

WORKERS' COMPENSATION.

No. 60 of 1965.

AN ACT to amend the Workers' Compensation Act, 1912-1964.

[Assented to 19th November, 1965.]

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

Short title
and citation.

1. (1) This Act may be cited as the *Workers' Compensation Act Amendment Act, 1965.*

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as approved
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23rd March,
1965.

(2) In this Act the Workers' Compensation Act, 1912-1964 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Workers' Compensation Act, 1912-1965.

S. 7
amended.

2. Section seven of the principal Act is amended—

(a) by deleting the words, "or place of pick-up", in line six of paragraph (a) of subsection (1a);

- (b) by adding, after subsection (1c), the following subsection—

(1d) For the purposes of this section, a place at which persons, ordinarily employed in a particular employment in relation to port or harbour operations at each port or harbour, customarily attend, by prior arrangement, for the purpose of being selected and engaged, and at which employers of port or harbour labour at each port or harbour customarily select and engage persons, for that employment is the place of employment of a person who attends there for the purpose of being selected and engaged or who is travelling between that place and his place of residence, in order to attend there, or by reason of having attended there, for that purpose; and such a person, while so attending or travelling, is deemed to be a worker under a contract of service with the employer by whom he was last employed in that particular employment. ;

- (c) by deleting paragraph (b) of subsection (2); and

- (d) by adding, after subsection (7), the following subsections—

(8) Except as expressly provided by this Act, nothing in this Act affects any liability that exists independently of this Act.

(9) Where a worker has received compensation under this Act, if, after the expiration of twelve months from the date on which he received, or, as the case may be, first received, payment of compensation, the worker has not commenced

proceedings against the employer for the recovery of damages independently of this Act, the employer may, by notice in writing, require the worker to commence those proceedings, within forty-two days after the service on him of the notice and, unless the worker, within that period,—

- (a) commences those proceedings, or
- (b) notifies the employer, by notice in writing, that he does not intend to take proceedings for damages,

the employer may apply to the Supreme Court, in the manner provided by Rules of Court, for an order that the worker commence those proceedings within such time as the court may direct.

(10) Upon the hearing of an application under subsection (9) of this section, the court may—

- (a) order that the worker commence proceedings for damages independently of this Act, within such time as it may direct;
- (b) adjourn the proceedings for such period or indefinitely (with liberty to either party to apply), upon such terms and conditions as it thinks fit; or
- (c) make such other order or give such directions as it thinks fit,

and upon the hearing of any adjourned application the court has the same powers with regard to that application as it has on an original application.

(11) The court has power to extend any period limited for the commencement of proceedings by an order made under subsection (10) of this section, if the application for the extension is made prior to the expiration of that period.

(12) Where the worker notifies the employer that he does not intend to take proceedings for damages independently of this Act or does not commence those proceedings within the period, or any extension of the period, limited by an order of the court, his right to take those proceedings is, without affecting his right to compensation under this Act, extinguished.

(13) (a) Where a judgment for damages has been given in favour of a worker, independently of this Act, in respect of an injury by accident and the worker receives payment of the whole amount of the judgment, he shall not commence or continue proceedings for, or in relation to, compensation under this Act in respect of the same injury.

(b) Any amount paid to a worker under a judgment for damages in respect of an injury by accident shall be deducted from the sum recoverable by the worker from the employer, by way of compensation under this Act, in respect of the same injury.

(c) Any amount received by the worker from the employer by way of compensation under this Act in respect of an injury by accident shall be deducted from the amount recoverable by or payable to a worker from or by the employer, under a judgment for damages in respect of the same injury. .

S. 13
amended.

3. Section thirteen of the principal Act is amended by deleting paragraph (c) of subsection (4), ending with the word, "offence".

First
Schedule
amended.

4. The First Schedule to the principal Act is amended—

(a) as to paragraph (a) of clause 1, by substituting for the words, "eight hundred", in the penultimate line, and the word, "seventy-five", in the last line, of subparagraph (i), the words, "one thousand one hundred and twenty" and the words, "one hundred", respectively; and

(b) as to paragraph (c) of clause 1, by substituting for the passage commencing with the word, "payment", in line twelve of subparagraph (iii), and ending with the word, "worker", being the last word in that subparagraph, the passage—

"payment shall be equal to the weekly earnings;

but, for the purposes of this paragraph, a female worker whose weekly rate of pay, in the particular occupation or industry in which she is engaged, is not less than the weekly rate of pay of a male worker, engaged in the same occupation or industry, shall be regarded as a male worker".
