

# WORKERS' COMPENSATION.

5° and 6° GEO. VI., No. XXXVI.

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No. 36 of 1941.

**AN ACT to amend the Workers' Compensation Act,  
1912-1939.**

*[Assented to 19th December, 1941.]*

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

1. This Act may be cited as the *Workers' Compensation Act Amendment Act*, 1941, and shall be read as one with the Workers' Compensation Act, 1912-1939 (No. 69 of 1912 as reprinted in the Appendix to the Sessional Volume of Statutes for the year 1937 and amended by Acts No. 50 of 1938 and No. 35 of 1939), hereinafter referred to as the principal Act. Short title.

Amendment of  
s. 4 of the  
principal Act

2. Section four of the principal Act is amended—
- (a) by deleting from the interpretation of the term "Worker" the words "four hundred" in line two and inserting in lieu thereof the words "five hundred;"
  - (b) by adding after the word "writing" in line 14 of the interpretation of the term "Worker" the words "The worker's remuneration shall not include overtime."

New sections.

3. New sections are inserted in the principal Act after section twenty, as follows:—

Medical  
Register  
Committee.

20A. (1) For the purposes of this Act the Governor in Council shall appoint a committee, to be called the "Medical Register Committee" (hereinafter referred to as "the committee") consisting of five members, as follows:—

- (a) a judge of the Supreme Court or magistrate of a local court, who shall be chairman;
- (b) two representatives to be nominated by the Governor in Council;
- (c) two medical practitioners registered under the provisions of the Medical Act, 1894, and nominated by the British Medical Association.

(2) A quorum shall consist of the chairman and at least one representative nominated by the Governor in Council and one representative of the medical practitioners.

(3) Each member (including the chairman) shall have one vote and, in case of equality of voting, the chairman shall have a casting vote. All questions at any meeting shall be determined by a majority of votes of the members present.

(4) The members shall hold office for two years: Provided that any member appointed to fill any vacancy caused by death, resignation, or removal shall hold office so long only as his predecessor would have done if such vacancy had not occurred.

Workers'  
Compensation  
Medical  
Register to be  
established.

20B. The committee shall establish and keep a register, to be known as the Workers' Compensation Medical Register (hereinafter referred to as "the register"). All medical practitioners who are regis-

tered, or who become registered, under the provisions of the Medical Act, 1894, shall be registered under the provisions of this section and shall thereupon become subject to the provisions of this Act and the regulations.

20C. A medical practitioner whose name is not for the time being on the register shall not be entitled to charge, receive, or recover any medical expenses or fees for medical or surgical treatment of or attendance on any worker with respect to any injury for which the worker is receiving or entitled to receive compensation under this Act, unless such treatment or attendance has been rendered or bestowed in a case of sudden emergency.

Medical practitioners not on register to be prohibited from charging or receiving professional fees.

20D. The committee may, upon complaint in writing by the worker, or his employer, or in the case where a worker is unable for any reason deemed satisfactory by the committee to make the complaint himself, any near relative of the worker, or any person authorised by the Minister made within twelve months after the occurrence giving rise to such complaint, hold an inquiry into the conduct of any registered medical practitioner with respect to the treatment of or attendance on any worker, or the expenses or fees charged for any such treatment or attendance. As a result of any such inquiry the name of the medical practitioner concerned may be erased from the register, either absolutely or for a limited period, or a fine or other penalty may be imposed by the committee. No fine imposed by the committee shall exceed fifty pounds and the amount of any such fine may be recovered summarily before any two or more justices of the peace in petty sessions.

Committee may hold inquiries.

For the purpose of this section the phrase "treatment of or attendance on any worker" means medical or surgical treatment of or attendance on any worker with respect to any injury for which the worker is receiving or entitled to receive compensation under this Act, and the phrase "any near relative" means any person who is either the wife, husband, mother, father, sister, brother, or child of the worker and in respect of any child wholly or partly dependent upon the earnings of the worker, the guardian of such

child. If the committee dismiss the complaint it may order the person making the same (other than a person authorised by the Minister) to pay to the medical practitioner whose conduct or charge is complained of, the costs of and incidental thereto, to be taxed by the Master of the Supreme Court, for which costs the Master shall give his allocatur, and such order may be enforced and such costs recovered by execution or otherwise in the same manner as if the Master's allocatur were a judgment of the Supreme Court for the payment of a liquidated sum of the amount at which such costs are so taxed and allowed.

Regulations concerning the functions of the committee.

20E. Provision may be made by regulations, to be known as the Medical Register Regulations—

- (a) for regulating the meetings and proceedings of the committee and the conduct of the business thereof;
- (b) enabling the committee to establish a register providing for the registration of medical practitioners, the removal from the register of the name of any medical practitioner as a consequence of any decision of the committee, and the re-registration of any medical practitioner whose name has been removed;
- (c) providing for the fees and expenses payable to the members of the committee and with respect to establishing and maintaining the register;
- (d) for regulating the conduct of inquiries by the committee;
- (e) for generally carrying into effect the functions of the committee under this Act.

Committee to have powers of Royal Commission.

20F. When exercising its power of inquiry the committee shall be deemed to be a Royal Commission appointed by the Governor within the meaning of the Royal Commissioners' Powers Act, 1902, and that Act (including the penal provisions thereof) shall apply and have effect to and in respect of the committee and any inquiries made by it accordingly.

Protection of committee and members.

20G. The committee, or the individual members, shall not be liable to any suit or action, or to pay any claim or demand made or brought by or on

behalf of any person with respect to anything lawfully done or omitted by the committee, or any individual member thereof, under and in accordance with the provisions of this Act.

20H. Any fees or expenses payable under the Medical Register Regulations shall be met by the Treasurer as they fall due and paid out of Consolidated Revenue. The total sum so paid in every financial year shall be recouped from all insurance offices approved, and all employers or groups of employers exempted by Order in Council under section ten of this Act and repaid to Consolidated Revenue. Each such approved insurance office, exempted employer, or group of employers shall be liable to pay a share of such fees and expenses in proportion (in the case of each such approved insurance office) to the amount received in the year as premiums for workers' compensation insurance and (in the case of each such exempted employer or group of employers) to the amount which would have been payable by each of them in the year as premiums for workers' compensation insurance if each of them had been insured with the State Insurance Office. The liability of any approved insurance office or exempted employer or group of employers shall be a debt due to the Crown and recoverable as such.

Fees and expenses to be paid by Treasurer and recouped from incorporated insurance offices.

4. The First Schedule to the principal Act is amended, as follows:—

Amendment of First Schedule to the principal Act.

(a) by deleting the first part of paragraph (b) of clause (1) of the Schedule down to the proviso thereto and substituting in lieu thereof the following:—

(b) When total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding—

(i) fifty per centum of the wages of the worker in the week immediately preceding the accident. If the worker has not been so long employed, his wages, for the purpose of this paragraph, shall be deemed to be 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, and the compensation shall be computed and assessed accordingly; or

- (ii) fifty per centum of his average weekly earnings during the previous twelve months, if the worker has been so long employed, but if not, then for any less period during which he has been in the employment of the same employer,

whichever is the larger sum.

In addition, seven shillings and sixpence per week shall be payable for each dependent child under the age of sixteen years.

Weekly payments, including payments for dependent children, shall not exceed three pounds ten shillings, and the total liability of the employer in respect thereof shall not exceed seven hundred and fifty pounds.

- (b) by inserting in paragraph (a) of the proviso to paragraph (b) of clause (1) of the Schedule the words "the wages or" after the words "the amount of" in lines one and four;
- (c) by inserting in paragraph (b) of the proviso to paragraph (b) of clause (1) of the Schedule the words "the wages or" before the words "the earnings" in line two;
- (d) by deleting from paragraph (c) of the proviso to paragraph (b) of clause (1) of the Schedule the words "ten shillings and sixpence per day" in line seven and inserting in lieu thereof the words "as hereinafter prescribed in paragraph (d);"
- (e) by deleting paragraph (d) of the proviso to paragraph (b) of clause 1 of the Schedule and inserting new paragraphs, as follows:—

(d) The hospital charges referred to in the preceding paragraph shall not exceed—

- (i) ten shillings and sixpence per day for hospitals situate within a radius of fifteen miles from the General Post Office, Perth;

- (ii) twelve shillings and sixpence per day for hospitals situate elsewhere within the South-West Land Division of the State as defined in the Land Act, 1933; and
- (iii) fifteen shillings per day for hospitals situate in any part of the State other than either of the localities hereinbefore mentioned.

The charge of twelve shillings and sixpence per day or fifteen shillings per day hereinbefore prescribed shall apply only for the first thirty days during which the worker remains in hospital for treatment, whether such days are consecutive or not. Thereafter the charges shall be ten shillings and sixpence per day irrespective of the situation of the hospital.

(e) Where a worker is not or is no longer required to remain in hospital or other place for treatment but is required by his employer, his employer's duly authorised agent or medical adviser, or is advised by his own medical adviser, to travel from the place where he resides to a hospital or other place for treatment or medical examination, then, in addition to the compensation payable to such worker under this section, the employer shall pay all reasonable fares and expenses incurred by the worker in such travelling and return, and also a sum not exceeding six shillings per day, but not exceeding the sum of thirty-five shillings per week, to cover the cost of meals and lodging necessarily incurred by the worker whilst away from his home for the purpose of such treatment or examination.

In any case where no medical adviser is available and a worker travels for treatment without being so required or advised, the employer shall be liable, as hereinbefore prescribed, if the worker proves such travelling was necessary in the circumstances of the case.

- (f) by inserting in clause (3) of the Schedule after the word "amount" in line five the words "of the wages or;"
- (g) by deleting from paragraph (a) of clause (14) of the Schedule the word "six" in line four and inserting in lieu thereof the word "fourteen."

Citation of  
principal Act  
as amended.

5. The principal Act as amended by this Act may be cited as the Workers' Compensation Act, 1912-1941.

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