

Seamen's Compensation Amendment Act (No. 2) 1979

No. 112 of 1979

An Act to amend the *Seamen's Compensation Act 1911*.

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

1. (1) This Act may be cited as the *Seamen's Compensation Amendment Act (No. 2) 1979*.¹ Short title,
&c.

(2) The *Seamen's Compensation Act 1911*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 date on which it receives the Royal Assent.¹ Commence-
ment

(2) Section 4 shall be deemed to have come into operation on 1 September 1979.

3. (1) Schedule 1 to the Principal Act is amended— Schedule 1

- (a) by adding at the end of paragraph (4) “, other than a payment, allowance or benefit received by the seaman in accordance with the terms of any award, order or determination of an industrial authority, any industrial agreement, or any law (other than this Act), requiring the employer to supplement any such weekly payment of compensation”; and
- (b) by omitting from sub-paragraph (i) of paragraph (b) of the definition of “child” in paragraph (22) “21” and substituting “25”.

(2) Where, by reason of the death or incapacity of a seaman occurring before the commencement of this section, weekly payments in respect of a child would have been payable immediately before that commencement if the amendment of the Principal Act made by paragraph (1) (b) had been in force at the time of the death or incapacity, weekly payments in respect of 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. (1) The Principal Act is amended as set out in the Schedule. Amendments
relating to
amounts of
compensation

(2) Where, immediately before the commencement of this section, a person was receiving, or was entitled to receive, weekly payments in accordance with the Principal Act, he is, after that commencement, entitled

to receive weekly payments in accordance with the Principal Act as amended by this section.

(3) Where, immediately before the commencement of this section, weekly payments in accordance with the Principal Act would have been payable to a seaman in respect of an injury or disease but for the fact that he was not then incapacitated for work or but for the operation of clause (2) (b) (ii) or paragraph (4) or (4A) of Schedule 1 to that Act, and, after that commencement, he becomes incapacitated for work as a result of the injury or disease or that clause or that paragraph ceases to have effect in relation to him, weekly payments in respect of that injury or disease shall be in accordance with the Principal Act as amended by this section.

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

(5) Where weekly payments that, by virtue of sub-section (2), have been payable in respect of a child in accordance with clause (1) (a) (i) of Schedule 1 to the Principal Act as amended by this section cease to be so payable, any additional amount of compensation payable in respect of that child shall be payable in accordance with that Act as so amended.

(6) Where, immediately before the commencement of this section, a seaman was receiving, was entitled to receive or, but for the operation of clause (2) (b) (ii) or paragraph (4) or (4A) of Schedule 1 to the Principal Act, would have been entitled to receive, weekly payments in accordance with that Schedule in respect of an injury or injuries or a disease, the provisions of section 5D of the Principal Act as amended by this section apply in relation to the injury, injuries or disease.

SCHEDULE

Section 4

AMENDMENTS RELATING TO AMOUNTS OF COMPENSATION

Provision	Amendment
Sub-section 5B (1) . . .	Omit "\$25,000", substitute "\$28,000 or such higher amount as is prescribed".
Sub-section 5B (1AA) . .	Omit "specified in the last preceding sub-section", substitute "specified in sub-section (1) or, if an amount is prescribed for the purposes of that sub-section, of the amount so prescribed".
Sub-section 5D (1) . . .	Omit "\$25,000", substitute "\$28,000 or such higher amount as is prescribed".
In Schedule 1—	
Clause (1) (a) (i) . .	(a) Omit "\$25,000", substitute "\$28,000 or such higher amount as is prescribed".
	(b) Omit "\$10", substitute "\$11.25 or such higher amount as is prescribed".

SCHEDULE—continued

Provision	Amendment
Clause (1) (a) (iii) . . .	Omit "\$650", substitute "\$730 or such higher amount as is prescribed".
Sub-paragraph (1) (b)	Omit "the sum of \$80 and, in addition, the sum of—", substitute "\$90, or such higher amount as is prescribed, and, in addition—".
Clause (1) (b) (i) . . .	Omit "\$21", substitute "\$23.60, or such higher amount as is prescribed,".
Clause (1) (b) (ii) . . .	Omit "\$10", substitute "\$11.25, or such higher amount as is prescribed,".
Clause (1) (c) (i) . . .	Omit the clause, substitute the following clause: "(i) of— (A) the amount (if any) by which the weekly amount that he is earning, or is able to earn in some suitable employment or business, after the injury is less than his weekly pay at the date of the injury; or (B) \$90 or such higher amount as is prescribed, whichever is the less; or".
Paragraph (10A)	(a) Omit "\$1,000" (first occurring), substitute "\$1,125 or such higher amount as is prescribed". (b) Omit "\$1,000" (last occurring), substitute "\$1,125 or, if an amount is prescribed for the purposes of this paragraph, between that aggregate amount and the amount so prescribed".
In Schedule 3—	
Heading to Part I	Omit "SPECIFIED", substitute "REFERRED TO".
Heading to Part II	Omit "SPECIFIED", substitute "REFERRED TO".

NOTES

1. Act No. 112, 1979; assented to 25 October 1979.
2. Act No. 13, 1911, as amended. For previous amendments *see* Act No. 56, 1938; No. 18, 1947; No. 7, 1949; No. 10, 1953; No. 16, 1954; No. 99, 1959; No. 67, 1960; No. 102, 1964; No. 97, 1967; No. 124, 1968; No. 49, 1970; No. 52, 1971; No. 124, 1972; No. 216, 1973 (as amended by No. 20, 1974); No. 93, 1974; Nos. 91 and 168, 1976; and No. 19, 1979.