

WORKERS' COMPENSATION.

3° Elizabeth II., No. LXXIV.

No. 74 of 1954.

**AN ACT to amend the Workers' Compensation Act,
1912-1953.**

[Assented to 14th January, 1955.]

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, 1954*.

(2) In this Act the Workers' Compensation Act, 1912-1953,

Approved for
reprint 26th
April, 1954.
Government
Printer's ref.
75351/5/54.

Act No. 69 of 1912 as reprinted with amendments to and including Act No. 88 of 1953, incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Workers' Compensation Act, 1912-1954.

2. Section four of the principal Act is repealed and re-enacted as follows:—

S. 4
repealed and
re-enacted.

4. (1) Where the rate or amount of weekly payments and of the additional payments in respect of dependants referred to in paragraph (c) of clause 1 of the First Schedule to this Act and the total liability of the employer in respect thereof is amended whether by or pursuant to the Workers' Compensation Act Amendment Act, 1954 or by any subsequent Act the provisions of subsections (2), (3) and (4) of this section shall apply.

Effect of
amendments
on com-
pensation.
Cf. Act No.
5676 of
Victoria,
s. 15.

(2) Notwithstanding any rule of law or construction to the contrary or an agreement which provides otherwise the worker shall be entitled after the coming into operation of the amendment to receive weekly payments (including payments in respect of dependants) at the amended rate or amount and the employer's total liability in respect thereof and under subsection (3) of section seven of this Act shall be the amended total liability less the total of such payments made to the worker prior to the date the amendment becomes operative irrespective of whether the injury giving rise to the liability of the employer was caused to the worker before or after coming into operation of the amendment unless this section provides otherwise.

(3) Subsection (2) of this section does not apply to payments due in respect of any week commencing before the coming into operation of the amendment nor where, prior to the coming into operation of the amendment—

- (i) the employer's liability for future weekly payments has been determined by the Board as an ascertained sum payable by way of redemption; or

- (ii) the employer's liability has been agreed as a sum payable by way of redemption by an agreement binding on the parties to it and registered under this Act as an agreement before or within fourteen days after the coming into operation of the amendment.

(4) A policy of insurance mentioned in subsection (1) of section thirteen of this Act is deemed to include a provision that where during the currency of the policy the rate or amount of weekly payments and additional payments in respect of dependants and the total liability of the employer in respect thereof is amended by the Workers' Compensation Act Amendment Act, 1954, or any amending Act the employer shall be insured in respect of liability for the amended rate or amount. This subsection shall have effect notwithstanding any rule of law or construction or a provision in the policy or any other agreement to the contrary.

(5) Where after the coming into operation of the Workers' Compensation Act Amendment Act, 1954 the Court of Arbitration declares either by one declaration, or more declarations than one aggregating a basic wage differing in amount by more than two and one-half per centum from the amount of the basic wage as last declared by it prior to the coming into operation of that Act or from the amount of the last basic wage declared by it which led to an alteration in the amount of payments, allowances and benefits under this Act in accordance with the provisions of this subsection hereinafter contained the amount of all payments, allowances and benefits being specific sums payable to a worker under this Act and all specific sums representing the maximum entitlement of the worker or the maximum liability of an employer thereunder shall be increased or decreased in proportion to any such alteration in the basic wage provided that nothing in this subsection shall render an employer liable to pay any increased payment, allowance or

benefit in respect of an accident occurring prior to the date on which the increase became operative except pursuant to subsection (2) hereof.

3. Section five of the principal Act is amended S. 5
amended.
by—

(a) inserting a new definition after the word “intended” in line three of the section as follows:—

“basic wage” means in the case of a male worker the basic wage for the time being payable in respect of the metropolitan area of Perth to an adult male worker as determined or deemed to be determined by the Court of Arbitration under Part VII. of the Industrial Arbitration Act, 1912-1952, and in the case of a female worker the basic wage for the time being payable in respect of such area to an adult female worker as determined or deemed to be determined by such Court as aforesaid;

(b) deleting the words “any person whose remuneration exceeds one thousand two hundred and fifty pounds a year or” in lines one, two and three; the words “whose earnings do not exceed one thousand two hundred and fifty pounds a year” in lines seventy-nine, eighty and eighty-one, and the words “whose rate of remuneration does not exceed one thousand two hundred and fifty pounds a year” in lines eighty-two, eighty-three, eighty-four and eighty-five of the interpretation “worker”.

4. Section seven of the principal Act is amended S. 7
amended.
by—

(a) adding after subsection (1) the following subsection:—

(1a) Without limiting the generality of subsection (1) of this section but subject to the provisions of this subsection a worker is deemed to have suffered per-

sonal injury by accident arising out of or in the course of his employment where he suffers an injury without his own default or wilful act while the worker during the ordinary working hours of the establishment of his employer in which he is employed is travelling between such establishment and any trade, technical or other training school which he is required to attend by the terms of his employment or as an apprentice or between such trade, technical or other school and such establishment or is in attendance at any such school provided that any injury incurred while so travelling is not incurred during or after any substantial interruption of or substantial deviation from his journey made for reasons unconnected with his attendance at the school or place as the case may be.

- (b) substituting for the words "two thousand one hundred"
 - in line fourteen of paragraph (a);
 - in line six of paragraph (f); and
 - in line eleven of paragraph (g),of subsection (3) the words "two thousand four hundred".

S. 8
amended.

5. Subsection (14) of section eight of the principal Act is amended by—

- (a) substituting for the words "two thousand one hundred" in line fourteen the words "two thousand four hundred";
- (b) deleting the words "after the coming into operation of the Workers' Compensation Act Amendment Act, 1953," in lines one, two and three of paragraph (d) and adding after the word "pounds" in line four of that paragraph the words "prior to the coming into operation of the Workers' Compensation Act Amendment Act, 1954".

6. Subsection (3) of section eleven of the principal Act is amended by substituting for the words "two thousand one hundred" in lines eight and nine the words "two thousand four hundred".

S. 11
amended.

7. Subsection (3) of section thirteen is amended by inserting after the word "insurer" in line nine the words "no employer in compiling such statement shall be obliged to take into account that portion of the wages of any worker which exceeds or which he estimates will exceed the sum of twenty-five pounds per week and".

S. 13
amended.

8. Subparagraph (iv) of paragraph (b) of subsection (1) of section thirty is amended by inserting after the word "wages" in line three the words "(up to a maximum of twenty-five pounds per week in respect of each worker)".

S. 30
amended.

9. Paragraph (a) of clause one of the First Schedule to the principal Act is amended by—

Para. (a) of
cl. 1 of the
First
Schedule
amended.

- (a) substituting for the words "one thousand eight hundred" in line three of subparagraph (i) the words "two thousand five hundred";
- (b) substituting for the word "sixty" in line four and line twenty of subparagraph (i) the word "seventy-five";
- (c) substituting for the words "six hundred" in line twenty of subparagraph (i) the words "eight hundred".

10. Paragraph (c) of clause one of the First Schedule to the principal Act is amended by—

Para. (c) of
cl. 1 of the
First
Schedule
amended.

- (a) deleting subparagraph (i) and lines one to seven inclusive of subparagraph (ii) and the words "whichever is the larger sum" in line twenty-three of the paragraph and substituting—

- (i) in the case of an adult male worker whose average weekly earnings at the date of the accident are not less than the basic wage the sum of eight pounds sixteen shillings;

- (ii) in the case of an adult female worker whose average weekly earnings at the date of the accident are not less than the basic wage the sum of six pounds; and
 - (iii) in the case of a worker whose average weekly earnings at the date of the accident are less than the basic wage, such sum as bears to the sum mentioned in subparagraph (i) of this paragraph if the worker is a male worker or to the sum mentioned in subparagraph (ii) of this paragraph if the worker is a female worker, the ratio which his or her weekly earnings bear to the basic wage, but so that the weekly payment shall be not less than four pounds, unless the weekly earnings are less than four pounds in which case the weekly payment shall be equal to the weekly earnings;
- (b) substituting for the words "twelve shillings and sixpence" in lines nine and ten of subparagraph (ii) the words "sixteen shillings";
 - (c) substituting for the words "one pound sixteen shillings" in lines fifteen and sixteen of subparagraph (ii) the words "two pounds";
 - (d) substituting for all the words from and including the words "Weekly payments" in line thirty-six to and including the words "two thousand one hundred pounds" in lines forty-seven and forty-eight of the paragraph the passage "Weekly payments including payments in respect of dependants shall not exceed—
 - (A) in the case of a male worker twelve pounds eight shillings; and
 - (B) in the case of a female worker nine pounds;

but in the case of a worker whose average weekly earnings at the date of the accident

are less than the basic wage the weekly payments shall be the amount of those earnings.

In this paragraph the expression "average weekly earnings" means—

- (I) the wages of the worker in the week immediately preceding the accident or if the worker has not been so long employed;
- (II) a full working week's wages exclusive of overtime at the rate of pay for the work at which he was employed at the time of the accident; or
- (III) his average weekly earnings during the previous twelve months if he has been so long employed by his employer at the date of the accident; or if not
- (IV) his average weekly earnings for any less period during which he has been in the employment of the same employer

The total liability of the employer in respect of weekly payments including payments for dependants shall not exceed two thousand four hundred pounds.

- (e) deleting proviso (a) to the paragraph;
- (f) substituting for the words "thirty shillings" in the last line of proviso (b) to the paragraph, the words "two pounds five shillings";
- (g) deleting the words "artificial limbs" in lines fifteen and sixteen of the proviso (c) to paragraph (c);
- (h) substituting for the word "forty" in line thirty-two of the proviso (c) to paragraph (c) the word "fifty";
- (i) deleting all words in the last eight lines of the proviso (c) to paragraph (c) and substituting the following:—"and any surgical appliance or artificial limb can be procured to relieve such disablement he shall be entitled to the cost of such appliance or artificial limb.

Provided that any artificial limb shall be in accordance with the standards laid down by the Commonwealth artificial limb factory."

Para. (c) of
cl. 1 of the
First
Schedule
amended.

11. Proviso (e) to paragraph (c) of clause one of the First Schedule to the principal Act is amended by—

- (a) substituting for the words "fifteen shillings and six pence" in lines fifteen and sixteen the words "one pound";
- (b) substituting for the words "four pounds sixteen shillings" in lines seventeen and eighteen the words "six pounds".

Para. (b) of
cl. 4 of the
First
Schedule
amended.

12. Paragraph (b) of clause four of the First Schedule to the principal Act is amended by—

- (a) substituting for the words "fifteen shillings and six pence" in lines seven and eight the words "one pound";
- (b) substituting for the words "four pounds sixteen shillings" in line nine the words "six pounds".

Proviso to
cl. 9 of the
First
Schedule
amended.

13. The proviso to clause nine of the First Schedule to the principal Act is repealed and re-enacted as follows:—

Provided that where the worker was at the date of the accident under twenty-one years of age and his average weekly earnings were less than the basic wage at that date and the review takes place more than twelve months after the accident the weekly payment may be increased to any amount not exceeding the amount to which the worker would probably have been entitled at the date of review by way of weekly payments including payments for dependants in accordance with the provisions of paragraph (c) of clause one of the Schedule.

Cl. 11 of the
First
Schedule
amended.

14. Clause eleven of the First Schedule to the principal Act is amended by substituting for the word "one" in line seven the word "four".

15. The Second Schedule to the principal Act is amended by substituting for the figures shown in the First Column the figures shown in the Second Column hereunder:—

Second
Schedule
amended.

| Item. | First Column. £ | Second Column. £ |
|-------|-----------------------|------------------------|
| 1 | 1,750 | 2,400 |
| 2 | 1,750 | 2,400 |
| 3 | 1,750 | 2,400 |
| 4 | 1,750 | 2,400 |
| 5 | 1,750 | 2,400 |
| 6 | 1,750 | 2,400 |
| 7 | 1,750 | 2,400 |
| 8 | 1,400 | 1,920 |
| 9 | 1,310 | 1,795 |
| 10 | 1,225 | 1,680 |
| 11 | 1,135 | 1,555 |
| 12 | 1,310 | 1,795 |
| 13 | 1,050 | 1,440 |
| 14 | 1,310 | 1,795 |
| 15 | 1,050 | 1,440 |
| 16 | 1,050 | 1,440 |
| 17 | 350 | 480 |
| 18 | 700 | 960 |
| 19 | 700 | 960 |
| 20 | 525 | 720 |
| 21 | 455 | 625 |
| 22 | 350 | 480 |
| 23 | 280 | 380 |
| 24 | 280 | 380 |
| 25 | 140 | 190 |
| 26 | 210 | 285 |
| 27 | 190 | 260 |
| 28 | 350 | 480 |
| 29 | 175 | 240 |
| 30 | 105 | 140 |
| 31 | 35 | 45 |
| 32 | 1,750 | 2,400 |
| 33 | 700 | 960 |