

Compensation (Commonwealth Government Employees) Amendment Act 1979

No. 111 of 1979

An Act to amend the *Compensation (Commonwealth Government Employees) Act 1971*.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

1. (1) This Act may be cited as the *Compensation (Commonwealth Government Employees) Amendment Act 1979*.¹ Short title, &c.

(2) The *Compensation (Commonwealth Government Employees) Act 1971*² is in this Act referred to as the Principal Act.

2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.¹ Commencement

(2) Sections 16 and 17 shall be deemed to have come into operation on 1 September 1979.

3. (1) Section 5 of the Principal Act is amended by omitting sub-paragraph (i) of paragraph (b) of the definition of "child in relation to whom this Act applies" in sub-section (1) and substituting the following sub-paragraph: Interpretation

"(i) has attained the age of sixteen years but is under the age of twenty-five years;".

(2) Where, by reason of the death or incapacity of an employee occurring before the commencement of this section, weekly payments for the benefit of, or otherwise in relation to, a child would have been payable immediately before that commencement if the amendment of the Principal Act made by sub-section (1) had been in force at the time of the death or incapacity, weekly payments for the benefit of, or otherwise in relation to, that child are payable in accordance with that Act as so amended, but any payments made by virtue of this sub-section shall not relate to a period occurring before the commencement of this section.

4. Section 7 of the Principal Act is amended by inserting in sub-section (6) "(except in sub-section (3) of section 52)" after "Act" (second occurring). Persons in relation to whom Act applies

Public
Service of
Northern
Territory

5. Section 7A of the Principal Act is amended by inserting in paragraph (b) of sub-section (3) “sub-section (3) of section 52,” after “46,”.

Application
of Super-
annuation
Act

6. Section 17 of the Principal Act is repealed.

Compen-
sation
payable in
respect of
medical
expenses,
&c.

7. Section 37 of the Principal Act is amended by adding at the end of sub-section (3) “except where the Commissioner is satisfied that the circumstances of the case justify the excess”.

Compen-
sation
payable in
respect of
injuries
resulting in
partial
incapacity

8. Section 46 of the Principal Act is amended by omitting from sub-section (3) all the words down to the end of paragraph (b) and substituting—

“If, as a result of the partial incapacity for work—

- (a) the employee is retired from his employment, or the minimum amount per week payable to the employee in respect of his employment by the Commonwealth is reduced; and
- (b) as a result of the retirement or reduction, as the case may be, the employee is in receipt of a pension under a superannuation or provident scheme established or maintained by the Commonwealth or by a prescribed authority of the Commonwealth,”.

Application
of Officers’
Rights
Declaration
Act

9. Section 71 of the Principal Act is amended by omitting sub-section (2).

References
to Compens-
ation
Tribunal

10. Section 76 of the Principal Act is amended—

- (a) by adding at the end of paragraph (b) of sub-section (1) “and”;
- (b) by omitting paragraphs (c) and (d) of sub-section (1) and substituting the following paragraph:
 - “(c) shall, subject to this section and section 77, be lodged with the Clerk of the Tribunal within sixty days after the date of service of a copy of the determination on the person making the request.”;
- (c) by omitting sub-section (2) and substituting the following sub-section:
 - “(2) A copy of a request lodged under sub-section (1) by a party to a determination shall, within the period referred to in paragraph (c) of sub-section (1), be served by the person making the request—
 - (a) on the Commissioner; and
 - (b) on every other party to the determination.”; and

(d) by omitting sub-section (5).

11. Section 77 of the Principal Act is amended—

Extension of
time for
requesting
reference

(a) by omitting from sub-section (1) “serving of a request on the Commissioner” and substituting “lodgment of a request with the Clerk”;

(b) by adding at the end of paragraph (b) of sub-section (2) “and”;

(c) by omitting paragraphs (c) and (d) of sub-section (2) and substituting the following paragraph:

“(c) shall be lodged with the Clerk of the Tribunal.”;

(d) by omitting from sub-section (3) “service of the request on the Commissioner” and substituting “lodgment of the request under sub-section (2)”;

(e) by omitting from sub-section (4) “paragraphs (a), (b) and (c) of”; and

(f) by omitting sub-section (5) and substituting the following sub-section:

“(5) Where, in pursuance of this section, a Compensation Tribunal extends the time for the lodgment of a request under section 76, each copy of the request served in accordance with sub-section (2) of that section shall be accompanied by a copy of the decision of the Tribunal granting the extension of time.”.

12. Section 78 of the Principal Act is amended by omitting “a request in accordance with section 76, the Commissioner shall send the request to the Clerk of a Compensation Tribunal together with” and substituting “a copy of a request in accordance with section 76, the Commissioner shall send to the Clerk of the Compensation Tribunal concerned”.

Documents
to be
forwarded
by Com-
missioner to
Clerk

13. Section 79 of the Principal Act is amended—

(a) by omitting from sub-section (1) “a request” and substituting “the documents referred to in section 78”; and

(b) by omitting from sub-section (2) “served on the Commissioner”, and substituting “lodged with the Clerk”.

Fixing of
time and
place for
reconsidera-
tion

14. The heading to Division 5 of Part V of the Principal Act is amended by inserting “*References and*” before “*Appeals*”.

Heading to
Division 5 of
Part V

15. After section 94 of the Principal Act the following section is inserted:

Reference of
questions of
law to
Federal
Court of
Australia

“94A. (1) A Compensation Tribunal or a prescribed Court may, of its own motion or at the request of a party, refer a question of law arising in a proceeding before the Tribunal or the Court, as the case may be, to the Federal Court of Australia for decision.

“(2) The Federal Court of Australia has jurisdiction to hear and determine a question of law referred to it under this section, and that jurisdiction shall be exercised, subject to sub-section (3), by a single Judge.

“(3) The Chief Judge of the Federal Court of Australia may, if in his opinion a question of law referred to the Court under this section involves the determination of a matter of sufficient importance, direct that, for the purpose of the determination of that question, the Court shall be constituted by not less than 3 Judges.

“(4) Where a question of law arising in any proceeding before a Compensation Tribunal or a prescribed Court has been referred to the Federal Court of Australia under this section, the Tribunal or prescribed Court, as the case may be, shall not, in that proceeding—

- (a) give a decision, judgment or order to which the question is relevant while the reference is pending; or
- (b) proceed in a manner, or make a decision, that is inconsistent with the opinion of the Federal Court of Australia on the question.

“(5) A question of law arising in a proceeding before a prescribed Court shall not be reserved to a court other than the Federal Court of Australia.

“(6) In this section, ‘proceeding’ means a proceeding under the foregoing provisions of this Part.”

Amendments
relating to
amounts of
compensation

16. The Principal Act is amended as set out in the Schedule.

Application
of
amendments
relating to
amounts of
compensation

17. (1) In this section, “commencing date” means 1 September 1979.

(2) The amendments made by section 16 apply in relation to any weekly payments of compensation in so far as they relate to any part of a day, or any day or days, occurring on or after the commencing date notwithstanding that the compensation is payable in respect of an injury sustained, a disease contracted, or an aggravation, acceleration or recurrence of a disease suffered, before the commencing date.

(3) Where, on or after the commencing date, an employee—

- (a) dies;
- (b) suffers a loss of a kind referred to in section 39, 40 or 42 of the Principal Act as amended by this Act;

- (c) suffers facial disfigurement of a kind referred to in section 41 of that Act as so amended; or
- (d) becomes liable for any cost of a kind referred to in sub-section 37 (3) of that Act as so amended,

the amendments made by section 16 apply in relation to any compensation payable in respect of that death (including the cost of the funeral of the employee), loss, disfigurement or cost, notwithstanding that the compensation is payable as a result of an injury sustained, a disease contracted or an aggravation, acceleration or recurrence of a disease suffered, before the commencing date.

(4) Where, on or after the commencing date, compensation under sub-section 43 (5) of the Principal Act as amended by this Act ceases to be payable for the benefit of a child, the amendments made by section 16 apply in relation to any compensation payable under sub-section 43 (7) of that Act as so amended in relation to that child, notwithstanding that the compensation is payable as a result of a death that occurred before the commencing date.

18. The amendments of the Principal Act made by sections 10, 11, 12 and 13 do not apply in relation to a request by a party to a determination for the reference of a matter or question to a Compensation Tribunal for reconsideration where, before the commencement of this section—

Application of amendments relating to lodgment of requests under sections 76 and 77

- (a) the request was served on the Commissioner in accordance with section 76 of the Principal Act; or
- (b) a request for an extension of time for the serving of the first-mentioned request was served on the Commissioner in accordance with section 77 of the Principal Act.

SCHEDULE

Section 16

AMENDMENTS RELATING TO AMOUNTS OF COMPENSATION

Provision	Amendment
Sub-section 37 (3)	Omit "\$700", substitute "\$780 or such higher amount as is prescribed".
Sub-section 39 (1)	Omit "\$25,000", substitute "\$28,000 or such higher amount as is prescribed".
Sub-section 39 (3)	Omit "\$25,000", substitute "\$28,000 or, if an amount is prescribed for the purposes of sub-section (1), of that amount".
Sub-section 39 (7)	Omit "\$12,500", substitute "\$14,000 or such higher amount as is prescribed".
Sub-section 40 (1)	Omit "\$12,500", substitute "\$14,000 or such higher amount as is prescribed".
Sub-sections 41 (1) and (6)	Omit "\$12,500", substitute "\$14,000 or such higher amount as is prescribed".
Sub-sections 42 (1) and (2)	Omit "\$2,500", substitute "\$2,800 or such higher amount as is prescribed".

SCHEDULE—continued

Provision	Amendment
Paragraphs 43 (3) (a) and (4) (a)	Omit "\$25,000", substitute "\$28,000 or such higher amount as is prescribed".
Sub-section 43 (5)	Omit "\$10 a week", substitute "\$11.25 a week or such higher rate as is prescribed".
Paragraph 43 (7) (b)	Omit "\$1,000", substitute "\$1,125 or such higher amount as is prescribed".
Sub-section 43 (7)	Omit "\$1,000" (last occurring), substitute "\$1,125 or, if an amount is prescribed for the purposes of paragraph (b), between that total amount and the amount so prescribed".
Sub-section 44 (1)	Omit "\$650", substitute "\$730 or such higher amount as is prescribed".
Paragraph 45 (2) (a)	Omit "\$80", substitute "\$90, or such higher amount as is prescribed,".
Sub-section 45 (3)	Omit "\$21", substitute "\$23.60 or such higher amount as is prescribed".
Sub-section 45 (4)	Omit "\$10", substitute "\$11.25, or such higher amount as is prescribed,".
Sub-paragraph 46 (2) (a) (i)	Omit "\$80", substitute "\$90 or such higher amount as is prescribed".
Sub-section 48 (1)	Omit "\$14 per week", substitute "\$15.75 a week or such higher rate as is prescribed".

NOTES

1. Act No. 111, 1979; assented to 25 October 1979.
2. Act No. 48, 1971, as amended. For previous amendments *see* Act No. 136, 1971; No. 122, 1972; No. 105, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 92, 1974; Nos. 157 and 166, 1976; and No. 68, 1978.