal  
Act—  
Compensation  
for  
incapacity.

6. Section 18 of the principal Act is amended—

- (a) by striking out the words " fifty per centum " in the fourth line of subsection (1) and inserting in lieu thereof the words " two-thirds " :
- (b) by striking out the words " seven shillings and sixpence " in the eighth line of subsection (1) and inserting in lieu thereof the words " ten shillings " :
- (c) by adding at the end of subsection (1) the words " and, if the workman at the time of the accident had a wife totally or mainly dependent upon his earnings, an additional sum of one pound a week " :
- (d) by striking out the word " five " in the first line of subsection (2) and inserting in lieu thereof the word " six " :
- (e) by striking out the words " eight hundred " in the second line of subsection (3) and inserting in lieu thereof the words " one thousand one hundred and fifty " :
- (f) by striking out subsections (4) and (5) thereof and inserting in lieu thereof the following subsections :—

(4) No workman shall receive during total incapacity a less sum per week than the following amount—

- (a) if the workman is under twenty-one years of age and has no wife or child totally or mainly dependent on his earnings, and his average weekly earnings during the period mentioned in subsection (1) of this section were less than three pounds—the amount of those weekly earnings :

(b) in any other case—three pounds.

The minimum amount of compensation prescribed by paragraph (b) of this subsection shall be payable notwithstanding that it exceeds the average weekly earnings of the workman during the period mentioned in subsection (1) of this section.

(5) Where a workman was at the time of the injury working under an award, determination, or industrial agreement fixing his wages, his average weekly earnings during the period mentioned in subsection (1) of this section shall be deemed to be not less than the weekly wage to which the workman was at the time of the injury entitled under that award, determination or agreement.

7. Section 18a of the principal Act is amended—

Amendment of  
s. 18a of  
principal  
Act—  
Medical  
expenses.

(a) by striking out "twenty-five" in the third line of subsection (1) and inserting in lieu thereof "thirty-five":

(b) by striking out the words "by ambulance to hospital" in the seventh and eighth lines of subsection (1) and inserting in lieu thereof the words "by any vehicle to a hospital or to any other place for medical examination or medical treatment":

(c) by striking out paragraph (b) of subsection (1) and inserting in lieu thereof the following:—

(b) Any fees or other charges, not exceeding twenty pounds, payable for treatment administered by a legally qualified medical practitioner, or by a registered dentist, or by a registered physio-therapist on the prescription of a legally qualified medical practitioner, or for the supply, on the prescription of a legally qualified medical practitioner, of skiagrams, artificial limbs, eyes, or teeth, crutches, splints, or any other apparatus or appliances of a kind prescribed by the regulations:

(d) by striking out the word "twenty-five" in the seventh and ninth lines of subsection (2) and in the second and last lines of subsection (3), and by inserting in lieu thereof in each case the word "thirty-five".

8. Section 19 of the principal Act is repealed.

Repeal of  
s. 19 of the  
principal  
Act—  
Aged and  
infirm workers.

9. Section 26 of the principal Act is amended—

(a) by adding after subsection (4) thereof the following subsection:—

Amendment of  
s. 26 of the  
principal  
Act—  
Fixed  
compensation  
for certain  
injuries.

(4a) Where a workman suffers injury to any limb, member, or faculty mentioned in the said

table so that the workman permanently has less than the full efficient use thereof, the workman shall be entitled to a percentage of the compensation payable under this section for the total loss of that limb member or faculty, equal to the percentage of the full efficient use thereof lost by the workman :

- (b) by striking out the words " Eight hundred " in the third and fourth lines of subsection (5) and in the heading of the right hand column of the table in that subsection, and by inserting in lieu thereof in each case the words " One thousand one hundred and fifty ".

Repeal and re-enactment of s. 69 of the principal Act—  
Liability independently of this Act.

**10.** Section 69 of the principal Act is repealed and the following section is enacted in lieu thereof :—

69. (1) Except as expressly provided in this Act, nothing in this Act shall affect any liability which exists independently of this Act.

(2) Where a workman has received compensation under this Act in respect of an accident, he shall not bring an action against the employer for damages in respect of the same accident—

(a) except within twelve months after he received compensation, or if more than one payment of compensation was made, within twelve months after he received the first such payment :

(b) unless within six months after he received compensation, or if more than one payment of compensation was made, within six months after he received the first such payment, he gave the employer written notice of his intention to bring that action.

(3) When a workman has recovered judgment against an employer independently of this Act for damages in respect of an accident, he shall not commence or continue any proceedings for or in relation to compensation under this Act in respect of the same accident.

(4) A workman shall not commence or continue any proceedings against his employer for damages independently of this Act in respect of any injury by accident—

(a) after he has obtained a final award against his employer under which his employer is liable to pay compensation under this Act in respect of the same injury ;

(b) after a memorandum of an agreement has been recorded under section 48 of this Act, by which the amount of compensation payable to the workman in respect of the same injury has been agreed upon and the workman has expressly agreed not to bring any proceedings against the employer in respect of such injury independently of this Act.

(5) Any sum received by a workman from an employer by way of damages in respect of an accident shall be deducted from the sum recoverable by the workman from the employer by way of compensation under this Act in respect of the same accident.

(6) Any sum received by a workman from an employer by way of compensation under this Act in respect of an accident shall be deducted from the sum recoverable by the workman from the employer by way of damages in respect of the same accident.

11. Section 71 of the principal Act is repealed and the following section is enacted in lieu thereof:—

71. Where the injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person other than the employer (which other person is hereinafter called "the third party") to pay damages in respect thereof the following provisions shall apply:—

Repeal of  
s. 71 of the  
principal Act  
and enact-  
ment of other  
provisions—  
Remedies  
against  
employer and  
stranger.

(1) The workman may take proceedings both against the third party to recover damages and against the employer for compensation.

(2) A workman who receives any money from a third party in respect of an accident and compensation under this Act shall repay to the employer such amount of that compensation as does not exceed the amount recovered from the third party.

(3) Upon notice to the third party, the employer shall have a first charge on moneys payable by the third party to the workman, to the extent of any compensation which the employer has paid to the workman.

(4) If the workman has received compensation under this Act, but no damages or less than the full amount of the damages to which he is entitled, the third party shall be liable to indemnify the employer

against so much of the compensation paid to the workman as does not exceed the damages for which the third party is still liable.

(5) Payment of money by a third party to the employer pursuant to subsection (4) of this section shall, to the extent of the amount paid, be a satisfaction of the liability of the third party to the workman.

Amendment  
of s. 110 of  
principal  
Act—  
Regulations  
as to  
premiums.

**12.** Section 110 of the principal Act is amended by adding after subsection (1) thereof the following subsection :—

(1a) The power conferred by subsection (1) shall include power to make regulations—

- (a) prescribing the amounts or rates of the premiums chargeable for policies of insurance against liability to pay compensation under this Act :
- (b) providing for the appointment of an Advisory Committee to make recommendations as to the amounts or rates of premiums to be so prescribed :
- (c) prescribing any matters necessary or convenient to be prescribed for ensuring that the prescribed amounts or rates of premiums are charged.

Application  
of Act.

**13.** Sections 4 to 11 inclusive of this Act shall apply only in relation to injury or death caused by an accident occurring after the commencement of this Act.

Where injury or death was caused by an accident occurring before the commencement of this Act, the provisions of the principal Act, as in force immediately before the passing of this Act, shall apply.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. W. M. NORRIE, Governor.