

COMMONWEALTH EMPLOYEES' COMPENSATION.

No. 98 of 1959.

An Act to amend the *Commonwealth Employees' Compensation Act 1930-1956.*

[Assented to 4th December, 1959.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Commonwealth Employees' Compensation Act 1959.* Short title and citation.

(2.) The *Commonwealth Employees' Compensation Act 1930-1956** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Commonwealth Employees' Compensation Act 1930-1959.*

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commence-
ment.

3.—(1.) Section eleven of the Principal Act is amended—

(a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) Where compensation is payable by the Commonwealth under this Act in respect of an injury sustained by an employee, or where compensation would be so payable but for the fact that the employee is not incapacitated for work or but for the operation of clause (ii) of sub-paragraph (b) of paragraph (1A.) of the First Schedule to this Act—

(a) the Commonwealth shall be liable to pay a sum ascertained in accordance with the next succeeding sub-section in respect of the cost of such medical treatment in relation to the injury as is, in the opinion of the Commissioner, reasonably necessary; and

* Act No. 24, 1930, as amended by No. 8, 1944; No. 61, 1948; No. 80, 1950; No. 27, 1951; No. 15, 1954; and No. 93, 1956.

(b) the Commonwealth shall, subject to sub-section (2A.) of this section, be liable to pay a sum equal to the amount of the expenditure incurred by the employee in travelling to a place for the purpose of receiving any such medical treatment or to his place of residence after receiving any such medical treatment—

(i) by ambulance; or

(ii) otherwise than by ambulance between places that are not less than fifteen miles apart by the nearest practicable route,

or in remaining, for the purpose of receiving any such medical treatment, at a place to which he has so travelled for that purpose, being a place that is not less than fifteen miles by the nearest practicable route from the place from which he has so travelled.”;

(b) by omitting from sub-section (2.) the words “, but shall not exceed Two hundred pounds unless the Commissioner considers that the exceptional circumstances of any case warrant special approval of an amount in excess of that sum”; and

(c) by inserting after sub-section (2.) the following sub-sections:—

“(2A.) Where an employee has incurred expenditure in relation to which paragraph (b) of sub-section (1.) of this section applies and the Commissioner is of opinion, having regard to all the circumstances, including—

(a) the means available for the conveyance of the employee;

(b) the places at which appropriate medical treatment was available for the treatment of the employee; and

(c) the accommodation that was available to the employee,

that it was not reasonably necessary for the employee to incur any such expenditure or that the expenditure incurred exceeded the expenditure that was reasonably necessary, the liability of the Commonwealth under that paragraph shall be a liability to pay a sum equal to the amount of the expenditure, if any, that, in the opinion of the Commissioner, was reasonably necessary.

“(2B.) Except where the Commissioner, by reason of exceptional circumstances, otherwise directs, there shall not be payable under this section, in respect of an injury, a sum exceeding, or sums exceeding in the aggregate, Three hundred and fifty pounds.”.

(2.) The amendments of the Principal Act effected by the last preceding sub-section do not apply in relation to expenditure referred to in paragraph (b) of sub-section (1.) of section eleven of the Principal Act as amended by this Act that was incurred before the commencement of this Act.

4. Section thirteen of the Principal Act is amended—

Maximum
compensation.

- (a) by omitting from sub-section (1.) the words “Two thousand three hundred and fifty pounds” and inserting in their stead the words “Three thousand pounds”; and
- (b) by omitting sub-section (4.).

5.—(1.) Section sixteen of the Principal Act is amended by adding at the end thereof the following sub-section:—

Time for
taking
proceedings.

“(4.) In the application of this section, in accordance with section ten, and sub-section (2.) of section four, of this Act, in relation to a claim in respect of an employee who is suffering from a disease or whose death has been caused by a disease—

- (a) notice of the accident shall be deemed to have been served in accordance with the provisions of sub-section (1.) of this section if notice of the contracting of the disease was served on the Commissioner—
- (i) in the case of a claim arising out of the death of the employee caused by the disease—as soon as practicable after his death; or
- (ii) in any other case—as soon as practicable after the employee first became aware that he was suffering from the disease or, if he died without having become so aware, as soon as practicable after his death;
- (b) a claim for compensation shall be deemed to have been made within the period required by sub-section (1.) of this section if the claim was made—
- (i) in the case of a claim arising out of the death of the employee caused by the disease—within six months after advice of the death was received by the claimant; or

- (ii) in any other case—within six months after the employee first became aware that he was suffering from the disease or, if he died without having become so aware, within six months after his death;
- (c) a notice shall, for the purposes of sub-section (2.) of this section, be deemed to contain the date at which the accident happened if it specifies the date at which, or period during which, the employee contracted the disease; and
- (d) a notice shall be deemed to have been duly served in accordance with the last preceding sub-section if—
 - (i) it was sent in the manner specified in that sub-section to the Permanent Head or Chief Officer of the Department or authority by which the employee was employed in employment to the nature of which the disease was due or, if he was so employed in more than one Department or authority, to the Permanent Head or Chief Officer of the Department or authority by which he was last so employed;
 - (ii) it was delivered at the head office of the Department or authority by which he was so employed or last so employed, as the case requires; or
 - (iii) it was served in any other prescribed manner.”.

(2.) The application of section sixteen of the Principal Act as amended by this Act extends in relation to a claim (including a claim in respect of death) arising out of a disease contracted before the commencement of this Act, except that—

- (a) if notice of the accident was not or is not served within the time allowed by that section, the notice shall nevertheless be deemed to have been so served if it is served as soon as practicable after the commencement of this Act; and
- (b) if a claim for compensation was not or is not made within the time allowed by that section, the claim shall nevertheless be deemed to have been so made if it is made within six months after the commencement of this Act.

Medical
reform.

6. Section eighteen of the Principal Act is amended by omitting sub-section (2.).

7. Section nineteen of the Principal Act is amended—

Medical
examinations.

- (a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) Where notice has been given of an injury to an employee, or an employee has made a claim for compensation under this Act for an injury or is receiving weekly payments under this Act, the employee shall, if so required by the Commissioner, submit himself for examination by a duly qualified medical practitioner designated by the Commissioner, a medical referee or a medical board consisting of two or more medical referees, and, if he refuses to submit himself to examination accordingly or in any way obstructs the examination, his right to compensation, and his right to take or continue any proceeding under this Act in relation to compensation, are suspended until the examination has taken place.”; and

- (b) by adding at the end thereof the following sub-section:—

“(6.) Where a person's right to compensation is suspended under sub-section (1.) of this section, compensation is not payable in respect of the period of the suspension.”.

8. Section twenty of the Principal Act is amended—

Appeals.

- (a) by omitting the words “, within thirty days of the date of the determination or the taking of the action or within such extended time as the Court upon application in that behalf allows,”; and

- (b) by adding at the end thereof the following sub-sections:—

“(2.) Where the Commissioner or a delegate of the Commissioner has caused notice of a determination made, or of any action taken, by him under this Act to be served on a person affected by the determination or action, an appeal under the last preceding sub-section shall not be instituted by that person except within a period of thirty days from the date of service of the notice or within such further time as the Court allows.

“(3.) A notice for the purposes of the last preceding sub-section may be served on a person by post at the address of the person last known to the Commissioner, or the delegate of the Commissioner, as the case may be.”.

First Schedule.

- 9.—(1.) The First Schedule to the Principal Act is amended—
- (a) by omitting from clause (i) of sub-paragraph (a) of paragraph (1.) the words “Two thousand three hundred and fifty pounds” and inserting in their stead the words “Three thousand pounds”;
 - (b) by omitting from clause (ii) of sub-paragraph (a) of paragraph (1.) the words “injury to the dependants” and inserting in their stead the words “loss to the dependants resulting from the cessation of the earnings of the employee”;
 - (c) by omitting from sub-paragraph (b) of paragraph (1.) the words “Eight pounds fifteen shillings” and inserting in their stead the words “Ten pounds”;
 - (d) by omitting from clause (i) of sub-paragraph (b) of paragraph (1.) the words “Two pounds five shillings” and inserting in their stead the words “Two pounds ten shillings”;
 - (e) by omitting from clause (ii) of sub-paragraph (b) of paragraph (1.) the words “One pound” and inserting in their stead the words “One pound two shillings and sixpence”;
 - (f) by omitting from clause (i) of sub-paragraph (c) of paragraph (1.) the words “Eight pounds fifteen shillings” and inserting in their stead the words “Ten pounds”;
 - (g) by omitting from clause (ii) of sub-paragraph (a) of paragraph (1A.) the words “paragraph (10A.) or”;
 - (h) by omitting from clause (iii) of sub-paragraph (b) of paragraph (1A.) the words “Six pounds ten shillings” and “Eight pounds fifteen shillings” and inserting in their stead the words “Seven pounds five shillings” and “Ten pounds”, respectively;
 - (i) by omitting paragraph (4.);
 - (j) by inserting in paragraph (10.), after the word “Commissioner”, the words “of his own motion or”;
 - (k) by omitting paragraph (10A.);
 - (l) by omitting from paragraph (11.) the words “Except as provided in the last preceding paragraph, where” and inserting in their stead the word “Where”; and
 - (m) by omitting paragraph (14.).

(2.) The amendments of the Principal Act effected by paragraphs (g) and (k) of the last preceding sub-section do not apply to or in relation to an employee whose retirement on the grounds of invalidity took place before the commencement of this Act.

10. The Third Schedule to the Principal Act is repealed and the following Schedule inserted in its stead:—

Third Schedule.

THE THIRD SCHEDULE.

Section 12.

COMPENSATION FOR SPECIFIED INJURIES.

Nature of Injury.	Amount Payable.		
	£	s.	d.
Loss of both eyes	3,000	0	0
Loss of an only useful eye, the other being blind or absent ..	3,000	0	0
Loss of one eye, with serious diminution of the sight of the other ..	2,250	0	0
Loss of one eye	1,200	0	0
Loss of hearing	2,100	0	0
Complete deafness of one ear	600	0	0
Loss of both hands	3,000	0	0
Loss of right arm or greater part of right arm	2,400	0	0
Loss of left arm or greater part of left arm	2,160	0	0
Loss of lower part of right arm, right hand or five fingers of right hand	2,100	0	0
Loss of lower part of left arm, left hand or five fingers of left hand	1,890	0	0
Loss of right thumb	900	0	0
Loss of left thumb	810	0	0
Loss of right forefinger	600	0	0
Loss of left forefinger	540	0	0
Loss of right middle finger	480	0	0
Loss of left middle finger	450	0	0
Loss of right ring finger	420	0	0
Loss of left ring finger	390	0	0
Loss of right little finger	390	0	0
Loss of left little finger	360	0	0
Loss of total movement of joint of right thumb	420	0	0
Loss of total movement of joint of left thumb	390	0	0
Loss of distal phalanx or joint of right thumb	480	0	0
Loss of distal phalanx or joint of left thumb	450	0	0
Loss of portion of terminal segment of right thumb involving one-third of its flexor surface without loss of distal phalanx or joint	420	0	0
Loss of portion of terminal segment of left thumb involving one-third of its flexor surface without loss of distal phalanx or joint	390	0	0
Loss of two phalanges or joints of right forefinger	360	0	0
Loss of two phalanges or joints of left forefinger	330	0	0
Loss of two phalanges or joints of right middle or ring finger ..	330	0	0
Loss of two phalanges or joints of left middle or ring finger ..	300	0	0
Loss of two phalanges or joints of right little finger	300	0	0
Loss of two phalanges or joints of left little finger	270	0	0
Loss of distal phalanx or joint of right forefinger	300	0	0
Loss of distal phalanx or joint of left forefinger	270	0	0
Loss of distal phalanx or joint of other finger of right hand ..	240	0	0
Loss of distal phalanx or joint of other finger of left hand ..	216	0	0
Loss of hand and foot	3,000	0	0
Loss of both feet	3,000	0	0
Loss of leg above knee	2,250	0	0
Loss of leg below knee	1,950	0	0
Loss of foot	1,800	0	0
Loss of great toe	600	0	0
Loss of any other toe	240	0	0
Loss of two phalanges or joints of any other toe	192	0	0
Loss of phalanx or joint of great toe	300	0	0
Loss of phalanx or joint of any other toe	180	0	0

Adjustment of
weekly
payments, &c.,
under prior
Acts.

11.—(1.) Where, immediately before the date of commencement of this Act, a person was receiving weekly payments under the *Commonwealth Workmen's Compensation Act 1912* or was receiving, or was entitled to receive, weekly payments in accordance with the First Schedule to the Principal Act, he is, from and including that date, entitled to receive weekly payments in accordance with the Principal Act as amended by this Act.

(2.) Where, before the date of commencement of this Act, an employee sustained an injury or contracted a disease in respect of which weekly payments in accordance with the First Schedule to the Principal Act would have been payable immediately before that date but for the fact that he was not then incapacitated for work, and on or after that date he becomes incapacitated for work as a result of the injury or disease, weekly payments in respect of that incapacity shall be in accordance with the Principal Act as amended by this Act.

(3.) Where, on or after the date of commencement of this Act, death results from an injury or a disease which was sustained or contracted before that date and in respect of which compensation was payable under the Principal Act, compensation shall be paid in respect of that death in accordance with the Principal Act as amended by this Act.

(4.) Where, immediately before the date of commencement of this Act, an employee was receiving, or was entitled to receive, weekly payments in accordance with the First Schedule to the Principal Act in respect of an injury or injuries sustained or a disease contracted before that date, the provisions of section thirteen of the Principal Act as amended by this Act apply in relation to the injury, injuries or disease.

(5.) Where, before the date of commencement of this Act, an employee suffered an accident or contracted a disease—

(a) which, on or after that date, results in an injury specified in the Third Schedule to the Principal Act as amended by this Act; and

(b) in respect of which compensation would have been payable under section twelve of the Principal Act if the injury had resulted before that date,

the amount of compensation payable in respect of the injury is, subject to section twelve of the Principal Act as amended by this Act, the amount specified in the second column of the Third Schedule to the Principal Act as amended by this Act opposite the reference to the injury in the first column.