New South Wales.



ANNO QUINTO DECIMO GEORGII VI REGIS.

Act No. 20, 1951.

An Act to increase the amounts payable by way of compensation under the Workers' Compensation Act, 1926, and the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts; for this and other purposes to amend the said Acts; for purposes connected therewith. and [Assented to, 27th June, 1951.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :---

1. (1) This Act may be cited as the "Workers' Com- short title pensation (Amendment) Act, 1951."

and citation.

82887 A (2)

(2) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1951.

2. The Principal Act is amended-

(a) (i) by inserting in subsection one of section six in the definition of "Dependants" after the words "to the worker" the words "and also includes a woman so dependent who for not less than three years immediately before the worker's death, although not legally married to him, lived with him as his wife on a permanent and bona fide domestic basis";

(ii) by inserting in the same subsection next after the definition of "Place of Employment" the following new definition:--

"Prescribed" means prescribed by this Act or by the regulations made thereunder.

- (iii) by inserting in paragraph (a) of subsection five of the same section after the word "worker" where firstly occurring the words "or although either subletting part of the work or employing a worker actually performs some part of the work himself";
- (iv) by omitting from paragraph (b) of the same subsection the words "and receives injury while engaged in or about the work of cutting, delivering or supplying the said timber or any part thereof";
- (v) by inserting next after subsection (14A) of the same section the following new subsections:--

(14B) Where any person is ordinarily engaged in any employment in connection with which persons customarily attend certain

Amendment of Act No. 15, 1926. Sec. 6. (Definitions.)

certain prearranged places (in this Act called "places of pick-up") at which employers select and engage persons for employment, any such person shall be deemed, while in attendance at any such place of pick-up before being so selected, or while travelling thereto from his place of abode, to be a worker employed by the employer who last employed him in his customary employment.

(14c) A person engaged for fee or reward to take part-

- (a) as a boxer or wrestler in any public boxing or wrestling contest in a stadium or place to which the public is admitted on payment of a fee or charge; or
- (b) as an entertainer in any public performance in a place of public entertainment to which the public is admitted on payment of a fee or charge,

shall be deemed to be a worker employed by the person conducting or holding such contest or public performance.

- (b) (i) by omitting from paragraph (b) of sub- Sec. 7. section one of section seven the words "own (Liability default or wilful act" and by inserting in to workers lieu thereof the words "serious and wilful for injuries.) misconduct";
 - (ii) by inserting in the same paragraph after the word "subsection" the words "or on any of the other journeys referred to in paragraph (d) of this subsection";
 - (iii) by inserting in subparagraph (i) of the same paragraph after the word "school" the words "place of pick-up, or place referred to in subparagraph (i) of paragraph (d) of this subsection'':

3

(iv)

Workers' Compensation (Amendment).

(iv) by inserting at the end of the same paragraph the words—

> "An interruption of or deviation from any journey shall not be deemed to be substantial if, in the circumstances of the particular case, the nature, extent, degree and content of the risk of injury were not materially changed or increased by reason only of any such interruption or deviation";

- (v) by inserting at the end of the same subsection the following new paragraphs:—
 - (d) The other journeys referred to in paragraph (b) of this subsection shall be—
 - (i) between the worker's place of abode or place of employment and any other place, where the journey is made for the purpose of obtaining a medical certificate or receiving medical, surgical or hospital advice, attention or treatment or of receiving payment of compensation in connection with any injury for which the worker is entitled to receive compensation;

(ii) between any camp or place, where the worker is required by the terms of his employment, or is expected by his employer, to reside temporarily or where it is reasonably necessary or convenient that he shall temporarily reside for any purpose of his employment, and the worker's place of abode when not so residing; (iii)

- (iii) between the worker's place of abode and a place of pick-up.
- (e) Where a worker on any day on which he has attended at his place of employment pursuant to his contract of service or apprenticeship-
 - (i) is temporarily absent therefrom on that day during any ordinary recess; and
 - (ii) does not during such absence voluntarily subject himself to any abnormal risk of injury; and
 - (iii) during such absence receives an injury without his serious and wilful misconduct.

the worker (and in the case of the death of the worker, his dependants) shall receive compensation from the employer in accordance with this Act.

(vi) by inserting next after subsection two of the section the following subnew same section :---

> (2A) Compensation shall be payable in Dawkins respect of an injury which, but for existing tan Coal incapacity, would have resulted in total or Co. Ltd. partial incapacity of the worker. compensation shall be payable as if such total or partial incapacity had in fact resulted from the injury.

Such (1947) 75 C.L.R. 169.

- "Existing incapacity" means total incapacity by disease or otherwise-
 - (a) not entitling the worker to compensation under this Act; and
 - (b) existing at the time when the total or partial incapacity would otherwise have resulted from the injury.

Workers' Compensation (Amendment).

3. (1) The Principal Act is further amended-

Further amendment of Act No. 15, 1926.

Sec. 8.

(Compensation payments— Death.)

- (a) (i) by omitting from paragraph (a) of subsection one of section eight the words "five hundred pounds" and by inserting in lieu thereof the words "eight hundred pounds";
 - (ii) by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "two thousand pounds";
 - (iii) by inserting in the same paragraph after the word "shall" where first occurring the word "not";
 - (iv) by omitting from the same paragraph the words "but no such deduction shall be made so as to reduce the amount payable in respect of the dependants of the worker under this subsection below three hundred pounds";
 - (v) by omitting from paragraph (b) of the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "seventyfive pounds";
 - (vi) by omitting from subsection three of the same section the words "five hundred pounds" and by inserting in lieu thereof the words "eight hundred pounds";
 - (vii) by omitting from subsection four of the same section the words "thirty pounds" and by inserting in lieu thereof the words "sixty pounds";

(b) (i) by omitting from paragraph (a) of subsection one of section nine the words "four pounds" and by inserting in lieu thereof the words "five pounds fifteen shillings";

Sec. 9. (Total or partial incapacity.)

(ii)

Workers' Compensation (Amendment).

Al annihilter nu

and some bother the

THE SE

- (ii) by omitting from the same paragraph the words "three pounds" and by inserting in lieu thereof the words "four pounds ten shillings";
- (iii) by omitting paragraph (b) of the same subsection and by inserting in lieu thereof the following paragraph:—
 - (b) in addition to the compensation Married payable under paragraph (a), a worker.
 weekly payment during the incapacity of—
 - (i) two pounds per week in respect of the wife of the worker who is totally or mainly dependent on the earnings of the worker at the date of the injury or who whether married to the worker at or after such date becomes so dependent after such date; and
 - (ii) fifteen shillings per week in respect of:
 - (a) each child and stepchild of the worker under the school leaving age; and
 - (b) each child under the school leaving age to whom the worker stands in loco parentis,

who is totally or mainly dependent on the earnings of the worker at the date of the injury or who whether born before or after such date becomes so dependent after such date.

Where pursuant to this paragraph a weekly payment is made in respect of any person such payment shall be payable only during any period of dependency;

Workers' Compensation (Amendment).

- (iv) by omitting paragraph (c) of the same subsection and by inserting in lieu thereof the following paragraph:—
 - (c) in addition to the compensation payable under paragraph (a), a weekly payment during incapacity—
 - (i) where no compensation is payable to a worker under subparagraph (i) of paragraph (b), of two pounds per week in respect of one female who is totally or mainly dependent on the earnings of the worker at the date of the injury or who becomes so dependent after such date; and
 - (ii) where no compensation is payable to a worker under subparagraph (ii) of paragraph (b), of fifteen shillings per week in respect of each brother and sister under the school leaving age who is totally or mainly dependent on the earnings of the worker at the date of the injury or who whether born before or after such date becomes so dependent after such date.

Where pursuant to this paragraph a weekly payment is made in respect of any person such payment shall be payable only during any period of dependency.

- - (e) Any payment made by a worker to a female by way of wages for the performance of domestic services by her

Other dependents of worker.

Workers' Compensation (Amendment).

her for the worker shall not preclude the female from being totally or mainly dependent on the earnings of the worker for the purposes of subparagraph (i) of paragraph (c) of this subsection.

- (vi) by omitting from subsection two of the same section the words "seven pounds" and by inserting in lieu thereof the words "nine pounds";
- (vii) by omitting subsection three of the same section;
- (viii) by omitting from subsection four of the same section the words "fifty-five shillings" and by inserting in lieu thereof the words "four pounds";
 - (ix) by omitting from the same subsection the words "forty shillings" and by inserting in lieu thereof the words "three pounds five shillings";
 - (x) by omitting from subsection five of the same section the words "four pounds" and by inserting in lieu thereof the words "six pounds";
 - (xi) by omitting from the same subsection the words "three pounds" and by inserting in lieu thereof the words "four pounds ten shillings";
- (xii) by inserting in paragraph (a) of subsection six of the same section after the word "age" the words "or any child under the school leaving age to whom the worker stands in loco parentis";
- (xiii) by inserting at the end of the same subsection the words :--

"or

(c) has for not less than three years immediately before the date of the injury, although not legally married to

Workers' Compensation (Amendment).

to the worker, lived with him as his wife on a permanent and bona fide domestic basis."

(2) The amendments made by paragraph (b) of Increased weekly subsection one of this section shall be deemed to extend paymentsto, and from the commencement of this Act, apply in retroactive. Act No. 40. respect of all persons in receipt of weekly payments 1948, s. 2 under the provisions of section nine of the Principal Act (2) (a). and under the provisions of the Workers' Compensation (Silicosis) Act, 1942-1946, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

4. The Principal Act is further amended-

Further amendment of Act No. 15, 1926.

Sec. 10.

(Medica1 and hospital treatment. etc.)

- (a) (i) by omitting from the definition of "Ambulance service" in subsection two of section ten the words "a medical practitioner or to a hospital" and by inserting in lieu thereof the words "or from a medical practitioner or hospital";
 - (ii) by inserting in paragraph (a) of the definition of "Medical treatment" in the same subsection after the word "dentist" the words "a registered physiotherapist";
 - (iii) by inserting in paragraph (b) of the same definition after the word "members" the words "eyes or teeth and other artificial aids and spectacle glasses";
 - (iv) by inserting at the end of the same definition the words:--

"and

- (d) the cost to the worker of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in obtaining any medical treatment'';
- (v) by omitting from paragraph (a) of subsection three of the same section the words "eighteen

Workers' Compensation (Amendment).

"eighteen shillings for each day or part of a day" and by inserting in lieu thereof the words "twenty-five shillings, or such greater sum as may be prescribed, for each day or part of a day unless the Commission upon application made from time to time by or on behalf of the worker directs that the employer shall be liable for a further su. to be specified in the order. In addition to the amounts payable under the foregoing provisions of this paragraph, the employer shall be liable for a sum of two guineas, or such greater sum as may be prescribed, in respect of each treatment which necessitates the use of the hospital theatre, and for a sum of one guinea, or such greater sum as may be prescribed, in respect of any necessary X-ray photograph of the patient taken at the hospital";

- (vi) by omitting from paragraph (b) of the same subsection the words "one guinea" and by inserting in lieu thereof the words "two guineas, or such greater sum as may be prescribed";
- (vii) by omitting from the same paragraph the words "ten shillings and sixpence" and by inserting in lieu thereof the words "one guinea, or such greater sum as may be prescribed";
- (viii) by omitting from paragraph (c) of the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
 - (ix) by omitting from paragraph (b) of subsection four of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
 - (x) by omitting from subsection five of the same section the words "two guineas" and by inserting

Workers' Compensation (Amendment).

inserting in lieu thereof the words "twentyfive pounds, or such greater sum as may be prescribed";

(xi) by inserting at the end of the same subsection the words:---

> "Any sum for which the employer becomes liable in respect of ambulance service under this subsection may be recovered from the employer by the person rendering the ambulance service or where the ambulance service is rendered by an unincorporated body of persons by the officer thereunto authorised in writing by the governing body of such unincorporated body";

(b) by inserting next after section ten the following new section:—

10A. (1) A worker who has met with an accident arising out of and in the course of his employment and has, as a result thereof, sustained damage to his crutches, artificial members, eves or teeth, other artificial aids, or spectacle glasses, shall be entitled to receive by way of compensation from his employer the reasonable cost of repairing, or, if necessary, replacing the crutches, artificial members, eves, teeth, artificial aids or spectacle glasses but shall not, in respect of damage resulting from any such accident, be entitled under this section to a sum exceeding twenty-five pounds, or such greater sum as may be prescribed, unless the Commission, upon application made from time to time by or on behalf of the worker, directs that the worker shall be paid a further sum to be specified in the order.

The provisions of subsection three of section seven, and sections forty and fifty-three and Part VIII of this Act shall apply, mutatis mutandis, to any damage sustained by a worker to which this section applies

New Sec. 10a.

Damages to artificial limbs, etc.

Workers' Compensation (Amendment).

- (2) Nothing in this section shall—
- (a) affect the liability of an employer under section ten of this Act;
- (b) entitle a worker to payments under this section as well as under section ten of this Act in respect of the same damage.
- (c) (i) by inserting at the end of subsection one of Sec. 11. section eleven the following new para- (Partial incapacity.) graphs :--

- (b) The amount of the average weekly earnings of a worker as aforesaid shall, in the case of an adult worker in receipt of compensation at the commencement of the Workers' Compensation (Amendment) Act. 1951, or who after such commencement receives compensation in respect of an injury which occurred before such commencement, be deemed to be increased as from such commencement by the difference between the needs basic wage or the basic wage, as the case may be, applicable at the time of the injury and the basic wage applicable at such commencement, and shall after such commencement be deemed to be increased or reduced from time to time, as the case may be, by the amounts by which and from the dates from which the basic wage applicable at such commencement is subsequently increased or reduced, as the case may be.
- The amount of the average weekly (c)earnings of a worker as aforesaid shall, in the case of an adult worker who receives an injury after the commencement of the Workers' Compensation (Amendment) Act, 1951.

1951, be deemed to be increased or reduced from time to time, as the case may be, by the amounts by which and from the dates from which the basic wage applicable at the time of the injury is subsequently increased or reduced, as the case may be.

(d) In this subsection:-

- "basic wage" means the basic wage for adult males or adult females, as the case may require referred to in section fourteen of this Act;
- "needs basic wage" means the needs basic wage referred to subparagraph in (i)or subparagraph (ii), as the case may require, of paragraph (e) of section fourteen of this Act as enacted immediately before the commencement of the Workers' Compensation (Amendment) Act, 1951, together with the fixed loading referred to therein.
- (ii) by omitting subsections two and three of the same section and by inserting in lieu thereof the following subsection:—

(2) An employer shall provide suitable employment for his injured worker during the worker's partial incapacity for his pre-injury employment.

Upon any failure by such employer to provide suitable employment as aforesaid the worker's incapacity for work shall be deemed to be total, and he shall be compensated accordingly.

(d) by inserting in section thirteen after the word "benefit" the words "(other than any payment, allowance, or benefit from a superannuation or similar fund to which the worker has contributed)"; (e)

Sec. 13. (Allowance received by worker.)

(e) (i) by omitting from paragraph (e) of section Sec. 14. fourteen all words after the words "time of (Computathe injury":

tion of average weekly

- (ii) by inserting next after the same paragraph earnings.) the following new paragraph:-
 - (e1) Where a worker is a worker to whom paragraph (e) of subsection one of this section applies or has been absent from work by reason of illness, strikes. lockouts, tempestuous weather, intermittency of employment, slackness of trade, or any other reasonable cause, the average weekly earning of the worker shall, notwithstanding the foregoing provisions of this section-
 - (i) in the case of an adult worker be deemed to be not less than the full wage for a full normal working week of that worker or the basic wage, whichever is the greater; and
 - (ii) in the case of any worker other than an adult worker be not less than the full wage for a full normal working week of that worker.
- (iii) by inserting at the end of the same section the following new subsection :---
 - (2) In this section "basic wage" means :----
 - (a) in the case of an adult male worker. the basic wage for adult males assessed on the index number for Sydney contained in the Retail Price Index Numbers published from time to time by or by the direction of the Commonwealth Court of Conciliation and Arbitration; (b)

Workers' Compensation (Amendment).

- (b) in the case of an adult female worker, seventy-five per centum of the basic wage for adult males as defined in paragraph (a) of this definition.
- (f) (i) by omitting from subsection one of section sixteen the words "when the injury results in total or partial incapacity";
 - (ii) by omitting subsection six of the same section;
 - (iii) by omitting the Table set forth at the end of the same section and by inserting in lieu thereof the following Table:—

T	A	R	T	E	
-	**	1	-	-	•

Nature of injury.	Amount payable.		
	£	s.	d.
Loss of either arm, or of the greater			
part thereof		0	0
Loss of lower part of either arm,			
either hand, or five fingers of			
either hand	1,250	0	0
Loss of a leg	1,350	0	0
Loss of the lower part of a leg		0	0
Loss of a foot	1,100	0	0
Loss of sight of one eye, with serious			
diminution of the sight of the			
other	1,350	0	0
*Loss of sight of one eye	750	0	0
Loss of hearing	1,100		0
Complete deafness of one ear			0
Loss of a thumb	500	0	0
Loss of a forefinger	350	0	0
Loss of joint of a thumb	300	0	0
Loss of little finger, middle finger	-		
or ring finger	200	0	0
Loss of a toe or the joint of a finger	150	0	0
Loss of a joint of a toe	100	0	0
Loss of great toe	350	0	0
Loss of joint of forefinger or of joint	1.00		
of great toe	200	0	0

* For the partial loss of sight of one eye there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

5.

Sec. 16. (Compensation for certain injuries.)

Workers' Compensation (Amendment).

5. (1) The Principal Act is further amended—

Further amendment of Act No. 15 1926.

- (a) by inserting in paragraph (a) of subsection two Sec. 18c. of section 18c after the word "injury" the words (Uninsured "or the employer having been a self-insurer at scheme.) the time of the happening of the worker's injury has ceased to undertake liability to pay compensation to his own workers and has withdrawn in accordance with the provisions of this Act the deposit lodged by him with the Colonial Treasurer'':
- (b) by inserting next after section twenty-five the New sec. following new section :--

25A. If any self-insurer who has deposited Return of with the Treasurer a sum of money under this deposits Act has ceased either before or after the insurers. commencement of the Workers' Compensation (Amendment) Act, 1951, to undertake the liability to pay compensation under this Act to workers employed by him, the self-insurer may withdraw the sum so deposited-

- (a) on the expiration of three months after service on the Colonial Treasurer of a notice in writing duly signed by or on behalf of the self-insurer stating that the self-insurer has ceased to undertake the liability to pay compensation under this Act to the workers employed by him; and
- (b) on satisfying the Colonial Treasurer that all the liabilities of the self-insurer under this Act in respect of workers employed by it or him while a selfinsurer are fully liquidated or provided for.
- (c) (i) by omitting from subsection one of section Sec. 31. thirty-one the words "One of such persons (Appoint shall be by his commission appointed ment of Commission. chairman''

B

liability

254

to self-

chairman" and by inserting in lieu thereof the words "The Governor may appoint one of such persons as chairman";

- (ii) by inserting in paragraph (a) of subsection three of the same section after the word "member" the words "other than the Chairman";
- (iii) by inserting at the end of the same paragraph the words "The Chairman of the Commission shall, subject to this section, hold his office during ability and good behaviour, shall have the same rank, title, status and precedence, and the same salary, pension and other rights as the Chairman of the District Court Judges, and shall be removable from office in the same manner only as a District Court Judge is by law liable to be removed from his office."
- (d) by inserting at the end of section thirty-four the following new subsection :--

(2) In addition to the powers conferred by subsection one of this section the Commission, for the purpose of conducting any inquiry, investigation or hearing under this Act, shall have all such powers, rights and privileges as are vested in a District Court or any judge thereof in or in relation to any action or trial, in respect of the following matters:—

- (a) compelling the attendance of witnesses;
- (b) compelling witnesses to answer questions which the Commission deems to be relevant to the inquiry, investigation or hearing;
- (c) compelling the production of books, documents and writings;
- (d) punishing persons guilty of disobedience of any order or summons made or issued by the Commission.

Sec. 34. (Summoning witnesses, etc.).

(e)

Workers' Compensation (Amendment).

- (e) (i) by omitting paragraph (c) of section sec. 38. thirty-eight;
 - (ii) by inserting in paragraph (g) of the same ings of Commission.) section after the word "just" the words "to the extent of the fees and costs actually incurred or to be incurred by the worker'';
 - (iii) by inserting at the end of the same paragraph the following words-

"Provided that any such order or assessment shall not exceed the fees and provided by the highest costs scale applicable to proceedings in the Supreme Court of New South Wales in its common law jurisdiction.

The amount of costs shall in respect of the attendance of any medical witness be the actual cost of such attendance to the party calling the witness, or calculated according to the scale of costs applicable to proceedings in the Supreme Court of New South Wales in its common law jurisdiction, whichever is the less.

The Commission shall not order the payment of costs by a worker unless it is satisfied that his application has been made fraudulently."

- (f) (i) by omitting from subsection one of section sec. 47. forty-seven the words "but any such worker (Workers of Crown.) shall not, save to the extent indicated in subsection two of this section, be entitled to receive compensation or benefits under this Act as well as benefits under any other Act";
 - (ii) by omitting subsections two and three of the same section:
- (g) by inserting at the end of section fifty-one the sec. 51. following new subsection :--

(11) Where a worker is required by an employer to submit himself for examination pursuant to this section he shall be entitled to

(Medical inspection.)

recover

(Proceed-

Workers' Compensation (Amendment).

recover from the employer, in addition to any compensation otherwise provided, the amount of any wages lost by him by reason of his so submitting himself for examination together with the cost to him of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in so submitting himself.

- (h) by inserting in subsection one of section fiftythree after the words "occasioned by" wherever occurring the word "ignorance";
- (i) by omitting from subsection two of section sixty the word "before" and by inserting in lieu thereof the words "the application for the review is made before or within six months after";
- (j) (i) by inserting in paragraph (a) of subsection three of section 63A after the words "class of cases" the words "or by a law clerk of the applicant's solicitor authorised in writing in that behalf by the registrar of the Commission, either generally or for any particular case or class of cases";
 - (ii) by inserting in the same paragraph after the words "clerk of petty sessions" where secondly occurring the words "law clerk";
- (k) by inserting in subsection one of section sixtysix after the word "regulations" where firstly occurring the words "not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed."

(2) The amendments made by subparagraphs (ii) and (iii) of paragraph (c) of subsection one of this section shall be deemed to have commenced upon the twentieth day of May, one thousand nine hundred and fifty.

Sec. 53. (Time for taking proceedings.)

Sec. 60. (Review.)

Sec. 63A. (Notice of election.)

Sec. 66. Regulations and rules.)

Workers' Compensation (Amendment).

6. Any policy of insurance against liability under the Subsisting Workers' Compensation Act, 1926, or any amendment of policies. that Act, being maintained in force at the commencement Act No. 40, 1248, e. 2 of this Act shall be deemed to insure the employer and (2) (b). always to have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Workers' Compensation Act, 1926, as amended by subsequent Acts, made by this Act. Where a person is in receipt of compensation at the commencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

By Authority: A. H. PETTIFER, Government Printer, Sydney, 1951.

[11.]







I certify that this PUBLIC BILL, which originated in the LEGIS-LATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

> H. ROBBINS, Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 15 June, 1951.





ANNO QUINTO DECIMO REGIS.

Act No. 20, 1951.

An Act to increase the amounts payable by way of compensation under the Workers' Compensation Act, 1926, and the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts; for this and other purposes to amend the said Acts; and for purposes connected therewith. [Assented to, 27th June, 1951.]

B^E it enacted by the King's Most Excellent Majesty, by and with the advice and concent of the J by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :---

1. (1) This Act may be cited as the "Workers' Com- short title pensation (Amendment) Act, 1951." and

citation.

(2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

> G. BOOTH, Chairman of Committees of the Legislative Assembly.

(2) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1951.

2. The Principal Act is amended—

Amendment of Act No. 15, 1926. Sec. 6. (Definitions.)

- (a) (i) by inserting in subsection one of section six in the definition of "Dependants" after the words "to the worker" the words "and also includes a woman so dependent who for not less than three years immediately before the worker's death, although not legally married to him, lived with him as his wife on a permanent and bona fide domestic basis";
 - (ii) by inserting in the same subsection next after the definition of "Place of Employment" the following new definition:—
 - "Prescribed" means prescribed by this Act or by the regulations made thereunder.
 - (iii) by inserting in paragraph (a) of subsection five of the same section after the word "worker" where firstly occurring the words "or although either subletting part of the work or employing a worker actually performs some part of the work himself";
 - (iv) by omitting from paragraph (b) of the same subsection the words "and receives injury while engaged in or about the work of cutting, delivering or supplying the said timber or any part thereof";
 - (v) by inserting next after subsection (14A) of the same section the following new subsections:---

(14B) Where any person is ordinarily engaged in any employment in connection with which persons customarily attend certain

Workers' Compensation (Amendment).

certain prearranged places (in this Act called "places of pick-up") at which employers select and engage persons for employment, any such person shall be deemed, while in attendance at any such place of pick-up before being so selected, or while travelling thereto from his place of abode, to be a worker employed by the employer who last employed him in his customary employment.

(14c) A person engaged for fee or reward to take part-

- (a) as a boxer or wrestler in any public boxing or wrestling contest in a stadium or place to which the public is admitted on payment of a fee or charge; or
- (b) as an entertainer in any public performance in a place of public entertainment to which the public is admitted on payment of a fee or charge,

shall be deemed to be a worker employed by the person conducting or holding such contest or public performance.

- (b) (i) by omitting from paragraph (b) of sub- sec. 7. section one of section seven the words "own (Liability default or wilful act" and by inserting in of employers lieu thereof the words "serious and wilful for injuries.) misconduct'':
 - (ii) by inserting in the same paragraph after the word "subsection" the words "or on any of the other journeys referred to in paragraph (d) of this subsection";
 - (iii) by inserting in subparagraph (i) of the same paragraph after the word "school" the words "place of pick-up, or place referred to in subparagraph (i) of paragraph (d) of this subsection":

W	orker	rs' C	ompensat	ion (A	Imena	ment).
---	-------	-------	----------	--------	-------	------	----

(iv) by inserting at the end of the same paragraph the words—

"An interruption of or deviation from any journey shall not be deemed to be substantial if, in the circumstances of the particular case, the nature, extent, degree and content of the risk of injury were not materially changed or increased by reason only of any such interruption or deviation";

- (v) by inserting at the end of the same subsection the following new paragraphs:—
 - (d) The other journeys referred to in paragraph (b) of this subsection shall be—
 - (i) between the worker's place of abode or place of employment and any other place, where the journey is made for the purpose of obtaining a medical certificate or receiving medical, surgical or hospital advice, attention or treatment or of receiving payment of compensation in connection with any injury for which the worker is entitled to receive compensation;
 - (ii) between any camp or place, where the worker is required by the terms of his employment, or is expected by his employer, to reside temporarily or where it is reasonably necessary or convenient that he shall temporarily reside for any purpose of his employment, and the worker's place of abode when not so residing; (iii)

Workers' Compensation (Amendment).

- (iii) between the worker's place of abode and a place of pick-up.
- (e) Where a worker on any day on which he has attended at his place of employment pursuant to his contract of service or apprenticeship-
 - (i) is temporarily absent therefrom on that day during any ordinary recess; and
 - (ii) does not during such absence voluntarily subject himself to any abnormal risk of injury; and
 - (iii) during such absence receives an injury without his serious and wilful misconduct,

the worker (and in the case of the death of the worker, his dependants) shall receive compensation from the employer in accordance with this Act.

(vi) by inserting next after subsection two of the same section the following new subsection :---

> (2A) Compensation shall be payable in Dawkins respect of an injury which, but for existing tan Coal incapacity, would have resulted in total or Co. Ltd. partial incapacity of the worker. Such (1947) 75 C.L.R. 169. compensation shall be payable as if such total or partial incapacity had in fact resulted from the injury.

5

- "Existing incapacity" means total incapacity by disease or otherwise-
 - (a) not entitling the worker to compensation under this Act; and
 - (b) existing at the time when the total or partial incapacity would otherwise have resulted from the injury.

3.

Workers' Compensation (Amendment).

3. (1) The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

Sec. 8. (Compensation payments— Death.) (a) (i) by omitting from paragraph (a) of subsection one of section eight the words

- "five hundred pounds" and by inserting in lieu thereof the words "eight hundred pounds";
- (ii) by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "two thousand pounds";
- (iii) by inserting in the same paragraph after the word "shall" where first occurring the word "not";
- (iv) by omitting from the same paragraph the words "but no such deduction shall be made so as to reduce the amount payable in respect of the dependants of the worker under this subsection below three hundred pounds";
- (v) by omitting from paragraph (b) of the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "seventyfive pounds";
- (vi) by omitting from subsection three of the same section the words "five hundred pounds" and by inserting in lieu thereof the words "eight hundred pounds";
- (vii) by omitting from subsection four of the same section the words "thirty pounds" and by inserting in lieu thereof the words "sixty pounds";

Sec. 9. (Total or partial incapacity.) (b) (i) by omitting from paragraph (a) of subsection one of section nine the words "four pounds" and by inserting in lieu thereof the words "five pounds fifteen shillings";

(ii)

Workers' Compensation (Amendment).

- (ii) by omitting from the same paragraph the words "three pounds" and by inserting in lieu thereof the words "four pounds ten shillings";
- (iii) by omitting paragraph (b) of the same subsection and by inserting in lieu thereof the following paragraph:—
 - (b) in addition to the compensation Married payable under paragraph (a), a worker. weekly payment during the incapacity of—-

7

- (i) two pounds per week in respect of the wife of the worker who is totally or mainly dependent on the earnings of the worker at the date of the injury or who whether married to the worker at or after such date becomes so dependent after such date; and
- (ii) fifteen shillings per week in respect of:
 - (a) each child and stepchild of the worker under the school leaving age; and
 - (b) each child under the school leaving age to whom the worker stands in loco parentis,

who is totally or mainly dependent on the earnings of the worker at the date of the injury or who whether born before or after such date becomes so dependent after such date.

Where pursuant to this paragraph a weekly payment is made in respect of any person such payment shall be payable only during any period of dependency;

(iv)

(iv) by omitting paragraph (c) of the same subsection and by inserting in lieu thereof the following paragraph:—

Other dependents of worker.

- (c) in addition to the compensation payable under paragraph (a), a weekly payment during incapacity—
 - (i) where no compensation is payable to a worker under subparagraph (i) of paragraph (b), of two pounds per week in respect of one female who is totally or mainly dependent on the earnings of the worker at the date of the injury or who becomes so dependent after such date; and
 - (ii) where no compensation is payable to a worker under subparagraph (ii) of paragraph (b), of fifteen shillings per week in respect of each brother and sister under the school leaving age who is totally or mainly dependent on the earnings of the worker at the date of the injury or who whether born before or after such date becomes so dependent after such date.

Where pursuant to this paragraph a weekly payment is made in respect of any person such payment shall be payable only during any period of dependency.

- (v) by inserting next after paragraph (d) of the same subsection the following new paragraph:—
 - (e) Any payment made by a worker to a female by way of wages for the performance of domestic services by her

her for the worker shall not preclude the female from being totally or mainly dependent on the earnings of the worker for the purposes of subparagraph (i) of paragraph (c) of this subsection.

- (vi) by omitting from subsection two of the same section the words "seven pounds" and by inserting in lieu thereof the words "nine pounds";
- (vii) by omitting subsection three of the same section;
- (viii) by omitting from subsection four of the same section the words "fifty-five shillings" and by inserting in lieu thereof the words "four pounds";
- (ix) by omitting from the same subsection the words "forty shillings" and by inserting in lieu thereof the words "three pounds five shillings";
- (x) by omitting from subsection five of the same section the words "four pounds" and by inserting in lieu thereof the words "six pounds";
- (xi) by omitting from the same subsection the words "three pounds" and by inserting in lieu thereof the words "four pounds ten shillings";
- (xii) by inserting in paragraph (a) of subsection six of the same section after the word "age" the words "or any child under the school leaving age to whom the worker stands in loco parentis";
- (xiii) by inserting at the end of the same subsection the words:--

"or

(c) has for not less than three years immediately before the date of the injury, although not legally married

to

Workers' Compensation (Amendment).

to the worker, lived with him as his wife on a permanent and bona fide domestic basis."

Increased weekly payments— S retroactive. to Act No. 40, T 1948, s. 2 (2) (a). U

(2) The amendments made by paragraph (b) of subsection one of this section shall be deemed to extend to, and from the commencement of this Act, apply in respect of all persons in receipt of weekly payments under the provisions of section nine of the Principal Act and under the provisions of the Workers' Compensation (Silicosis) Act, 1942-1946, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

4. The Principal Act is further amended-

Further amendment of Act No. 15, 1926. Sec. 10.

(Medicai and hospital treatment. etc.)

- (a) (i) by omitting from the definition of "Ambulance service" in subsection two of section ten the words "a medical practitioner or to a hospital" and by inserting in lieu thereof the words "or from a medical practitioner or hospital";
 - (ii) by inserting in paragraph (a) of the definition of "Medical treatment" in the same subsection after the word "dentist" the words "a registered physiotherapist";
 - (iii) by inserting in paragraph (b) of the same definition after the word "members" the words "eyes or teeth and other artificial aids and spectacle glasses";
 - (iv) by inserting at the end of the same definition the words:--

"and

- (d) the cost to the worker of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in obtaining any medical treatment";
- (v) by omitting from paragraph (a) of subsection three of the same section the words "eighteen

Workers' Compensation (Amendment).

"eighteen shillings for each day or part of a day" and by inserting in lieu thereof the words "twenty-five shillings, or such greater sum as may be prescribed, for each day or part of a day unless the Commission upon application made from time to time by or on behalf of the worker directs that the employer shall be liable for a further su. to be specified in the order. In addition to the amounts payable under the foregoing provisions of this paragraph, the employer shall be liable for a sum of two guineas, or such greater sum as may be prescribed, in respect of each treatment which necessitates the use of the hospital theatre, and for a sum of one guinea, or such greater sum as may be prescribed, in respect of any necessary X-ray photograph of the patient taken at the hospital";

- (vi) by omitting from paragraph (b) of the same subsection the words "one guinea" and by inserting in lieu thereof the words "two guineas, or such greater sum as may be prescribed";
- (vii) by omitting from the same paragraph the words "ten shillings and sixpence" and by inserting in lieu thereof the words "one guinea, or such greater sum as may be prescribed";
- (viii) by omitting from paragraph (c) of the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
 - (ix) by omitting from paragraph (b) of subsection four of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
 - (x) by omitting from subsection five of the same section the words "two guineas" and by inserting

inserting in lieu thereof the words "twentyfive pounds, or such greater sum as may be prescribed";

(xi) by inserting at the end of the same subsection the words:--

> "Any sum for which the employer becomes liable in respect of ambulance service under this subsection may be recovered from the employer by the person rendering the ambulance service or where the ambulance service is rendered by an unincorporated body of persons by the officer thereunto authorised in writing by the governing body of such unincorporated body";

(b) by inserting next after section ten the following new section:—

10A. (1) A worker who has met with an accident arising out of and in the course of his employment and has, as a result thereof, sustained damage to his crutches, artificial members, eves or teeth, other artificial aids, or spectacle glasses, shall be entitled to receive by way of compensation from his employer the reasonable cost of repairing, or, if necessary, replacing the crutches, artificial members, eyes, teeth, artificial aids or spectacle glasses but shall not, in respect of damage resulting from any such accident, be entitled under this section to a sum exceeding twenty-five pounds, or such greater sum as may be prescribed, unless the Commission, upon application made from time to time by or on behalf of the worker, directs that the worker shall be paid a further sum to be specified in the order.

The provisions of subsection three of section seven, and sections forty and fifty-three and Part VIII of this Act shall apply, mutatis mutandis, to any damage sustained by a worker to which this section applies

New Sec. 10A.

Damages to artificial limbs, etc.
(2) Nothing in this section shall—

- (a) affect the liability of an employer under section ten of this Act;
- (b) entitle a worker to payments under this section as well as under section ten of this Act in respect of the same damage.
- (c) (i) by inserting at the end of subsection one of Sec. 11. section eleven the following new para- (Partial graphs:—
 - (b) The amount of the average weekly earnings of a worker as aforesaid shall, in the case of an adult worker in receipt of compensation at the commencement of the Workers' Compensation (Amendment) Act. 1951, or who after such commencement receives compensation in respect of an injury which occurred before such commencement, be deemed to be increased as from such commencement by the difference between the needs basic wage or the basic wage, as the case may be, applicable at the time of the injury and the basic wage applicable at such commencement, and shall after such commencement be deemed to be increased or reduced from time to time, as the case may be, by the amounts by which and from the dates from which the basic wage applicable at such commencement is subsequently increased or reduced, as the case may be.
 - (c) The amount of the average weekly earnings of a worker as aforesaid shall, in the case of an adult worker who receives an injury after the commencement of the Workers' Compensation (Amendment) Act, 1951,

1951, be deemed to be increased or reduced from time to time, as the case may be, by the amounts by which and from the dates from which the basic wage applicable at the time of the injury is subsequently increased or reduced, as the case may be.

(d) In this subsection:-

- "basic wage" means the basic wage for adult males or adult females, as the case may require referred to in section fourteen of this Act;
- "needs basic wage" means the needs basic wage referred to in subparagraph (i) or subparagraph (ii), as the case may require, of paragraph (e) of section fourteen of this Act as enacted immediately before the commencement of the Workers' Compensation (Amendment) Act, 1951. together with the fixed loading referred to therein.
- (ii) by omitting subsections two and three of the same section and by inserting in lieu thereof the following subsection:—

(2) An employer shall provide suitable employment for his injured worker during the worker's partial incapacity for his pre-injury employment.

Upon any failure by such employer to provide suitable employment as aforesaid the worker's incapacity for work shall be deemed to be total, and he shall be compensated accordingly.

(d) by inserting in section thirteen after the word "benefit" the words "(other than any payment, allowance, or benefit from a superannuation or similar fund to which the worker has contributed)"; (e)

Sec. 13. (Allowance received by worker.)

(e) (i) by omitting from paragraph (e) of section Sec. 14. fourteen all words after the words "time of (Computa tion of the injury";

average weekly

- (ii) by inserting next after the same paragraph earnings.) the following new paragraph:-
 - (e1) Where a worker is a worker to whom paragraph (e) of subsection one of this section applies or has been absent from work by reason of illness, strikes. lockouts. tempestuous weather, intermittency of employment, slackness of trade, or any other reasonable cause, the average weekly earning of the worker shall, notwithstanding the foregoing provisions of this section-
 - (i) in the case of an adult worker be deemed to be not less than the full wage for a full normal working week of that worker or the basic wage, whichever is the greater; and
 - (ii) in the case of any worker other than an adult worker be not less than the full wage for a full normal working week of that worker.
- (iii) by inserting at the end of the same section the following new subsection :---
 - (2) In this section "basic wage" means :---
 - (a) in the case of an adult male worker, the basic wage for adult males assessed on the index number for Sydney contained in the Retail Price Index Numbers published from time to time by or by the direction of the Commonwealth Court of Conciliation and Arbitration: (b)

workers Compensation (Amenament	rkers' Compensation (Amendme	nt).
---------------------------------	------------------------------	------

- (b) in the case of an adult female worker, seventy-five per centum of the basic wage for adult males as defined in paragraph (a) of this definition.
- (f) (i) by omitting from subsection one of section sixteen the words "when the injury results in total or partial incapacity";
 - (ii) by omitting subsection six of the same section;
 - (iii) by omitting the Table set forth at the end of the same section and by inserting in lieu thereof the following Table:—

T			

d. 0
0
0
0
0
0
0
0
0
0
0
0
0
0
0
0
0
0
0

* For the partial loss of sight of one eye there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

Sec. 16. (Compensation for certain injuries.) Act No. 20, 1951.

Workers' Compensation (Amendment). 5. (1) The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

- (a) by inserting in paragraph (a) of subsection two Sec. 18c. of section 18c after the word "injury" the words (Uninsured liability "or the employer having been a self-insurer at scheme.) the time of the happening of the worker's injury has ceased to undertake liability to pay compensation to his own workers and has withdrawn in accordance with the provisions of this Act the deposit lodged by him with the Colonial Treasurer'':
- (b) by inserting next after section twenty-five the New sec. 25A. following new section :---

25A. If any self-insurer who has deposited Return of with the Treasurer a sum of money under this deposits to self-Act has ceased either before or after the insurers. commencement of the Workers' Compensation (Amendment) Act, 1951, to undertake the liability to pay compensation under this Act to workers employed by him, the self-insurer may withdraw the sum so deposited-

- (a) on the expiration of three months after service on the Colonial Treasurer of a notice in writing duly signed by or on behalf of the self-insurer stating that the self-insurer has ceased to undertake the liability to pay compensation under this Act to the workers employed by in him; and
 - (b) on satisfying the Colonial Treasurer that all the liabilities of the self-insurer under this Act in respect of workers employed by it or him while a selfinsurer are fully liquidated or provided for.
- (c) (i) by omitting from subsection one of section sec. 31. thirty-one the words "One of such persons (Appointshall be by his commission appointed ment of Commission. chairman"

chairman'' and by inserting in lieu thereof the words "The Governor may appoint one of such persons as chairman";

- (ii) by inserting in paragraph (a) of subsection three of the same section after the word "member" the words "other than the Chairman";
- (iii) by inserting at the end of the same paragraph the words "The Chairman of the Commission shall, subject to this section, hold his office during ability and good behaviour, shall have the same rank, title, status and precedence, and the same salary, pension and other rights as the Chairman of the District Court Judges, and shall be removable from office in the same manner only as a District Court Judge is by law liable to be removed from his office."

Sec. 34. (Summoning witnesses, etc.). (d) by inserting at the end of section thirty-four the following new subsection :--

(2) In addition to the powers conferred by subsection one of this section the Commission, for the purpose of conducting any inquiry, investigation or hearing under this Act, shall have all such powers, rights and privileges as are vested in a District Court or any judge thereof in or in relation to any action or trial, in respect of the following matters:—

(a) compelling the attendance of witnesses;

- (b) compelling witnesses to answer questions which the Commission deems to be relevant to the inquiry, investigation or hearing;
- (c) compelling the production of books, documents and writings;
- (d) punishing persons guilty of disobedience of any order or summons made or issued by the Commission.

(e)

Act No. 20, 1951.

Workers' Compensation (Amendment).	
 (e) (i) by omitting paragraph (c) of section thirty-eight; (ii) by inserting in paragraph (g) of the same section after the word "just" the words "to the extent of the fees and costs actually incurred or to be incurred by the worker"; 	(Proceed-
(iii) by inserting at the end of the same para- graph the following words—	
"Provided that any such order or assessment shall not exceed the fees and costs provided by the highest scale applicable to proceedings in the Supreme Court of New South Wales in its common law jurisdiction.	
The amount of costs shall in respect of the attendance of any medical witness be the actual cost of such attendance to the party calling the witness, or calculated according to the scale of costs applicable to proceedings in the Supreme Court of New South Wales in its common law jurisdiction, whichever is the less. The Commission shall not order the payment of costs by a worker unless it is	
satisfied that his application has been made fraudulently.''	
 (f) (i) by omitting from subsection one of section forty-seven the words "but any such worker shall not, save to the extent indicated in subsection two of this section, be entitled to receive compensation or benefits under this Act as well as benefits under any other Act"; (ii) by omitting subsections two and three of 	
the same section;	
 (g) by inserting at the end of section fifty-one the following new subsection: (11) Where a worker is required by an 	(Medical

14

.0.

(11) Where a worker is required by an employer to submit himself for examination pursuant to this section he shall be entitled to

recover from the employer, in addition to any compensation otherwise provided, the amount of any wages lost by him by reason of his so submitting himself for examination together with the cost to him of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in so submitting himself.

- (h) by inserting in subsection one of section fiftythree after the words "occasioned by" wherever occurring the word "ignorance";
- (i) by omitting from subsection two of section sixty the word "before" and by inserting in lieu thereof the words "the application for the review is made before or within six months after";
- (j) (i) by inserting in paragraph (a) of subsection three of section 63A after the words "class of cases" the words "or by a law clerk of the applicant's solicitor authorised in writing in that behalf by the registrar of the Commission, either generally or for any particular case or class of cases";
 - (ii) by inserting in the same paragraph after the words "clerk of petty sessions" where secondly occurring the words "law clerk";
- (k) by inserting in subsection one of section sixtysix after the word "regulations" where firstly occurring the words "not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed."

(2) The amendments made by subparagraphs (ii) and (iii) of paragraph (c) of subsection one of this section shall be deemed to have commenced upon the twentieth day of May, one thousand nine hundred and fifty.

Sec. 53. (Time for taking proceedings.)

Sec. 60. (Review.)

Sec. 63A. (Notice or election.)

Sec. 66. Regulations and rules.)

Act No. 20, 1951.

Workers' Compensation (Amendment).

6. Any policy of insurance against liability under the Subsisting Workers' Compensation Act, 1926, or any amendment of policies. Workers' Compensation Act, 1926, or any amendment of Act No. 40, that Act, being maintained in force at the commencement 1948, s. 2 of this Act shall be deemed to insure the employer and (2) (b). always to have insured the employer against any additional liability to which he may become liable during the currency of the policy'under any amendment of the Workers' Compensation Act, 1926, as amended by subsequent Acts, made by this Act. Where a person is in receipt of compensation at the commencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

In the name and on behalf of His Majesty I assent to this Act.

J. NORTHCOTT, Governor.

Government House, Sydney, 27th June, 1951.







WORKERS' COMPENSATION (AMENDMENT) BILL.

Schedule of Amendments referred to in Legislative Council's Message of 15th June, 1951, a.m.

No. 1.-Page 2, clause 2. After line 28 insert-

 (iv) by omitting from paragraph (b) of the same subsection the words "and receives injury while engaged in or about the work of cutting, delivering or supplying the said timber or any part thereof;"

No. 2.-Page 12, clause 4, line 19. Omit "or" insert "and"

No. 3.—Page 15, clause 4, lines 6 to 8 inclusive. Omit all words on these lines insert—

(e1) Where a worker is a worker to whom paragraph (e) of subsection one of this section applies or has been absent from work by reason of illness, strikes, lockouts, tempestuous weather, intermittency of employment, slackness of trade, or any other reasonable cause, the average weekly earning of the worker shall, notwithstanding the foregoing provisions of this section—

No. 4.—Page 19, clause 5, line 6. Omit "by the applicant" insert "or to be incurred by the worker"

No. 5.—Page 19, clause 5, lines 25 and 26. Omit "an applicant for compensation" insert "a worker"

No. 6.-Page 19, clause 5, line 27. Omit "such" insert "his"

80889 123-

URALES COMPLEMENTION GATENDARY IN LILL

Schools on "Low-chiral sequences for in hemistrities," 1, 000001 × 30 88000.

(iv) by omitting from paragraph (b) of the same subsection the words, and receives injury while engaged in or about the work of cutting, defineting or smanlying the said timber or any part thereof;"

"bas" (new) "at hand) all ond if sends 21 and 1.2. and

where the state of the state of

(c1) Where a worker is a worker to whom paragraph (c) of subsection one of this section applies or has been absent from work by reason of illness, strikes, lockouts, tempestuous weather, intermitiency of employment, slackness of trade, or any other reasonable cause, the average weekly earning of the worker shall, notwithstanding the foregoing provisions of this section—

on al. - Forge 19. charase & fine or Onell "he the implicant" over to be incurred by the worker"

No. 5. P. in 12. clause of three 25 and 25. (ino) an applicant, for remneration -

Nor a Prese Presence as line for the line for the line of the

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,

Clerk of the Legislative Assembly. Legislative Assembly Chamber, Sydney, 14 June, 1951, A.M.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

> W. K. CHARLTON, Clerk of the Parliaments.

Legislative Council Chamber, Sydney, 15th June, 1951, a.m.

2



ANNO QUINTO DECIMO

Act No. , 1951.

An Act to increase the amounts payable by way of compensation under the Workers' Compensation Act, 1926, and the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts; for this and other purposes to amend the said Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows :---

1. (1) This Act may be cited as the "Workers' Com- short title and pensation (Amendment) Act, 1951."

80889 123 - citation.

(2)

NOTE .- The words to be omitted are ruled through; those to be inserted are printed in black letter.

(2) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act,5 may be cited as the Workers' Compensation Act, 1926-1951.

2. The Principal Act is amended-

Amendment of Act No. 15, 1926.

- (a) (i) by inserting in subsection one of section six sec. 6.
 in the definition of "Dependants" after the (Definiwords "to the worker" the words "and also includes a woman so dependent who for not less than three years immediately before the worker's death, although not legally married to him, lived with him as his wife on a permanent and bona fide domestic basis";
 - (ii) by inserting in the same subsection next after the definition of "Place of Employment" the following new definition:—
 - "Prescribed" means prescribed by this Act or by the regulations made thereunder.
 - (iii) by inserting in paragraph (a) of subsection five of the same section after the word "worker" where firstly occurring the words "or although either subletting part of the work or employing a worker actually performs some part of the work himself";

(iv) by omitting from paragraph (b) of the same subsection the words "and receives injury while engaged in or about the work of cutting, delivering or supplying the said timber or any part thereof;"

(iv) (v) by inserting next after subsection (14A) of the same section the following new subsections:—

> (14B) Where any person is ordinarily engaged in any employment in connection with which persons customarily attend certain

10

15

20

25

30

Workers' Compensation (Amendment). certain prearranged places (in this Act called "places of pick-up") at which employers select and engage persons for employment, any such person shall be deemed, while in attendance at any such place of pick-up before being so selected, or while travelling thereto from his place of abode, to be a worker employed by the employer who last employed him in his customary employment. (14c) A person engaged for fee or reward to take part-(a) as a boxer or wrestler in any public boxing or wrestling contest in a stadium or place to which the public is admitted on payment of a fee or charge; or (b) as an entertainer in any public performance in a place of public entertainment to which the public is admitted on payment of a fee or charge, shall be deemed to be a worker employed by the person conducting or holding such contest or public performance. (b) (i) by omitting from paragraph (b) of sub-sec. 7. section one of section seven the words "own (Liability default or wilful act" and by inserting in of employers

177 lieu thereof the words "serious and wilful for injuries.)

35

(ii) by inserting in the same paragraph after the word "subsection" the words "or on any of the other journeys referred to in paragraph (d) of this subsection";

misconduct'';

(iii) by inserting in subparagraph (i) of the same paragraph after the word "school" the words "place of pick-up, or place referred to in subparagraph (i) of paragraph (d) of this subsection";

(iv)

10

5

1

15

20

25

30

35

n F

(iv) by inserting at the end of the same paragraph the words—
"An interruption of or deviation from any journey shall not be deemed to be substantial if, in the circumstances of the particular case, the nature, extent, degree and content of the risk of injury were not materially changed or increased by reason only of any such interruption or deviation";
(v) by inserting at the end of the same subsection the following new paragraphs :
(d) The other journeys referred to in paragraph (b) of this subsection shall be—
(i) between the worker's place of abode or place of employment and any other place, where the journey is made for the
purpose of obtaining a medical certificate or receiving medical, surgical or hospital advice, attention or treatment or of receiving payment of compen-
sation in connection with any injury for which the worker is entitled to receive compen- sation;
(ii) between any camp or place, where the worker is required by the terms of his employ-
ment, or is expected by his employer, to reside tempo- rarily or where it is reasonably
necessary or convenient that he shall temporarily reside for any purpose of his employ- ment, and the worker's place of abode when not so residing; (iii)

(iii) between the worker's place of abode and a place of pick-up.

- (e) Where a worker on any day on which he has attended at his place of employment pursuant to his contract of service or apprenticeship-
 - (i) is temporarily absent therefrom on that day during any ordinary recess; and
 - (ii) does not during such absence voluntarily subject himself to any abnormal risk of injury; and
 - (iii) during such absence receives an injury without his serious and wilful misconduct,

the worker (and in the case of the death of the worker, his dependants) shall receive compensation from the employer in accordance with this Act.

(vi) by inserting next after subsection two of the same section the following new subsection :---

> (2A) Compensation shall be payable in Dawkins respect of an injury which, but for existing tan Coal incapacity, would have resulted in total or Co. Ltd. Such (1947) 75 C.L.R. 169. partial incapacity of the worker. compensation shall be payable as if such total or partial incapacity had in fact resulted from the injury.

"Existing incapacity" means total incapacity by disease or otherwise-

- (a) not entitling the worker to compensation under this Act; and
- (b) existing at the time when the total or partial incapacity would otherwise have resulted from the injury.

3.

10

5

15

20

25

30

35



Workers' Compensation (Amendment).	
(ii) by omitting from the same paragraph th words "three pounds" and by inserting i lieu thereof the words "four pounds te shillings";	n
5 (iii) by omitting paragraph (b) of the same sub section and by inserting in lieu thereof th following paragraph:	
 (b) in addition to the compensatio payable under paragraph (a), weekly payment during the incapacit of — 	a worker.
 (i) two pounds per week in respect of the wife of the worker which is totally or mainly dependent on the earnings of the worker at the date of the injury or which whether married to the worker 	o it or o
20 at or after such date become so dependent after such date and (ii) fifteen shillings per week i respect of:	r;
 (a) each child and stepchil of the worker under th school leaving age; an (b) each child under th school leaving age t whom the worker stand 	e d e o
in loco parentis, who is totally or mainly dependent on the earnings of the worker at the date of th injury or who whether bory before or after such dat	f e n
becomes so dependent afte such date. Where pursuant to this paragrap a weekly payment is made in respec	r h
40 of any person such payment shall b payable only during any period o dependency; (iv)	e

Act No. , 1951.

Workers' Compensation (Amendment).	
(iv) by omitting paragraph (c) of the same subsection and by inserting in lieu thereof the following paragraph:—	
(c) in addition to the compensation pay- able under paragraph (a), a weekly payment during incapacity—	dependents of worker.
(i) where no compensation is pay-	
able to a worker under sub-	·
paragraph (i) of paragraph (b), of two pounds per week	
in respect of one female who	
is totally or mainly dependent	
on the earnings of the worker	
at the date of the injury or	
who becomes so dependent after such date; and	
(ii) where no compensation is pay- able to a worker under sub-	
paragraph (ii) of paragraph	· · · · · · · ·
(b), of fifteen shillings per	
week in respect of each brother	
and sister under the school	
leaving age who is totally or	
mainly dependent on the earn-	
ings of the worker at the date	
of the injury or who whether	
born before or after such date	
becomes so dependent after such date.	
Where pursuant to this paragraph a weekly payment is made in respect	
of any person such payment shall be	
payable only during any period of	
dependency.	
(v) by inserting next after paragraph (d) of the same subsection the following new	

(e) Any payment made by a worker to a female by way of wages for the performance of domestic services by her

paragraph:---

9.5

35

6.

5

10

15

20

25

30

40

U

her for the worker shall not preclude the female from being totally or mainly dependent on the earnings of the worker for the purposes of subparagraph (i) of paragraph (c) of this subsection.

- (vi) by omitting from subsection two of the same section the words "seven pounds" and by inserting in lieu thereof the words "nine pounds";
- (vii) by omitting subsection three of the same section;
- (viii) by omitting from subsection four of the same section the words "fifty-five shillings" and by inserting in lieu thereof the words "four pounds";
- (ix) by omitting from the same subsection the words "forty shillings" and by inserting in lieu thereof the words "three pounds five shillings";
- (x) by omitting from subsection five of the same section the words "four pounds" and by inserting in lieu thereof the words "six pounds";
- (xi) by omitting from the same subsection the words "three pounds" and by inserting in lieu thereof the words "four pounds ten . shillings";
- (xii) by inserting in paragraph (a) of subsection six of the same section after the word "age" the words "or any child under the school leaving age to whom the worker stands in loco parentis";
- (xiii) by inserting at the end of the same subsection the words:--
 - "or
 - (c) has for not less than three years immediately before the date of the injury, although not legally married

to

10

5

20

15

25

30

to the worker, lived with him as his wife on a permanent and bona fide domestic basis."

(2) The amendments made by paragraph (b) of Increased 5 subsection one of this section shall be deemed to extend weekly paymentsto, and from the commencement of this Act, apply in retroactive. respect of all persons in receipt of weekly payments Act No. 40, 1948, s. 2 under the provisions of section nine of the Principal Act (2) (a). and under the provisions of the Workers' Compensation

10 (Silicosis) Act, 1942-1946, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

4. The Principal Act is further amended-

- (a) (i) by omitting from the definition of "Ambu- Sec. 10. lance service" in subsection two of section (Medical and ten the words "a medical practitioner or to hospital treatment. a hospital" and by inserting in lieu thereof etc.) the words "or from a medical practitioner or hospital";
 - (ii) by inserting in paragraph (a) of the definition of "Medical treatment" in the same subsection after the word "dentist" the words "a registered physiotherapist";

(iii) by inserting in paragraph (b) of the same definition after the word "members" the words "eyes or teeth and other artificial aids and spectacle glasses";

- (iv) by inserting at the end of the same definition the words :--
 - "and
 - (d) the cost to the worker of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in obtaining any medical . treatment'';

(v) by omitting from paragraph (a) of subsection three of the same section the words "eighteen

Further amendment of Act No. 15, 1926.

15

ġ

25

20

30

"eighteen shillings for each day or part of a day" and by inserting in lieu thereof the words "twenty-five shillings, or such greater sum as may be prescribed, for each day or part of a day unless the Commission upon application made from time to time by or on behalf of the worker directs that the employer shall be liable for a further sum to be specified in the order. In addition to the amounts payable under the foregoing provisions of this paragraph, the employer shall be liable for a sum of two guineas, or such greater sum as may be prescribed, in respect of each treatment which necessitates the use of the hospital theatre, and for a sum of one guinea, or such greater sum as may be prescribed, in respect of any necessary X-ray photograph of the patient taken at the hospital";

(vi) by omitting from paragraph (b) of the same subsection the words "one guinea" and by inserting in lieu thereof the words "two guineas, or such greater sum as may be prescribed";

(vii) by omitting from the same paragraph the words "ten shillings and sixpence" and by inserting in lieu thereof the words "one guinea, or such greater sum as may be prescribed";

(viii) by omitting from paragraph (c) of the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";

(ix) by omitting from paragraph (b) of subsection four of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";

(x) by omitting from subsection five of the same section the words "two guineas" and by inserting

10

5

15

20

25

30

35

Act No. , 1951.

Workers' Compensation (Amendment).

inserting in lieu thereof the words "twentyfive pounds, or such greater sum as may be prescribed";

(xi) by inserting at the end of the same subsection the words:-

> "Any sum for which the employer becomes liable in respect of ambulance service under this subsection may be recovered from the employer by the person rendering the ambulance service or where the ambulance service is rendered by an unincorporated body of persons by the officer thereunto authorised in writing by the governing body of such unincorporated body";

(b) by inserting next after section ten the following New Sec. 10_{A} . new section :---

10A. (1) A worker who has met with an acci- Damages to dent arising out of or and in the course of his limbs, etc. employment and has, as a result thereof. sustained damage to his crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, shall be entitled to receive by way of compensation from his employer the reasonable cost of repairing, or, if necessary, replacing the crutches, artificial members, eyes, teeth, artificial aids or spectacle glasses but shall not, in respect of damage resulting from any such accident, be entitled under this section to a sum exceeding twenty-five pounds, or such greater sum as may be prescribed, unless the Commission, upon application made from time to time by or on behalf of the worker, directs that the worker shall be paid a further sum to be specified in the order.

The provisions of subsection three of section seven, and sections forty and fifty-three and Part VIII of this Act shall apply, mutatis mutandis, to any damage sustained by a worker to which this section applies.

(2)

25

5

10

15

20

30

35

Workers' Compensation (Amendment). (2) Nothing in this section shall—	N
(2) Nothing in this social shall	N
(2) Nothing in this section shall—	
(a) affect the liability of an employer under section ten of this Act;	
(b) entitle a worker to payments under this section as well as under section ten of this Act in respect of the same damage.	1.
(c) (i) by inserting at the end of subsection one of Sec. 11. section eleven the following new para- (Partial graphs:—	ty.)
(b) The amount of the average weekly earnings of a worker as aforesaid shall, in the case of an adult worker in receipt of compensation at the commencement of the Workers' Compensation (Amendment) Act, 1951, or who after such commencement receives compensation in respect of an injury which occurred before such commencement, be deemed to be increased as from such commencement by the difference between the needs basic wage or the basic wage, as the case may be, applicable at the time of the injury and the basic wage applicable at such commencement, and shall after such commencement be deemed to be increased or reduced from time to time, as the case may be, by the amounts by which and from the dates from which the basic wage applicable at such commencement is subsequently increased or reduced, as	

(c) The amount of the average weekly earnings of a worker as aforesaid shall, in the case of an adult worker who receives an injury after the commencement of the Workers' Compensation (Amendment) Act, 1951,

the case may be.

10

5

15

20

25

٢

30

35

Workers' Compensation (Amendment). 1951, be deemed to be increased or reduced from time to time, as the case may be, by the amounts by which and from the dates from which the basic wage applicable at the time of the injury is subsequently increased or reduced, as the case may be. (d) In this subsection:-"basic wage" means the basic wage for adult males or adult females, as the case may require referred to in section fourteen of this Act; "needs basic wage" means the needs basic wage referred to in subparagraph (i) or subparagraph (ii), as the case may require, of paragraph (e) of section fourteen of this Act as enacted immediately before the commencement of the Workers' Compensation (Amendment) Act, 1951, together with the fixed loading referred to therein. (ii) by omitting subsections two and three of the same section and by inserting in lieu thereof the following subsection:-

(2) An employer shall provide suitable employment for his injured worker during the worker's partial incapacity for his pre-injury employment. tab od

Upon any failure by such employer to provide suitable employment as aforesaid the worker's incapacity for work shall be deemed to be total, and he shall be compensated accordingly.

(d) by inserting in section thirteen after the word Sec. 13. "benefit" the words "(other than any payment, (Allowance allowance, or benefit from a superannuation or worker.) similar fund to which the worker has contributed)"; (e)

15

10

5

25

20

30

35

40

5

. 10

15

20

25

30

35

40

5

L

r

Workers' Compensation (Amendment).	
 (e) (i) by omitting from paragraph (e) of section fourteen all words after the words "time of the injury"; (ii) by inserting next after the same paragraph 	(Computa- tion of average
 the following new paragraph:— (c1) Notwithstanding the foregoing provisions of this section, the average weekly earnings of a worker shall— (c1) Where a worker is a worker to whom paragraph (e) of subsection one of this section anning an here above the section one of this section anning an here above the section. 	
this section applies or has been absent from work by reason of illness, strikes, lockouts, tempestuous weather, intermittency of employ- ment, slackness of trade, or any other reasonable cause, the average weekly earning of the worker shall, notwith-	
 standing the foregoing provisions of this section— (i) in the case of an adult worker be deemed to be not less than the full wage for a full normal 	
working week of that worker or the basic wage, whichever is the greater; and (ii) in the case of any worker other	
than an adult worker be not less than the full wage for a full normal working week of that worker.	
(iii) by inserting at the end of the same section the following new subsection:—	
 (2) In this section "basic wage" means:— (a) in the case of an adult male worker, the basic wage for adult males assessed on the index number for 	
Sydney contained in the Retail Price Index Numbers published from time to time by or by the direction of the Commonwealth	
Court of Conciliation and Arbitra- tion; (b)	

	Workers' Compensation (Amendment).	
2	(b) in the case of an adult female worker, seventy-five per centum of the basic wage for adult males as defined in paragraph (a) of this	
5	definition. (f) (i) by omitting from subsection one of section sixteen the words "when the injury results in total or partial incapacity"; (ii) by omitting subsection six of the same	Sec. 16. (Compen- sation for certain injuries.)
10	 (ii) by omitting babbeeton but of the same section; (iii) by omitting the Table set forth at the end of the same section and by inserting in lieu thereof the following Table:— 	
	TABLE.	

TA	B		E.
----	---	--	----

Nature of injury.	Amo paya		
	£	s.	d
Loss of either arm, or of the greater			
part thereof	1,450	0	C
Loss of lower part of either arm,			
either hand, or five fingers of			
either hand	1,250	0	0
Loss of a leg	1,350	0	(
Loss of the lower part of a leg	1,150	0	(
Loss of a foot	1,100	0	(
Loss of sight of one eye, with serious			
diminution of the sight of the			
other	1,350	0	(
*Loss of sight of one eye	750	0	(
Loss of hearing	1,100	0	(
Complete deafness of one ear	500	0	(
Loss of a thumb	500	0	
Loss of a forefinger	350	0	
Loss of joint of a thumb	. 300	0	(
Loss of little finger, middle finger			
or ring finger	200	0	
Loss of a toe or the joint of a finger	150	0	(
Loss of a joint of a toe	100	0	(
Loss of great toe	350	0	(
Loss of joint of forefinger or of joint			
of great toe	200	0	

* For the partial loss of sight of one eye there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

5.

U

Act No. , 1951.

Workers' Compensation (Amendment).

5. (1) The Principal Act is further amended-

Further amendment of Act No. 15, 1926.

- (a) by inserting in paragraph (a) of subsection two Sec. 18c. of section 18c after the word "injury" the words (Uninsured "or the employer having been a self-insurer at scheme.) the time of the happening of the worker's injury has ceased to undertake liability to pay compensation to his own workers and has withdrawn in accordance with the provisions of this Act the deposit lodged by him with the Colonial Treasurer'':
- (b) by inserting next after section twenty-five the New sec. following new section :--

25A. If any self-insurer who has deposited Return of with the Treasurer a sum of money under this deposits to self-Act has ceased either before or after the insurers. commencement of the Workers' Compensation (Amendment) Act, 1951, to undertake the liability to pay compensation under this Act to workers employed by him, the self-insurer may withdraw the sum so deposited-

- (a) on the expiration of three months after service on the Colonial Treasurer of a notice in writing duly signed by or on behalf of the self-insurer stating that the self-insurer has ceased to undertake the liability to pay compensation under this Act to the workers employed by him; and
- (b) on satisfying the Colonial Treasurer that all the liabilities of the self-insurer under this Act in respect of workers employed by it or him while a selfinsurer are fully liquidated or provided for.
- (c) (i) by omitting from subsection one of section sec. 31. thirty-one the words "One of such persons (Appointshall be by his commission appointed ment of Commission. 123—B chairman''

10

5

20

15

25

30

35

	Workers' Compensation (Amendment).
	chairman'' and by inserting in lieu thereof the words "The Governor may appoint one of such persons as chairman'';
5	 (ii) by inserting in paragraph (a) of subsection three of the same section after the word "member" the words "other than the Chairman";
10	(iii) by inserting at the end of the same para- graph the words "The Chairman of the Commission shall, subject to this section, hold his office during ability and good behaviour, shall have the same rank, title,
15	status and precedence, and the same salary, pension and other rights as the Chairman of the District Court Judges, and shall be removable from office in the same manner only as a District Court Judge is by law liable to be removed from his office."
20	 (d) by inserting at the end of section thirty-four the sec. 34. following new subsection:— (2) In addition to the powers conferred by etc.). subsection one of this section the Commission, for the purpose of conducting any inquiry, investigation or hearing under this Act, shall
25	have all such powers, rights and privileges as are vested in a District Court or any judge thereof in or in relation to any action or trial, in respect of the following matters:
30	 (a) compelling the attendance of witnesses; (b) compelling witnesses to answer questions which the Commission deems to be relevant to the inquiry, investigation or hearing;
35	(c) compelling the production of books, documents and writings;

(d) punishing persons guilty of disobedience of any order or summons made or issued by the Commission.
 (e)

А

U

'Act No. . 1951.

20	'Act No. , 1951.	19
	Workers' Compensation (Amendment).	
	(e) (i) by omitting paragraph (c) of section thirty-eight;	(Proceed-
5	(ii) by inserting in paragraph (g) of the same section after the word "just" the words "to the extent of the fees and costs actually	Commission.)
	incurred by the applicant or to be incurred by the worker''; (iii) by inserting at the end of the same para-	
	graph the following words—	
10	"Provided that any such order or assessment shall not exceed the fees and costs provided by the highest scale	(†) • 01
1	applicable to proceedings in the Supreme Court of New South Wales in its common	
15	law jurisdiction. The amount of costs shall in respect of the attendance of any medical witness be	• 51
	the actual cost of such attendance to the	
20	party calling the witness, or calculated according to the scale of costs applicable to	
	proceedings in the Supreme Court of New	
	South Wales in its common law jurisdiction, whichever is the less.	
5	The Commission shall not order the	
25	payment of costs by an applicant for compensation a worker unless it is satisfied	
	that such his application has been made fraudulently."	25
30		(Workers
	shall not, save to the extent indicated in subsection two of this section, be entitled to	of Crown.)
	receive compensation or benefits under this	Ui
	Act as well as benefits under any other Act'';	
35	(ii) by omitting subsections two and three of	
	(g) by inserting at the end of section fifty-one the	Den Et 11
	following new subsection:	(Medical
40	(11) Where a worker is required by an	inspection.)
	employer to submit himself for examination pursuant to this section he shall be entitled to	
	recover	

U

recover from the employer, in addition to any compensation otherwise provided, the amount of any wages lost by him by reason of his so submitting himself for examination together with the cost to him of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in so submitting himself.

- (h) by inserting in subsection one of section fifty- Sec. 53. () three after the words "occasioned by" wherever (Time for taking occurring the word "ignorance"; proceedings.)
- (i) by omitting from subsection two of section sixty Sec. 60. the word "before" and by inserting in lieu (Review.) thereof the words "the application for the review is made before or within six months after";
- (j) (i) by inserting in paragraph (a) of subsection Sec. 63A. three of section 63A after the words "class (Notice of " of cases" the words "or by a law clerk of the applicant's solicitor authorised in writing in that behalf by the registrar of the Commission, either generally or for any particular case or class of cases";
 - (ii) by inserting in the same paragraph after the words "clerk of petty sessions" where secondly occurring the words "law clerk";
- (k) by inserting in subsection one of section sixty- sec. 66. six after the word "regulations" where firstly (Regulation occurring the words "not inconsistent with this and rules) Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed."

(2) The amendments made by subparagraphs (ii) 35 and (iii) of paragraph (c) of subsection one of this section shall be deemed to have commenced upon the twentieth day of May, one thousand nine hundred and fifty.

6.

1

election.)

10

5

15

20

25

30

6. Any policy of insurance against liability under the Subsisting Workers' Compensation Act, 1926, or any amendment of policies. that Act, being maintained in force at the commencement 1948, 8.2 of this Act shall be deemed to insure the employer and (2) (b).

5 always to have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Workers' Compensation Act, 1926, as amended by subsequent Acts, made by this Act. Where a person is

10 in receipt of compensation at the commencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

Sydney: A. H. Pettifer, Government Printer-1351

[28.]

6. Any polycy of instructive against fieldify under the induction. Workers' (suppression antendment of polyces) in a set (1926), or any antendment of polyces at that Act, being uninitatinal in force at the completer and marks.
6. atways to have basered to prove at the completer and (3) (b). Active at the curpleter and basered to prove the completer and (5) (b). Actively to the deficit to which he may become hilds during another the curpleter and (b) (b). Actively to the currence of the currence of the currence of the statistic and (b) (b). Actively to which he may become hilds during a statistical for another any another (b) (b). Actively to which he may become hilds during a statistic to which he may become hilds during a statistic to the currence of the currence of the statistic any antick for another (b) (b). Actively to which he may become here to (b). Actively to the statistic to the complete of the statistic to the currence of the statistic to the complete of the statistic to the currence of the statistic to the complete of the statistic to the complete of the statistic to the complete of the statistic to the s




This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS.

Clerk of the Legislative Assembly. Legislative Assembly Chamber, Sydney, 14 June, 1951, A.M.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.

Legislative Council Chamber, Sydney, June, 1951.



ANNO QUINTO DECIMO

REGIS. JEORGI

Act No. , 1951.

An Act to increase the amounts payable by way of compensation under the Workers' Compensation Act, 1926, and the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts; for this and other purposes to amend the said Acts; and for purposes connected therewith.

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 New South Wales in Parliament assembled, and by the authority of 5 the same, as follows :---

1. (1) This Act may be cited as the "Workers' Com- short title pensation (Amendment) Act, 1951." and citation. 80889 123 -(2)

Note .- The words to be omitted are ruled through; those to be inserted are printed in black letter.

(2) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act,5 may be cited as the Workers' Compensation Act, 1926-1951.

2. The Principal Act is amended-

Amendment of Act No. 15, 1926.

- (a) (i) by inserting in subsection one of section six Sec. 6.
 in the definition of "Dependants" after the (Definiwords "to the worker" the words "and also tions.) includes a woman so dependent who for not less than three years immediately before the worker's death, although not legally married to him, lived with him as his wife on a permanent and bona fide domestic basis";
 - (ii) by inserting in the same subsection next after the definition of "Place of Employment" the following new definition:--
 - "Prescribed" means prescribed by this Act or by the regulations made thereunder.
 - (iii) by inserting in paragraph (a) of subsection five of the same section after the word "worker" where firstly occurring the words "or although either subletting part of the work or employing a worker actually performs some part of the work himself";

(iv) by omitting from paragraph (b) of the same subsection the words "and receives injury while engaged in or about the work of cutting, delivering or supplying the said timber or any part thereof;"

(iv) (v) by inserting next after subsection (14A) of the same section the following new subsections:—

> (14^B) Where any person is ordinarily engaged in any employment in connection with which persons customarily attend certain

10

15

20

25

30

35

certain prearranged places (in this Act called "places of pick-up") at which employers select and engage persons for employment, any such person shall be deemed, while in attendance at any such place of pick-up before being so selected, or while travelling thereto from his place of abode, to be a worker employed by the employer who last employed him in his customary employment.

(14c) A person engaged for fee or reward to take part-

- (a) as a boxer or wrestler in any public boxing or wrestling contest in a stadium or place to which the public is admitted on payment of a fee or charge; or
- (b) as an entertainer in any public performance in a place of public entertainment to which the public is admitted on payment of a fee or charge,

shall be deemed to be a worker employed by the person conducting or holding such contest or public performance.

- (b) (i) by omitting from paragraph (b) of sub- sec. 7. section one of section seven the words "own (Liability default or wilful act" and by inserting in of employers lieu thereof the words "serious and wilful for injuries.) misconduct";
 - (ii) by inserting in the same paragraph after the word "subsection" the words "or on any of the other journeys referred to in paragraph (d) of this subsection";
 - (iii) by inserting in subparagraph (i) of the same paragraph after the word "school" the words "place of pick-up, or place referred to in subparagraph (i) of paragraph (d) of this subsection";

1 1 20 . · · · ·

(iv)

30

5

10

15

20

25

35

New July

10

15

 paragraph the words— "An interruption of or deviation from an journey shall not be deemed to be substantiation if, in the circumstances of the particulation case, the nature, extent, degree and contert of the risk of injury were not materiall changed or increased by reason only of an such interruption or deviation"; (v) by inserting at the end of the same subsection the following new paragraphs:— (d) The other journeys referred to i paragraph (b) of this subsection shabe— (i) between the worker's place of abode or place of employmer and any other place, where the journey is made for the purpose of obtaining a medica certificate or receiving medica surgical or hospital advice attention or treatment or correceiving payment of comper sation in connection with an injury for which the worker is entitled to receive comper sation; (ii) between any camp or place where the worker is require by the terms of his employ ment, or is expected by hi employer, to reside tempor rarily or where it is reasonable necessary or convenient tha he shall temporarily reside for the shall temporarily reside for the part of comper the state of the solution is the shall temporarily reside for the solution is reasonable necessary or convenient that the shall temporarily reside for the solution is convenient. 	-	Workers' Compensation (Amendment).
 such interruption or deviation''; (v) by inserting at the end of the same subsection the following new paragraphs:— (d) The other journeys referred to i paragraph (b) of this subsection shabe— (d) The other journeys referred to i paragraph (b) of this subsection shabe— (i) between the worker's place of abode or place of employmer and any other place, where the journey is made for the purpose of obtaining a medica certificate or receiving medica surgical or hospital advice attention or treatment or or receiving payment of comper sation in connection with an injury for which the worker i entitled to receive comper sation; (ii) between any camp or place where the worker is require by the terms of his employ ment, or is expected by his employer, to reside tempor rarily or where it is reasonable necessary or convenient that he shall temporarily reside for the sation in the sation in temporarily reside for the sation in the sation in temporarily reside for the sation in the sation in temporarily reside for the sation in temporarily reside for the sation in temporarily reside for th		paragraph the words— "An interruption of or deviation from any journey shall not be deemed to be substantial if, in the circumstances of the particular case, the nature, extent, degree and content of the risk of injury were not materially
 the following new paragraphs:— (d) The other journeys referred to i paragraph (b) of this subsection shabe— (i) between the worker's place of abode or place of employment and any other place, where the journey is made for the purpose of obtaining a medica certificate or receiving medica surgical or hospital advice attention or treatment or or receiving payment of compersation in connection with an injury for which the worker i entitled to receive compersation; (ii) between any camp or place where the worker is require by the terms of his employ ment, or is expected by his employer, to reside temporarily or where it is reasonable necessary or convenient that he shall temporarily reside for 		
 paragraph (b) of this subsection shabe— (i) between the worker's place of abode or place of employmer and any other place, where the journey is made for the purpose of obtaining a medica certificate or receiving medica surgical or hospital advice attention or treatment or or receiving payment of comper sation in connection with an injury for which the worker is entitled to receive comper sation; (ii) between any camp or place where the worker is require by the terms of his employer, to reside tempor rarily or where it is reasonable necessary or convenient tha he shall temporarily reside for the station of the state of th		
 abode or place of employment and any other place, where the journey is made for the purpose of obtaining a medical certificate or receiving medical autention or treatment or or receiving payment of compersation in connection with an injury for which the worker is entitled to receive compersation; (ii) between any camp or place where the worker is require by the terms of his employer, to reside temporarily or where it is reasonable necessary or convenient that he shall temporarily reside for the station is convenient that the shall temporarily reside for the station is provide the station in the station is provided at the static provided at the stati		paragraph (b) of this subsection shall
 certificate or receiving medica surgical or hospital advice attention or treatment or or receiving payment of comper sation in connection with an injury for which the worker is entitled to receive comper sation; (ii) between any camp or place where the worker is require by the terms of his employ ment, or is expected by his employer, to reside tempor rarily or where it is reasonabl necessary or convenient that he shall temporarily reside for 		(i) between the worker's place of abode or place of employment and any other place, where the journey is made for the
 injury for which the worker i entitled to receive compersation; (ii) between any camp or place where the worker is require by the terms of his employer, to reside temporarily or where it is reasonabl necessary or convenient that he shall temporarily reside for the static static		certificate or receiving medical, surgical or hospital advice, attention or treatment or of receiving payment of compen-
(11) between any camp or place where the worker is require by the terms of his employ ment, or is expected by hi employer, to reside tempo rarily or where it is reasonabl necessary or convenient tha he shall temporarily reside fo		injury for which the worker is entitled to receive compen- sation;
rarily or where it is reasonabl necessary or convenient tha he shall temporarily reside fo		(11) between any camp or place, where the worker is required by the terms of his employ- ment, or is expected by his
ment, and the worker's place		rarily or where it is reasonably necessary or convenient that he shall temporarily reside for any purpose of his employ- ment, and the worker's place of abode when not so residing;

-

Wa	orkers' Compensation (Amendment).	3
	(iii) between the worker's place of abode and a place of pick-up.	
	(e) Where a worker on any day on which he has attended at his place of employment pursuant to his contract	
	of service or apprenticeship— (i) is temporarily absent there- from on that day during any	
	ordinary recess; and (ii) does not during such absence voluntarily subject himself to any abnormal risk of injury; and	
	(iii) during such absence receives an injury without his serious and wilful misconduct,	
ni o ni o ni o nalu	the worker (and in the case of the death of the worker, his dependants) shall receive compensation from the employer in accordance with this Act.	
(vi)	by inserting next after subsection two of the same section the following new sub- section:—	
	respect of an injury which, but for existing incapacity, would have resulted in total or	Dawkins v. Metropo tan Coal Co. Ltd. (1947) 75

oli-Such (1947) 169.

3.

"Existing incapacity" means total incapacity by disease or otherwise-

compensation shall be payable as if such total or partial incapacity had in fact

resulted from the injury.

- (a) not entitling the worker to compensation under this Act; and
- (b) existing at the time when the total or partial incapacity would otherwise have resulted from the injury.

35

(ii)

30

10

T

5

15

20

25

Workers' Compensation (Amendment). 3. (1) The Principal Act is further amended-Further amendment of Act No. 15, 1926. of Sec. 8. (a) (i) by omitting from paragraph (a) subsection one of section eight the words (Compensa-"five hundred pounds" and by inserting in paymentslieu thereof the words "eight hundred Death.) 5 pounds"; (ii) by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "two thousand pounds"; (iii) by inserting in the same paragraph after the word "shall" where first occurring the word "not"; (iv) by omitting from the same paragraph the words "but no such deduction shall be made so as to reduce the amount payable in respect of the dependants of the worker under this subsection below three hundred pounds''; (v) by omitting from paragraph (b) of the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "seventyfive pounds"; (vi) by omitting from subsection three of the same section the words "five hundred pounds" and by inserting in lieu thereof the words "eight hundred pounds"; (vii) by omitting from subsection four of the same section the words "thirty pounds" and by inserting in lieu thereof the words "sixty pounds''; (b) (i) by omitting from paragraph (a) of Sec. 9. subsection one of section nine the words (Total or "four pounds" and by inserting in lieu incapacity.) thereof the words "five pounds fifteen shillings";

6

10

15

20

25

30

35

(ii)

Participa	Workers' Compensation (Amendment).	
	 (ii) by omitting from the same paragraph the words "three pounds" and by inserting in lieu thereof the words "four pounds ten shillings"; 	
5	(iii) by omitting paragraph (b) of the same sub- section and by inserting in lieu thereof the following paragraph:—	
10	(b) in addition to the compensation payable under paragraph (a), a weekly payment during the incapacity	
-	of (i) two pounds per week in respect of the wife of the worker who is totally or mainly dependent	
15	on the earnings of the worker at the date of the injury or who whether married to the worker	
20	at or after such date becomes so dependent after such date; and	
20	(ii) fifteen shillings per week in respect of:(a) each child and stepchild	
25	of the worker under the school leaving age; and (b) each child under the school leaving age to whom the worker stands	
30	in loco parentis, who is totally or mainly dependent on the earnings of the worker at the date of the injury or who whether born before or after such date	
35	becomes so dependent after such date. Where pursuant to this paragraph a weekly payment is made in respect	
40	of any person such payment shall be payable only during any period of dependency; (iv)	

-	Workers' Compensation (Amendment).	
	(iv) by omitting paragraph (c) of the same subsection and by inserting in lieu thereof the following paragraph:—	
5	(c) in addition to the compensation pay- able under paragraph (a), a weekly payment during incapacity—	
10	(i) where no compensation is pay- able to a worker under sub- paragraph (i) of paragraph (b), of two pounds per week in respect of one female who is totally or mainly dependent on the earnings of the worker	
15	at the date of the injury or who becomes so dependent after such date; and	
	(ii) where no compensation is pay- able to a worker under sub-	
20	paragraph (ii) of paragraph (b), of fifteen shillings per week in respect of each brother and sister under the school	
25	leaving age who is totally or mainly dependent on the earn- ings of the worker at the date of the injury or who whether born before or after such date becomes so dependent after such date.	
30	Where pursuant to this paragraph a weekly payment is made in respect of any person such payment shall be payable only during any period of dependency.	
35	(v) by inserting next after paragraph (d) of the same subsection the following new paragraph:—	
40	(e) Any payment made by a worker to a female by way of wages for the performance of domestic services by her	

•

1 mil		
	Wor	kers' Compensation (Amendment).
5		her for the worker shall not preclude the female from being totally or mainly dependent on the earnings of the worker for the purposes of sub- paragraph (i) of paragraph (c) of this subsection.
0		by omitting from subsection two of the same section the words "seven pounds" and by inserting in lieu thereof the words "nine pounds";
	(vii)	by omitting subsection three of the same section;
5	(viii)	by omitting from subsection four of the same section the words "fifty-five shillings" and by inserting in lieu thereof the words "four pounds";
0	(ix)	by omitting from the same subsection the words "forty shillings" and by inserting in lieu thereof the words "three pounds five shillings";
	(x)	by omitting from subsection five of the same section the words "four pounds" and by inserting in lieu thereof the words "six pounds";
5	(xi)	by omitting from the same subsection the words "three pounds" and by inserting in lieu thereof the words "four pounds ten shillings";
0	(xii)	by inserting in paragraph (a) of subsection six of the same section after the word "age" the words "or any child under the school leaving age to whom the worker stands in loco parentis";
5	(xiii)	by inserting at the end of the same subsec- tion the words:

unality is'

(c) has for not less than three years immediately before the date of the injury, although not legally married

to

to the worker, lived with him as his wife on a permanent and bona fide domestic basis."

(2) The amendments made by paragraph (b) of Increased 5 subsection one of this section shall be deemed to extend paymentsto, and from the commencement of this Act, apply in retroactive. respect of all persons in receipt of weekly payments Act No. 40, under the provisions of section nine of the Principal Act (2) (a). and under the provisions of the Workers' Compensation

10 (Silicosis) Act, 1942-1946, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

4. The Principal Act is further amended-

- (a) (i) by omitting from the definition of "Ambu- Sec. 10. lance service" in subsection two of section (Medical and ten the words "a medical practitioner or to hospital treatment. a hospital" and by inserting in lieu thereof etc.) the words "or from a medical practitioner or hospital":
 - (ii) by inserting in paragraph (a) of the definition of "Medical treatment" in the same subsection after the word "dentist" the words "a registered physiotherapist";
 - (iii) by inserting in paragraph (b) of the same definition after the word "members" the words "eyes or teeth and other artificial aids and spectacle glasses";
 - (iv) by inserting at the end of the same definition the words :--

"and

- (d) the cost to the worker of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in obtaining any medical treatment";
- (v) by omitting from paragraph (a) of subsection three of the same section the words "eighteen

Further amendment of Act No. 15, 1926.

10

15

20

6.

25

35

"eighteen shillings for each day or part of a day" and by inserting in lieu thereof the words "twenty-five shillings, or such greater sum as may be prescribed, for each day or part of a day unless the Commission upon application made from time to time by or on behalf of the worker directs that the employer shall be liable for a further sum to be specified in the order. In addition to the amounts payable under the foregoing provisions of this paragraph, the employer shall be liable for a sum of two guineas, or such greater sum as may be prescribed, in respect of each treatment which necessitates the use of the hospital theatre, and for a sum of one guinea, or such greater sum as may be prescribed, in respect of any necessary X-ray photograph of the patient taken at the hospital";

- (vi) by omitting from paragraph (b) of the same subsection the words "one guinea" and by inserting in lieu thereof the words "two guineas, or such greater sum as may be prescribed";
- (vii) by omitting from the same paragraph the words "ten shillings and sixpence" and by inserting in lieu thereof the words "one guinea, or such greater sum as may be prescribed";
- (viii) by omitting from paragraph (c) of the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
 - (ix) by omitting from paragraph (b) of subsection four of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";

(x) by omitting from subsection five of the same section the words "two guineas" and by inserting

40

35

5

10

15

20

25

inserting in lieu thereof the words "twentyfive pounds, or such greater sum as may be prescribed";

(xi) by inserting at the end of the same subsection the words :---

"Any sum for which the employer becomes liable in respect of ambulance service under this subsection may be recovered from the employer by the person rendering the ambulance service or where the ambulance service is rendered by an unincorporated body of persons by the officer thereunto authorised in writing by the governing body of such unincorporated body";

(b) by inserting next after section ten the following New Sec. 10_{A} . new section :---

10A. (1) A worker who has met with an acci- Damages to dent arising out of or and in the course of his artificial limbs, etc. employment and has, as a result thereof, sustained damage to his crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, shall be entitled to receive by way of compensation from his employer the reasonable cost of repairing, or, if necessary, replacing the crutches, artificial members, eyes, teeth, artificial aids or spectacle glasses but shall not, in respect of damage resulting from any such accident, be entitled under this section to a sum exceeding twenty-five pounds, or such greater sum as may be prescribed, unless the Commission, upon application made from time to time by or on behalf of the worker, directs that the worker shall be paid a further sum to be specified in the order.

The provisions of subsection three of section seven, and sections forty and fifty-three and Part VIII of this Act shall apply, mutatis mutandis, to any damage sustained by a worker to which this section applies.

(2)

20

5

10

15

25

30

35

Workers' Compensation (Amendment). (2) Nothing in this section shall— (a) affect the liability of an employer under section ten of this Act; (b) entitle a worker to payments under this section as well as under section ten of this Act in respect of the same damage. (c) (i) by inserting at the end of subsection one of Sec. 11. section eleven the following new para- (Partial graphs :--(b) The amount of the average weekly earnings of a worker as aforesaid shall, in the case of an adult worker in receipt of compensation at the commencement of the Workers' Compensation (Amendment) Act, 1951, or who after such commencement receives compensation in respect of an injury which occurred before such commencement, be deemed to be increased as from such commencement by the difference between the needs basic wage or the basic wage, as the case may be, applicable at the time of the injury and the basic wage applicable at such commencement, and shall after such commencement be deemed to be increased or reduced from time to time, as the case may be, by the amounts by which and from the dates from which the basic wage applicable at such commencement is subsequently increased or reduced, as

(c) The amount of the average weekiv earnings of a worker as aforesaid shall, in the case of an adult worker who receives an injury after the commencement of the Workers' Compensation (Amendment) Act, 1951,

the case may be.

incapacity.)

15

10

5

20

25

30

35

Act No. , 1951.

	, 1001.	
	Workers' Compensation (Amendment).	
	1951, be deemed to be increased or	
	reduced from time to time, as the case	
	may be, by the amounts by which and	
_	from the dates from which the basic	
5	wage applicable at the time of the	
	injury is subsequently increased or reduced, as the case may be.	
	(d) In this subsection.	
	"basic wage" means the basic wage	
10	for adult males or adult	
	females, as the case may	
	require referred to in section	
	fourteen of this Act;	
15	"needs basic wage" means the	
10	needs basic wage referred to in subparagraph (i) or	
	in subparagraph (i) or subparagraph (ii), as the case	
	may require, of paragraph (e)	
	of section fourteen of this	
20	Act as enacted immediately	
	before the commencement of	
	the Workers' Compensation	
	(Amendment) Act, 1951,	
25	together with the fixed loading	
20	referred to therein. (ii) by omitting subsections two and three of the	
	same section and by inserting in lieu thereof	
	the following subsection :	
	(2) An employer shall provide suitable	
30	employment for his injured worker during	
	the worker's partial incapacity for his	
	pre-injury employment.	
	Upon any failure by such employer to	
35	provide suitable employment as aforesaid the worker's incapacity for work shall be	
00	deemed to be total, and he shall be	
	compensated accordingly.	
	(d) by inserting in section thirteen after the word	Sec. 13.
-	"benefit" the words "(other than any payment	(Allowance
40	allowance, or benefit from a superannuation or	received by worker.)
	similar fund to which the worker has	
	contributed)"; (e)	

.

•

1.

Workers' Compensation (Amendment).	
(e) (1) by omitting from paragraph (e) of section fourteen all words after the words "time of tion the injury";	c. 14. omputa- n of erage ekly
the following new paragraph:	mings.)
(c1) Notwithstanding the foregoing provisions of this section, the average weekly earnings of a worker shall—	
 (e1) Where a worker is a worker to whom paragraph (e) of subsection one of this section applies or has been absent from work by reason of illness, strikes, lockouts, tempestuous 	
weather, intermittency of employ- ment, slackness of trade, or any other reasonable cause, the average weekly	
earning of the worker shall, notwith- standing the foregoing provisions of this section—	
(i) in the case of an adult worker be deemed to be not less than the full wage for a full normal working week of that worker or the basic wage, whichever is the greater; and	
(ii) in the case of any worker other than an adult worker be not less than the full wage for a full normal working week of that worker.	
(iii) by inserting at the end of the same section the following new subsection:—	
 (2) In this section "basic wage" means:— (a) in the case of an adult male worker, the basic wage for adult males assessed on the index number for Sydney contained in the Retail Price Index Numbers published from time to time by or by the direction of the Commonwealth Court of Conciliation and Arbitra 	

tion;

(b)

- (b) in the case of an adult female worker, seventy-five per centum of the basic wage for adult males as defined in paragraph (a) of this definition.
- (f) (i) by omitting from subsection one of section Sec. 16. sixteen the words "when the injury results (Compenin total or partial incapacity";

(ii) by omitting subsection six of the same injuries.) section;

(iii) by omitting the Table set forth at the end of the same section and by inserting in lieu thereof the following Table :---

T	A	B	L	E	
	**	~			•

Nature of injury.	Amo paya		
	£	s.	d
Loss of either arm, or of the greater			
part thereof	1,450	0	(
Loss of lower part of either arm,			
either hand, or five fingers of			
either hand	1,250	0	(
Loss of a leg	1,350		(
Loss of the lower part of a leg	1,150		(
Loss of a foot	1,100	0	(
Loss of sight of one eye, with serious			
diminution of the sight of the			
other	1,350	0	(
*Loss of sight of one eye	750	0	(
Loss of hearing	1,100	0	(
Complete deafness of one ear	500	0	(
Loss of a thumb	500	0	(
Loss of a forefinger	350	0	(
Loss of joint of a thumb	300	0	(
Loss of little finger, middle finger			
or ring finger	200	0	(
Loss of a toe or the joint of a finger	150	0	(
Loss of a joint of a toe	100	0	C
Loss of great toe	350	0	0
Loss of joint of forefinger or of joint			
of great toe	200	0	(

* For the partial loss of sight of one eye there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

5.

certain

10

61

5

15

 $\overline{20}$

25

30

35

40

č,

Act No. , 1951.

Workers' Compensation (Amendment). 5. (1) The Principal Act is further amended-Further amendment of Act No. 15, 1926. (a) by inserting in paragraph (a) of subsection two Sec. 18c. of section 18c after the word "injury" the words (Uninsured liability "or the employer having been a self-insurer at scheme.) the time of the happening of the worker's injury has ceased to undertake liability to pay compensation to his own workers and has withdrawn in accordance with the provisions of this Act the deposit lodged by him with the Colonial Treasurer''; (b) by inserting next after section twenty-five the Newsec. following new section :---25A. If any self-insurer who has deposited Return of with the Treasurer a sum of money under this deposits to self-Act has ceased either before or after the insurers. commencement of the Workers' Compensation (Amendment) Act, 1951, to undertake the liability to pay compensation under this Act to workers employed by him, the self-insurer may withdraw the sum so deposited-(a) on the expiration of three months after service on the Colonial Treasurer of a notice in writing duly signed by or on behalf of the self-insurer stating that the self-insurer has ceased to undertake the liability to pay compensation under this Act to the workers employed by him; and (b) on satisfying the Colonial Treasurer that all the liabilities of the self-insurer under this Act in respect of workers employed by it or him while a selfinsurer are fully liquidated or provided

35

5

10

15

20

25

30

123—B

for.

(c) (i) by omitting from subsection one of section sec. 31. thirty-one the words "One of such persons (Appointshall be by his commission appointed ment of Commission. chairman"

	Workers' Compensation (Amendment).	
	chairman'' and by inserting in lieu thereof the words "The Governor may appoint one of such persons as chairman'';	
5	 (ii) by inserting in paragraph (a) of subsection three of the same section after the word "member" the words "other than the Chairman"; 	
10	(iii) by inserting at the end of the same para- graph the words "The Chairman of the Commission shall, subject to this section, hold his office during ability and good behaviour, shall have the same rank, title, status and precedence, and the same salary,	
15	pension and other rights as the Chairman of the District Court Judges, and shall be removable from office in the same manner only as a District Court Judge is by law liable to be removed from his office."	
20	 (d) by inserting at the end of section thirty-four the sec. 34. following new subsection:	
25	for the purpose of conducting any inquiry, investigation or hearing under this Act, shall have all such powers, rights and privileges as are vested in a District Court or any judge thereof in or in relation to any action or trial, in respect of the following matters:—	
30	 (a) compelling the attendance of witnesses; (b) compelling witnesses to answer questions which the Commission deems to be relevant to the inquiry, investigation 	

or hearing; (c) compelling the production of books, documents and writings;

(d) punishing persons guilty of dis-obedience of any order or summons made or issued by the Commission.

(e)

35

	'Act No. , 1951.	19
	Workers' Compensation (Amendment).	in the
	 (e) (i) by omitting paragraph (c) of section thirty-eight; (ii) by inserting in paragraph (g) of the same 	(Proceed-
5	section after the word "just" the words "to the extent of the fees and costs actually incurred by the applicant or to be incurred by the worker";	
	(iii) by inserting at the end of the same para-	
10	graph the following words— "Provided that any such order or	
	assessment shall not exceed the fees and costs provided by the highest scale applicable to proceedings in the Supreme	
15	Court of New South Wales in its common	
15	law jurisdiction. The amount of costs shall in respect of the attendance of any medical witness be	
	the actual cost of such attendance to the	
20	party calling the witness, or calculated	
	according to the scale of costs applicable to proceedings in the Supreme Court of New	
	South Wales in its common law jurisdiction,	
	whichever is the less.	
	The Commission shall not order the	
25	payment of costs by an applicant for compensation a worker unless it is satisfied	
	that such his application has been made	
	fraudulently." (f) (i) by omitting from subsection one of section	Sec. 47
30	(f) (i) by omitting from subsection one of section forty-seven the words "but any such worker	
	shall not, save to the extent indicated in	of Crown.)
	subsection two of this section, be entitled to	
	receive compensation or benefits under this Act as well as benefits under any other	
	A -177	
35	(ii) by omitting subsections two and three of the same section;	
	(g) by inserting at the end of section fifty-one the	
	following new subsection :	(Medical inspection.)
40	(11) Where a worker is required by an employer to submit himself for examination	and the second
	pursuant to this section he shall be entitled to	
	pursuant to this secures it shall be childred to	

recover

2.5

L

recover from the employer, in addition to any compensation otherwise provided, the amount of any wages lost by him by reason of his so submitting himself for examination together with the cost to him of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in so submitting himself.

- (h) by inserting in subsection one of section fifty- Sec. 53. three after the words "occasioned by" wherever (Time for taking occurring the word "ignorance"; proceed-
- (i) by omitting from subsection two of section sixty Sec. 60. the word "before" and by inserting in lieu (Review.) thereof the words "the application for the review is made before or within six months after";
- (j) (i) by inserting in paragraph (a) of subsection Sec. 63A. three of section 63A after the words "class (Notice of of cases" the words "or by a law clerk of the applicant's solicitor authorised in writing in that behalf by the registrar of the Commission, either generally or for any particular case or class of cases";
 - (ii) by inserting in the same paragraph after the words "clerk of petty sessions" where secondly occurring the words "law clerk":
- (k) by inserting in subsection one of section sixty- Sec. 66. six after the word "regulations" where firstly (Regulation occurring the words "not inconsistent with this and rules) Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed."

(2) The amendments made by subparagraphs (ii) 35 and (iii) of paragraph (c) of subsection one of this section shall be deemed to have commenced upon the twentieth day of May, one thousand nine hundred and fifty.

election.)

ings.)

20

15

20

10

5

30

25

6.

6. Any policy of insurance against liability under the Subsisting policies. Workers' Compensation Act, 1926, or any amendment of Act No. 40, that Act, being maintained in force at the commencement 1948, s. 2 of this Act shall be deemed to insure the employer and (2) (b). always to have insured the employer against any

5 always to have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Workers' Compensation Act, 1926, as amended by subsequent Acts, made by this Act. Where a person is in receipt of compensation at the commencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

Sydney: A. H. Pettifer, Government Printer-1351

Matters Compagnition (Americanticon).

M. Any policy of locaration - minut lightneous at the S. M. orkers' Connectation, set 1016, or november of the structure o





This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS, Clerk of the Legislative Assembly. Legislative Assembly Chamber, Sydney, 14 June, 1951, A.M.





ANNO QUINTO DECIMO GEORGII VI REGIS.

Act No. , 1951.

An Act to increase the amounts payable by way of compensation under the Workers' Compensation Act, 1926, and the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts; for this and other purposes to amend the said Acts; and for purposes connected therewith.

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 New South Wales in Parliament assembled, and by the authority of 5 the same, as follows:—

1. (1) This Act may be cited as the "Workers' Com- short title pensation (Amendment) Act, 1951."

80889 123-

t

(2)

(2) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act, 5 may be cited as the Workers' Compensation Act, 1926-1951.

2. The Principal Act is amended-

Amendment of Act No. 15. 1926.

(a) (i) by inserting in subsection one of section six Sec. 6. in the definition of "Dependants" after the (Definiwords "to the worker" the words "and also includes a woman so dependent who for not less than three years immediately before the worker's death, although not legally married to him, lived with him as his wife on a permanent and bona fide domestic basis'';

(ii) by inserting in the same subsection next after the definition of "Place of Employment" the following new definition :--

tions.)

20

10

15

"Prescribed" means prescribed by this Act or by the regulations made thereunder.

(iii) by inserting in paragraph (a) of subsection five of the same section after the word "worker" where firstly occurring the words "or although either subletting part of the work or employing a worker actually performs some part of the work himself";

(iv) by inserting next after subsection (14A) of the same section the following new subsections :-

(14B) Where any person is ordinarily engaged in any employment in connection with which persons customarily attend certain prearranged places (in this Act called "places of pick-up") at which employers select and engage persons for employment,

30

25

employment, any such person shall be deemed, while in attendance at any such place of pick-up before being so selected, or while travelling thereto from his place of abode, to be a worker employed by the employer who last employed him in his customary employment.

(14c) A person engaged for fee or reward to take part-

- (a) as a boxer or wrestler in any public boxing or wrestling contest in a stadium or place to which the public is admitted on payment of a fee or charge; or
- (b) as an entertainer in any public performance in a place of public entertainment to which the public is admitted on payment of a fee or charge,
- shall be deemed to be a worker employed by the person conducting or holding such contest or public performance.
- (b) (i) by omitting from paragraph (b) of sub- sec. 7. section one of section seven the words "own (Liability default or wilful act" and by inserting in of employers to workers lieu thereof the words "serious and wilful for injuries.) misconduct'';
 - (ii) by inserting in the same paragraph after the word "subsection" the words "or on any of the other journeys referred to in paragraph (d) of this subsection";
 - (iii) by inserting in subparagraph (i) of the same paragraph after the word "school" the words "place of pick-up, or place referred to in subparagraph (i) of paragraph (d) of this subsection'';

(iv)

William

49

30

A:

5

10

15

20

25

35

1 13

1100 NO. , 1951.
rkers' Compensation (Amendment).
by inserting at the end of the same paragraph the words— "An interruption of or deviation from any journey shall not be deemed to be substantial if, in the circumstances of the particular case, the nature, extent, degree and content of the risk of injury was not materially changed or increased by reason only of any such interruption or deviation";
by inserting at the end of the same subsection the following new paragraphs :—
(d) The other journeys referred to in paragraph (b) of this subsection shall be—
 (i) between the worker's place of abode or place of employment and any other place, where the journey is made for the purpose of obtaining a medical certificate or receiving medical, surgical or hospital advice, attention or treatment or of receiving payment of compensation in connection with any injury for which the worker is entitled to receive compensation;
(ii) between any camp or place, where the worker is required by the terms of his employ- ment, or is expected by his employer, to reside tempo- rarily or where it is reasonably necessary or convenient that he shall temporarily reside for any purpose of his employ- ment, and the worker's place

Workers' Compensation (Amendment).
 (iii) between the worker's place of abode and a place of pick-up. (e) Where a worker on any day on which he has attended at his place of employment pursuant to his contract of service or apprenticeship— (i) is temporarily absent therefrom on that day during any ordinary recess; and
 (ii) does not during such absence voluntarily subject himself to any abnormal risk of injury; and (iii) during such absence receives an injury without his serious and wilful misconduct, the worker (and in the case of the death of the worker, his dependants) shall receive compensation from the employer in accordance with this Act.
 (vi) by inserting next after subsection two of the same section the following new subsection:— (2A) Compensation shall be payable in D respect of an injury which, but for existing the incapacity, would have resulted in total or C partial incapacity of the worker. Such C compensation shall be payable as if such total or partial incapacity had in fact resulted from the injury.

Dawkins v. Metropolitan Coal Co. Ltd. (1947) 75 C.L.R. 169.

- "Existing incapacity" means total incapacity by disease or otherwise-
 - (a) not entitling the worker to compensation under this Act; and
 - (b) existing at the time when the total or partial incapacity would otherwise have resulted from the injury.

.

10

5

15

20

25

30

35

1 ... 14

3.

Workers' Compensation (Amendment). 3. (1) The Principal Act is further amended-Further amendment of Act No. 15, 1926. of Sec. 8. (a) (i) by omitting from paragraph (a) subsection one of section eight the words (Compensa-"five hundred pounds" and by inserting in paymentslieu thereof the words "eight hundred Death.) pounds"; (ii) by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "two thousand pounds"; (iii) by inserting in the same paragraph after the word "shall" where first occurring the word "not"; (iv) by omitting from the same paragraph the words "but no such deduction shall be made so as to reduce the amount payable in respect of the dependants of the worker under this subsection below three hundred pounds'': (v) by omitting from paragraph (b) of the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "seventyfive pounds"; (vi) by omitting from subsection three of the same section the words "five hundred pounds" and by inserting in lieu thereof the words "eight hundred pounds"; (vii) by omitting from subsection four of the same section the words "thirty pounds" and by inserting in lieu thereof the words "sixty pounds''; (b) (i) by omitting from paragraph (a) of Sec. 9.

subsection one of section nine the words (Total or "four pounds" and by inserting in lieu incapacity.) thereof the words "five pounds fifteen shillings'';

(ii)

5

10

15

20

25

30

35

Act No. , 1951.

	Workers' Compensation (Amendment).
	 (ii) by omitting from the same paragraph the words "three pounds" and by inserting in lieu thereof the words "four pounds ten shillings";
5	(iii) by omitting paragraph (b) of the same sub- section and by inserting in lieu thereof the following paragraph:—
	(b) in addition to the compensation Married payable under paragraph (a), a ^{worker} .
10	weekly payment during the incapacity of—
	(i) two pounds per week in respect of the wife of the worker who
15	is totally or mainly dependent on the earnings of the worker at the date of the injury or who
	whether married to the worker at or after such date becomes
	so dependent after such date; and
20	(ii) fifteen shillings per week in respect of:
(Page	(a) each child and stepchild of the worker under the
25	school leaving age; and (b) each child under the
	school leaving age to whom the worker stands in loco parentis,
20	who is totally or mainly dependent on the earnings of
30	the worker at the date of the injury or who whether born
	before or after such date becomes so dependent after
35	such date. Where pursuant to this paragraph
	a weekly payment is made in respect of any person such payment shall be
40	payable only during any period of dependency; (iv)

	,,	
	Workers' Compensation (Amendment).	
	(iv) by omitting paragraph (c) of the same subsection and by inserting in lieu thereof the following paragraph:—	
5	(c) in addition to the compensation pay- able under paragraph (a), a weekly payment during incapacity—	Other dependents of worker.
10	 (i) where no compensation is payable to a worker under subparagraph (i) of paragraph (b), of two pounds per week in respect of one female who is totally some is below to the second seco	- 0)
15	is totally or mainly dependent on the earnings of the worker at the date of the injury or who becomes so dependent after such date; and	61
20	 (ii) where no compensation is payable to a worker under subparagraph (ii) of paragraph (b), of fifteen shillings per week in respect of each brother and sister under the school 	
25	leaving age who is totally or mainly dependent on the earn- ings of the worker at the date of the injury or who whether born before or after such date becomes so dependent after such date.	25
30	Where pursuant to this paragraph a weekly payment is made in respect of any person such payment shall be payable only during any period of dependency.	
35	(v) by inserting next after paragraph (d) of the same subsection the following new paragraph:—	
40	(e) Any payment made by a worker to a female by way of wages for the performance of domestic services by her	·

Act No. , 1951.
Workers' Compensation (Amendment).
her for the worker shall not preclude the female from being totally or mainly dependent on the earnings of the worker for the purposes of sub- paragraph (i) of paragraph (c) of this subsection.
 (vi) by omitting from subsection two of the same section the words "seven pounds" and by inserting in lieu thereof the words "nine pounds";
(vii) by omitting subsection three of the same section;
(viii) by omitting from subsection four of the same section the words "fifty-five shillings" and by inserting in lieu thereof the words "four pounds";
 (ix) by omitting from the same subsection the words "forty shillings" and by inserting in lieu thereof the words "three pounds five shillings";
 (x) by omitting from subsection five of the same section the words "four pounds" and by inserting in lieu thereof the words "six pounds";
 (xi) by omitting from the same subsection the words "three pounds" and by inserting in lieu thereof the words "four pounds ten shillings";
(xii) by inserting in paragraph (a) of subsection

(xii) by inserting in paragraph (a) of subsection six of the same section after the word "age" the words "or any child under the school leaving age to whom the worker stands in loco parentis";

(xiii) by inserting at the end of the same subsection the words:--

to

2

25

30

35

10

5

15

[&]quot;or

⁽c) has for not less than three years immediately before the date of the injury, although not legally married

to the worker, lived with him as his wife on a permanent and bona fide domestic basis."

(2) The amendments made by paragraph (b) of Increased 5 subsection one of this section shall be deemed to extend payments_ to, and from the commencement of this Act, apply in retroactive. respect of all persons in receipt of weekly payments Act No. 40, 1948, s. 2 under the provisions of section nine of the Principal Act (2) (a). and under the provisions of the Workers' Compensation

10 (Silicosis) Act, 1942-1946, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

4. The Principal Act is further amended-

- (a) (i) by omitting from the definition of "Ambu- sec. 10. lance service" in subsection two of section (Medical and ten the words "a medical practitioner or to hospital treatment. a hospital" and by inserting in lieu thereof etc.) the words "or from a medical practitioner or hospital";
 - (ii) by inserting in paragraph (a) of the definition of "Medical treatment" in the same subsection after the word "dentist" the •words "a registered physiotherapist";
 - (iii) by inserting in paragraph (b) of the same definition after the word "members" the words "eyes or teeth and other artificial aids and spectacle glasses";
 - (iv) by inserting at the end of the same definition the words:-
 - "and
 - (d) the cost to the worker of any fares. travelling expenses and maintenance necessarily and reasonably incurred by him in obtaining any medical treatment";
 - (v) by omitting from paragraph (a) of subsection three of the same section the words "eighteen

1926.

Further amendment of Act No. 15,

15

20

25

30

35

:P
"eighteen shillings for each day or part of a day" and by inserting in lieu thereof the words "twenty-five shillings, or such greater sum as may be prescribed, for each day or part of a day unless the Commission upon application made from time to time by or on behalf of the worker directs that the employer shall be liable for a further sum to be specified in the order. In addition to the amounts payable under the foregoing provisions of this paragraph, the employer shall be liable for a sum of two guineas, or such greater sum as may be prescribed, in respect of each treatment which necessitates the use of the hospital theatre, and for a sum of one guinea, or such greater sum as may be prescribed, in respect of any necessary X-ray photograph of the patient taken at the hospital":

- (vi) by omitting from paragraph (b) of the same subsection the words "one guinea" and by inserting in lieu thereof the words "two guineas, or such greater sum as may be prescribed";
- (vii) by omitting from the same paragraph the words "ten shillings and sixpence" and by inserting in lieu thereof the words "one guinea, or such greater sum as may be prescribed";
- (viii) by omitting from paragraph (c) of the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
 - (ix) by omitting from paragraph (b) of subsection four of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
 - (x) by omitting from subsection five of the same section the words "two guineas" and by inserting

25

5

10

15

20

30

35

inserting in lieu thereof the words "twentyfive pounds, or such greater sum as may be prescribed":

(xi) by inserting at the end of the same subsection the words:-

"Any sum for which the employer becomes liable in respect of ambulance service under this subsection may be recovered from the employer by the person rendering the ambulance service or where the ambulance service is rendered by an unincorporated body of persons by the officer thereunto authorised in writing by the governing body of such unincorporated body";

(b) by inserting next after section ten the following New Sec. 10A. new section :---

10A. (1) A worker who has met with an acci- Damages to dent arising out of or in the course of his limbs, etc. employment and has, as a result thereof, sustained damage to his crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, shall be entitled to receive by way of compensation from his employer the reasonable cost of repairing, or, if necessary, replacing the crutches, artificial members, eyes, teeth, artificial aids or spectacle glasses but shall not, in respect of damage resulting from any such accident, be entitled under this section to a sum exceeding twenty-five pounds, or such greater sum as may be prescribed, unless the Commission, upon application made from time to time by or on behalf of the worker, directs that the worker shall be paid a further sum to be specified in the order.

The provisions of subsection three of section seven, and sections forty and fifty-three and Part VIII of this Act shall apply, mutatis mutandis, to any damage sustained by a worker to which this section applies.

artificial

(2)

20

5

10

15

25

30

35

Workers' Compensation (Amendment).	and the second
(2) Nothing in this section shall—	
 (a) affect the liability of an employer under section ten of this Act; 	
(b) entitle a worker to payments under this section as well as under section ten of this Act in respect of the same damage.	
(c) (i) by inserting at the end of subsection one of section eleven the following new para- graphs:—	Sec. 11. (Partial incapacity.)
(b) The amount of the average weekly earnings of a worker as aforesaid shall, in the case of an adult worker in receipt of compensation at the commencement of the Workers' Compensation (Amendment) Act, 1951, or who after such commence- ment receives compensation in respect of an injury which occurred before such commencement, be deemed to be increased as from such commence- ment by the difference between the needs basic wage or the basic wage, as the case may be, applicable at the time of the injury and the basic wage applicable at such commencement, and shall after such commencement be deemed to be increased or reduced from time to time, as the case may be, by the amounts by which and from the dates from which the basic wage applicable at such commencement is subsequently increased or reduced, as the case may be.	
(c) The amount of the average weekly earnings of a worker as aforesaid	
shall, in the case of an adult worker who receives an injury after the commencement of the Workers' Compensation (Amendment) Act, 1951,	

ia

	Workers' Compensation (Amendment).
5	1951, be deemed to be increased or reduced from time to time, as the case may be, by the amounts by which and from the dates from which the basic wage applicable at the time of the injury is subsequently increased or reduced, as the case may be.
	(d) In this subsection:
10	"basic wage" means the basic wage for adult males or adult females, as the case may require referred to in section fourteen of this Act;
15	"needs basic wage" means the needs basic wage referred to in subparagraph (i) or subparagraph (ii), as the case may require, of paragraph (e) of section fourteen of this
20	Act as enacted immediately before the commencement of the Workers' Compensation (Amendment) Act, 1951, together with the fixed loading
25	referred to therein.
	(ii) by omitting subsections two and three of the same section and by inserting in lieu thereof the following subsection:—
30	(2) An employer shall provide suitable employment for his injured worker during the worker's partial incapacity for his pre-injury employment.
	Upon any failure by such employer to provide suitable employment as aforesaid

the worker's incapacity for work shall be deemed to be total, and he shall be

compensated accordingly.

(d)

	Workers' Compensation (Amendment).	
5	 (d) by inserting in section thirteen after the word "benefit" the words "(other than any payment, allowance, or benefit from a superannuation or similar fund to which the worker has contributed)"; 	worker.)
	 (e) (i) by omitting from paragraph (e) of section fourteen all words after the words "time of the injury"; (ii) by insecting part of the theorem is a section of the sec	Sec. 14. – (Computa- tion of average weekly
10	 (ii) by inserting next after the same paragraph the following new paragraph:— (e1) Notwithstanding the foregoing provisions of this section, the average 	earnings.)
	weekly earnings of a worker shall— (i) in the case of an adult worker	
15	be deemed to be not less than the full wage for a full normal working week of that worker or the basic wage, whichever is	
20	the greater; and (ii) in the case of any worker other than an adult worker be not less than the full wage for a full normal working week of	
25	 (iii) by inserting at the end of the same section the following new subsection : (2) In this section "basic wage" means : 	
	(a) in the case of an adult male worker, the basic wage for adult males	
30	assessed on the index number for Sydney contained in the Retail Price Index Numbers published from time to time by or by the	
35	direction of the Commonwealth Court of Conciliation and Arbitra- tion;	
40	(b) in the case of an adult female worker, seventy-five per centum of the basic wage for adult males as defined in paragraph (a) of this definition, (f)	

- (f) (i) by omitting from subsection one of section sec. 16. sixteen the words "when the injury results (Compensation for certain
 - (ii) by omitting subsection six of the same section;
 - (iii) by omitting the Table set forth at the end of the same section and by inserting in lieu thereof the following Table:—

TABLE.

Nature of injury.	Ато paya		
	£	s.	d.
Loss of either arm, or of the greater			
part thereof	1,450	0	0
Loss of lower part of either arm,	1 Acres		
either hand, or five fingers of	1		
either hand	1,250	0	0
Loss of a leg	1,350		
Loss of the lower part of a leg	1,150		0
Loss of a foot	1,100	0	0
Loss of sight of one eye, with serious	1		
diminution of the sight of the	114		
other	1,350	0	0
*Loss of sight of one eye	750	0	0
Loss of hearing	1,100	0	0
Complete deafness of one ear	500	0	0
Loss of a thumb	500	0	0
Loss of a forefinger	350	0	0
Loss of joint of a thumb	300	0	0
Loss of little finger, middle finger			
or ring finger	200	0	0
Loss of a toe or the joint of a finger	150	0	0
Loss of a joint of a toe	100	0	0
Loss of great toe	350	0	0
Loss of joint of forefinger or of joint			
of great toe	200	0	0

* For the partial loss of sight of one eye there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

10

5

15

20

25

30

mpensation (Amendment). Dal Act is further amended— in paragraph (a) of subsection two cafter the word ''injury'' the words loyer having been a self-insurer at he happening of the worker's injury o undertake liability to pay compen- s own workers and has withdrawn e with the provisions of this Act the ged by him with the Colonial next after section twenty-five the w section:— by self-insurer who has deposited assurer a sum of money under this ased either before or after the ent of the Workers' Compensation t) Act, 1951, to undertake the	(Uninsured liability scheme.) New sec. 25A. Return of deposits to self-
in paragraph (a) of subsection two cafter the word "injury" the words loyer having been a self-insurer at he happening of the worker's injury o undertake liability to pay compen- s own workers and has withdrawn e with the provisions of this Act the ged by him with the Colonial next after section twenty-five the w section:— by self-insurer who has deposited easurer a sum of money under this ased either before or after the out of the Workers' Compensation	amend- ment of Act No. 15, 1926. Sec. 18c. (Uninsured liability scheme.) New sec. 25A. Return of deposits to self-
c after the word "injury" the words loyer having been a self-insurer at he happening of the worker's injury o undertake liability to pay compen- s own workers and has withdrawn e with the provisions of this Act the ged by him with the Colonial next after section twenty-five the w section:— by self-insurer who has deposited easurer a sum of money under this ased either before or after the out of the Workers' Compensation	(Uninsured liability scheme.) New sec. 25A. Return of deposits to self-
o undertake liability to pay compen- s own workers and has withdrawn e with the provisions of this Act the ged by him with the Colonial next after section twenty-five the w section:	25A. Return of deposits to self-
w section:— y self-insurer who has deposited asurer a sum of money under this ased either before or after the ent of the Workers' Compensation	25A. Return of deposits to self-
easurer a sum of money under this ased either before or after the ent of the Workers' Compensation	deposits to self-
ay compensation under this Act to	
ice on the Colonial Treasurer of a ce in writing duly signed by or on alf of the self-insurer stating that	
liability to pay compensation under Act to the workers employed by	
all the liabilities of the self-insurer er this Act in respect of workers loyed by it or him while a self-	
he the words "One of such persons	(Appoint-
	oloyed by him, the self-insurer may e sum so deposited— he expiration of three months after rice on the Colonial Treasurer of a ce in writing duly signed by or on alf of the self-insurer stating that self-insurer has ceased to undertake liability to pay compensation under Act to the workers employed by ; and satisfying the Colonial Treasurer call the liabilities of the self-insurer er this Act in respect of workers loyed by it or him while a self- irer are fully liquidated or provided ing from subsection one of section he the words "One of such persons by his commission appointed

chairman'' and by inserting in lieu thereof the words "The Governor may appoint one of such persons as chairman";

- (ii) by inserting in paragraph (a) of subsection three of the same section after the word "member" the words "other than the Chairman";
- (iii) by inserting at the end of the same paragraph the words "The Chairman of the Commission shall, subject to this section, hold his office during ability and good behaviour, shall have the same rank, title, status and precedence, and the same salary, pension and other rights as the Chairman of the District Court Judges, and shall be removable from office in the same manner only as a District Court Judge is by law liable to be removed from his office."
- (d) by inserting at the end of section thirty-four the sec. 34. following new subsection:— (Summ

(Summoning witnesses, etc.).

18

(2) In addition to the powers conferred by etc.). subsection one of this section the Commission, for the purpose of conducting any inquiry, investigation or hearing under this Act, shall have all such powers, rights and privileges as are vested in a District Court or any judge thereof in or in relation to any action or trial, in respect of the following matters:—

(a) compelling the attendance of witnesses;

- (b) compelling witnesses to answer questions which the Commission deems to be relevant to the inquiry, investigation or hearing;
- (c) compelling the production of books, documents and writings;
- (d) punishing persons guilty of disobedience of any order or summons
 made or issued by the Commission.

(0)

20

15

5

10

25

30

35

-

S.C.

Act No. 1951

	100 110. , 1001.	10
	Workers' Compensation (Amendment).	
	 (e) (i) by omitting paragraph (c) of section thirty-eight; (ii) by inserting in paragraph (g) of the same 	(Proceed-
5	 section after the word "just" the words "to the extent of the fees and costs actually incurred by the applicant"; (iii) by inserting at the end of the same para- graph the following words— 	ē
10	"Provided that any such order or assessment shall not exceed the fees and costs provided by the highest scale applicable to proceedings in the Supreme Court of New South Wales in its common law jurisdiction.	10
15	The amount of costs shall in respect of the attendance of any medical witness be the actual cost of such attendance to the party calling the witness, or calculated	15
20	according to the scale of costs applicable to proceedings in the Supreme Court of New South Wales in its common law jurisdiction, whichever is the less. The Commission shall not order the pay-	99
25	 ment of costs by an applicant for compensation unless it is satisfied that such application has been made fraudulently." (f) (i) by omitting from subsection one of section forty-seven the words "but any such worker shall not, save to the extent indicated in 	Sec. 47. (Workers of Crown.)
30	 subsection two of this section, be entitled to receive compensation or benefits under this Act as well as benefits under any other Act''; (ii) by omitting subsections two and three of 	05.
35	 the same section; (g) by inserting at the end of section fifty-one the following new subsection:— (11) Where a worker is required by an employer to submit himself for examination 	Sec. 51. (Medical inspection.)
. 40	pursuant to this section he shall be entitled to recover	

recover from the employer, in addition to any compensation otherwise provided, the amount of any wages lost by him by reason of his so submitting himself for examination together with the cost to him of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in so submitting himself.

(h) by inserting in subsection one of section fifty- Sec. 53. three after the words "occasioned by" wherever (Time for taking occurring the word "ignorance";

proceedings.)

- (i) by omitting from subsection two of section sixty Sec. 60. the word "before" and by inserting in lieu (Review.) thereof the words "the application for the review is made before or within six months after";
- (j) (i) by inserting in paragraph (a) of subsection Sec. 63A. three of section 63A after the words "class (Notice of election.) of cases" the words "or by a law clerk of the applicant's solicitor authorised in writing in that behalf by the registrar of the Commission, either generally or for any particular case or class of cases";
 - (ii) by inserting in the same paragraph after the words "clerk of petty sessions" where secondly occurring the words "law clerk";
- (k) by inserting in subsection one of section sixty- sec. 66. six after the word "regulations" where firstly (Regulations occurring the words "not inconsistent with this and rules.) Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed."

(2) The amendments made by subparagraphs (ii) 35 and (iii) of paragraph (c) of subsection one of this section shall be deemed to have commenced upon the twentieth day of May, one thousand nine hundred and fifty.

6.

10

5

20

15

25

30

Act No. , 1951.

Workers' Compensation (Amendment).

6. Any policy of insurance against liability under the Subsisting Workers' Compensation Act, 1926, or any amendment of policies. that Act, being maintained in force at the commencement of Act No. 40, of this Act shall be deemed to insure the employer and (2) (b). 5 always to have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Workers' Compensation Act, 1926, as amended by subsequent Acts, made by this Act. Where a person is 10 in receipt of compensation at the commencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

Sydney: A. H. Pettifer, Government Printer-1351 [28.]

it. Any policy of insperior against liability multi the Salating that We being maintained in Parqui the consteacement a abary to have instruct the combary stainst any 10 in receipt of compensation of the commencement of this such meaning shall be habled to pay any additional

1.1.19





No. , 1951.

A BILL

To increase the amounts payable by way of compensation under the Workers' Compensation Act, 1926, and the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts; for this and other purposes to amend the said Acts; and for purposes connected therewith.

[Mr. FINNAN;-12 June, 1951.]

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 New South Wales in Parliament assembled, and by the authority of 5 the same, as follows:—

1. (1) This Act may be cited as the "Workers' Com- short title pensation (Amendment) Act, 1951."

and citation. (2)

80889 123-

(2) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act,5 may be cited as the Workers' Compensation Act, 1926-1951.

2. The Principal Act is amended—

Amendment of Act No. 15, 1926.

- (a) (i) by inserting in subsection one of section six sec. 6. in the definition of "Dependants" after the (Definiwords "to the worker" the words "and also includes a woman so dependent who for not less than three years immediately before the worker's death, although not legally married to him, lived with him as his wife on a permanent and bona fide domestic basis";
 - (ii) by inserting in the same subsection next after the definition of "Place of Employment" the following new definition:—

"Prescribed" means prescribed by this Act or by the regulations made thereunder.

- (iii) by inserting in paragraph (a) of subsection five of the same section after the word "worker" where firstly occurring the words "or although either subletting part of the work or employing a worker actually performs some part of the work himself";
- (iv) by inserting next after subsection (14A) of the same section the following new subsections:—

(14B) Where any person is ordinarily engaged in any employment in connection with which persons customarily attend certain prearranged places (in this Act called "places of pick-up") at which employers select and engage persons for employment,

10

15

20

25



employment, any such person shall be deemed, while in attendance at any such place of pick-up before being so selected, or while travelling thereto from his place of abode, to be a worker employed by the employer who last employed him in his customary employment.

(14c) A person engaged for fee or reward to take part-

- (a) as a boxer or wrestler in any public boxing or wrestling contest in a stadium or place to which the public is admitted on payment of a fee or charge; or
- (b) as an entertainer in any public performance in a place of public entertainment to which the public is admitted on payment of a fee or charge,
- shall be deemed to be a worker employed by the person conducting or holding such contest or public performance.
- (b) (i) by omitting from paragraph (b) of sub-sec. 7. section one of section seven the words "own (Liability default or wilful act" and by inserting in of employers lieu thereof the words "serious and wilful for injuries.) misconduct";

- (ii) by inserting in the same paragraph after the word "subsection" the words "or on any of the other journeys referred to in paragraph (d) of this subsection;
- (iii) by inserting in subparagraph (i) of the same paragraph after the word "school" the words "place of pick-up, or place referred to in subparagraph (i) of paragraph (d) of this subsection'';

in love plined to

(iv)

10

5

4

15

20

25

30

(iv) by inserting at the end of the same paragraph the words4

"An interruption of or deviation from any journey shall not be deemed to be substantial if, in the circumstances of the particular case, the nature, extent, degree and content of the risk of injury was not materially changed or increased by reason only of any such interruption or deviation";

- (v) by inserting at the end of the same subsection the following new paragraphs:—
 - (d) The other journeys referred to in paragraph (b) of this subsection shall be—
 - (i) between the worker's place of abode or place of employment and any other place, where the journey is made for the purpose of obtaining a medical certificate or receiving medical, surgical or hospital advice, attention or treatment or of receiving payment of compensation in connection with any injury for which the worker is entitled to receive compensation;
 - (ii) between any camp or place, where the worker is required by the terms of his employment, or is expected by his employer, to reside temporarily or where it is reasonably necessary or convenient that he shall temporarily reside for any purpose of his employment, and the worker's place of abode when not so residing; (iii)

30

35

10

15

20

25

	ACT NO. , 1301.
	Workers' Compensation (Amendment).
and in the	(iii) between the worker's place of abode and a place of pick-up.
5	(e) Where a worker on any day on which he has attended at his place of employment pursuant to his contract
	of service-or apprenticeship— (i) is temporarily absent there- from on that day during any
	ordinary recess; and
10	(ii) does not during such absence voluntarily subject himself to any abnormal risk of injury;
	and
15	(iii) during such absence receives an injury without his serious and wilful misconduct,
	the worker (and in the case of the death of the worker, his dependants) shall receive compensation from the
20	employer in accordance with this Act.
	(vi) by inserting next after subsection two of the same section the following new sub- section:
25	(2A) Compensation shall be payable in Dawkins respect of an injury which, but for existing ^v , Metropoli- incapacity, would have resulted in total or ^{co. Ltd.} partial incapacity of the worker. Such (1947) 75 compensation shall be payable as if such total or partial incapacity had in 'fact
30	resulted from the injury.
	"Existing incapacity" means total incapacity by disease or otherwise—
35	 (a) not entitling the worker to compensation under this Act; (b) witting at the time when the
percivit borupe direct	(b) existing at the time when the total or partial incapacity would otherwise have resulted from the injury.
inter -	3.

.

4

*

.

1,000

	Wo	rkers' Compensation (Amendment).	
	3. (1) T	he Principal Act is further amended—	Further amendment of Act No. 15, 1926.
5	(a) (i)	by omitting from paragraph (a) of subsection one of section eight the words "five hundred pounds" and by inserting in lieu thereof the words "eight hundred pounds";	(Compensa-
10	(ii)	by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "two thousand pounds";	16
	(iii)	by inserting in the same paragraph after the word "shall" where first occurring the word "not";	15
15	(iv)	by omitting from the same paragraph the words "but no such deduction shall be made so as to reduce the amount payable in respect of the dependants of the worker under this subsection below three hundred pounds";	720
20	(v)	by omitting from paragraph (b) of the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "seventy- five pounds";	25
25	(vi)	by omitting from subsection three of the same section the words "five hundred pounds" and by inserting in lieu thereof the words "eight hundred pounds";	
30	(vii)	by omitting from subsection four of the same section the words "thirty pounds" and by inserting in lieu thereof the words "sixty pounds";	
35	(b) (i)	by omitting from paragraph (a) of subsection one of section nine the words "four pounds" and by inserting in lieu thereof the words "five pounds fifteen shillings";	(Total or
	- 1.36	(ii)	

tiper protection of		
	Workers' Compensation (Amendment).	
	 (ii) by omitting from the same paragraph the words "three pounds" and by inserting in lieu thereof the words "four pounds ten shillings"; 	
5	 (iii) by omitting paragraph (b) of the same subsection and by inserting in lieu thereof the following paragraph:— (b) in addition to the compensation payable under paragraph (a), a 	Married worker.
10	 weekly payment during the incapacity of— (i) two pounds per week in respect of the wife of the worker who 	
15	is totally or mainly dependent on the earnings of the worker at the date of the injury or who whether married to the worker at or after such date becomes so dependent after such date;	
20	and (ii) fifteen shillings per week in respect of: (a) each child and stepchild of the worker under the	
25	school leaving age; and (b) each child under the school leaving age to whom the worker stands in loco parentis,	
30	who is totally or mainly dependent on the earnings of the worker at the date of the injury or who whether born before or after such date becomes so dependent after	
35	such date. Where pursuant to this paragraph a weekly payment is made in respect of any person such payment shall be payable only during any period of	
40	dependency; (iv)	

-			
- 4	Workers	Compensation (Amendment).	
	the	omitting paragraph (c) of the same section and by inserting in lieu thereof following paragraph:—	
	Site and	c) in addition to the compensation pay- able under paragraph (a), a weekly payment during incapacity-	Other dependents of worker.
Martied.	1.	(i) where no compensation is pay- able to a worker under sub-	
		paragraph (i) of paragraph (b), of two pounds per week	
	Norteer a	in respect of one female who is totally or mainly dependent	
	Kindhampi Lathanic m	on the earnings of the worker at the date of the injury or who becomes so dependent	
		after such date; and (ii) where no compensation is pay-	
// `		able to a worker under sub- paragraph (ii) of paragraph (b), of fifteen shillings per	
	ti doow W	week in respect of each brother and sister under the school	
		leaving age who is totally or mainly dependent on the earn- ings of the worker at the date	
		of the injury or who whether born before or after such date becomes so dependent after	
1.3	hunnir ''	such date. Where pursuant to this paragraph	
		a weekly payment is made in respect of any person such payment shall be payable only during any period of dependency.	
	(v) by ir	serting next after paragraph (d) of	

(v) by inserting next after paragraph (d) of the same subsection the following new paragraph :---

(e) Any payment made by a worker to a female by way of wages for the performance of domestic services by her

Workers' Compensation (Amendment). her for the worker shall not preclude the female from being totally or mainly dependent on the earnings of the worker for the purposes of subparagraph (i) of paragraph (c) of this subsection. (vi) by omitting from subsection two of the same section the words "seven pounds" and by inserting in lieu thereof the words "nine pounds"; (vii) by omitting subsection three of the same section: (viii) by omitting from subsection four of the same section the words "fifty-five shillings" and by inserting in lieu thereof the words "four pounds"; (ix) by omitting from the same subsection the words "forty shillings" and by inserting in lieu thereof the words "three pounds five shillings"; (x) by omitting from subsection five of the same section the words "four pounds" and by inserting in lieu thereof the words "six pounds"; (xi) by omitting from the same subsection the words "three pounds" and by inserting in lieu thereof the words "four pounds ten shillings"; (xii) by inserting in paragraph (a) of subsection six of the same section after the word "age" the words "or any child under the school leaving age to whom the worker stands in loco parentis"; (xiii) by inserting at the end of the same subsection the words :-

"or

ghteen

(c) has for not less than three years immediately before the date of the injury, although not legally married

to

10

5

15

20

25

30

35

to the worker, lived with him as his wife on a permanent and bona fide domestic basis."

(2) The amendments made by paragraph (b) of Increased 5 subsection one of this section shall be deemed to extend paymentsto, and from the commencement of this Act, apply in retroactive. respect of all persons in receipt of weekly payments Act No. 40, 1948. s. 2 under the provisions of section nine of the Principal Act (2) (a). and under the provisions of the Workers' Compensation 10 (Silicosis) Act, 1942-1946, as well as to all persons becom-

ing entitled to weekly payments under any of such provisions after such commencement.

4. The Principal Act is further amended—

- (a) (i) by omitting from the definition of "Ambu- sec. 10. lance service" in subsection two of section (Medical and ten the words "a medical practitioner or to hospital treatment, a hospital" and by inserting in lieu thereof etc.) the words "or from a medical practitioner or hospital";
 - (ii) by inserting in paragraph (a) of the definition of "Medical treatment" in the same subsection after the word "dentist" the words "a registered physiotherapist";

(iii) by inserting in paragraph (b) of the same definition after the word "members" the words "eyes or teeth and other artificial aids and spectacle glasses";

- (iv) by inserting at the end of the same definition the words:-
 - "and
 - (d) the cost to the worker of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in obtaining any medical treatment";

(v) by omitting from paragraph (a) of subsection three of the same section the words "eighteen 三天の日

No. 15, 1926.

Further amendment

of Act

10

20

15

25

30

"eighteen shillings for each day or part of a day" and by inserting in lieu thereof the words "twenty-five shillings, or such greater sum as may be prescribed, for each day or part of a day unless the Commission upon application made from time to time by or on behalf of the worker directs that the employer shall be liable for a further sum to be specified in the order. In addition to the amounts payable under the foregoing provisions of this paragraph, the employer shall be liable for a sum of two guineas, or such greater sum as may be prescribed, in respect of each treatment which necessitates the use of the hospital theatre, and for a sum of one guinea, or such greater sum as may be prescribed. in respect of any necessary X-ray photograph of the patient taken at the hospital";

- (vi) by omitting from paragraph (b) of the same subsection the words "one guinea" and by inserting in lieu thereof the words "two guineas, or such greater sum as may be prescribed";
- (vii) by omitting from the same paragraph the words "ten shillings and sixpence" and by inserting in lieu thereof the words "one guinea, or such greater sum as may be prescribed";
- (viii) by omitting from paragraph (c) of the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
 - (ix) by omitting from paragraph (b) of subsection four of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";

(x) by omitting from subsection five of the same section the words "two guineas" and by inserting

10

5

15

20

aler.

30

25

35

inserting in lieu thereof the words "twentyfive pounds, or such greater sum as may be prescribed":

(xi) by inserting at the end of the same subsection the words:-

> "Any sum for which the employer becomes liable in respect of ambulance service under this subsection may be recovered from the employer by the person rendering the ambulance service or where the ambulance service is rendered by an unincorporated body of persons by the officer thereunto authorised in writing by the governing body of such unincorporated body";

(b) by inserting next after section ten the following New Sec. 10_{A} . new section :---

10A. (1) A worker who has met with an acci- Damages to dent arising out of or in the course of his limbs, etc. employment and has, as a result thereof, sustained damage to his crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, shall be entitled to receive by way of compensation from his employer the reasonable cost of repairing, or, if necessary, replacing the crutches, artificial members, eyes, teeth, artificial aids or spectacle glasses but shall not, in respect of damage resulting from any such accident, be entitled under this section to a sum exceeding twenty-five pounds, or such greater sum as may be prescribed, unless the Commission, upon application made from time to time by or on behalf of the worker, directs that the worker shall be paid a further sum to be specified in the order.

The provisions of subsection three of section seven, and sections forty and fifty-three and Part VIII of this Act shall apply, mutatis mutandis, to any damage sustained by a worker to which this section applies.

(2)

10

5

15

25

20

30

35

	Workers' Compensation (Amendment).	
	(2) Nothing in this section shall—	
	(a) affect the liability of an employer under section ten of this Act;	
5	(b) entitle a worker to payments under this section as well as under section ten of this Act in respect of the same damage.	
	(c) (i) by inserting at the end of subsection one of sec section eleven the following new para- (Pa graphs:	
10	(b) The amount of the average weekly earnings of a worker as aforesaid shall, in the case of an adult worker in receipt of compensation at the	
15	commencement of the Workers' Compensation (Amendment) Act, 1951, or who after such commence- ment receives compensation in respect of an injury which occurred before	
20	such commencement, be deemed to be increased as from such commence- ment by the difference between the needs basic wage or the basic wage, as the case may be, applicable at the	
25	• time of the injury and the basic wage applicable at such commencement, and shall after such commencement be deemed to be increased or reduced from time to time, as the case may be by the amounts by which and from	
30	be, by the amounts by which and from the dates from which the basic wage applicable at such commencement is subsequently increased or reduced, as the case may be.	
35	(c) The amount of the average weekly earnings of a worker as aforesaid shall, in the case of an adult worker who receives an injury after the commencement of the Workers' Compensation (Amendment) Act,	

1951,

-?

1951, be deemed to be increased or reduced from time to time, as the case may be, by the amounts by which and from the dates from which the basic wage applicable at the time of the injury is subsequently increased or reduced, as the case may be.

(d) In this subsection:-

"basic wage" means the basic wage for adult males or adult females, as the case may require referred to in section fourteen of this Act;

"needs basic wage" means the needs basic wage referred to subparagraph in (i) or subparagraph (ii), as the case may require, of paragraph (e) of section fourteen of this Act as enacted immediately before the commencement of the Workers' Compensation (Amendment) Act. 1951. together with the fixed loading referred to therein.

 (ii) by omitting subsections two and three of the same section and by inserting in lieu thereof the following subsection:—

(2) An employer shall provide suitable employment for his injured worker during the worker's partial incapacity for his pre-injury employment.

Upon any failure by such employer to provide suitable employment as aforesaid the worker's incapacity for work shall be deemed to be total, and he shall be compensated accordingly.

(d)

25

20

81.

5

10

15

30

Workers' Compensation (Amendment). (d) by inserting in section thirteen after the word Sec. 13. "benefit" the words "(other than any payment, (Allowance received by

- allowance, or benefit from a superannuation or worker.) similar fund to which the worker has contributed)";
- (e) (i) by omitting from paragraph (e) of section Sec. 14. fourteen all words after the words "time of tion of the injury";

the following new paragraph:-

(e1) Notwithstanding

(Computaaverage weekly (ii) by inserting next after the same paragraph earnings.)

foregoing

10

5

1) [PM 4

provisions of this section, the average weekly earnings of a worker shall-

15

20

25

30

35

40

the greater; and (ii) in the case of any worker other than an adult worker be not less than the full wage for a full normal working week of that worker.

the

the full wage for a full normal working week of that worker or the basic wage, whichever is

(i) in the case of an adult worker be deemed to be not less than

(iii) by inserting at the end of the same section the following new subsection :---

(2) In this section "basic wage" means :--

(a) in the case of an adult male worker. the basic wage for adult males assessed on the index number for Sydney contained in the Retail Price Index Numbers published from time to time by or by the direction of the Commonwealth Court of Conciliation and Arbitration;

(b) in the case of an adult female worker, seventy-five per centum of the basic wage for adult males as defined in paragraph (a) of this definition. (f)

- (f) (i) by omitting from subsection one of section Sec. 16. sixteen the words "when the injury results (Compensation for certain injuries.)
 - (ii) by omitting subsection six of the same section;
 - (iii) by omitting the Table set forth at the end of the same section and by inserting in lieu thereof the following Table:—

TABLE.

Nature of injury.	Amo paya		
	£	s.	d
Loss of either arm, or of the greater			
part thereof	1,450	0	(
Loss of lower part of either arm,			
either hand, or five fingers of			
either hand	1,250	0	(
Loss of a leg	1,350	0	(
Loss of the lower part of a leg	1,150	0	(
Loss of a foot	1,100	0	(
Loss of sight of one eye, with serious			
diminution of the sight of the			
other	1,350	0	1
*Loss of sight of one eye	750	0	(
Loss of hearing	1,100	0	(
Complete deafness of one ear	500	0	
Loss of a thumb	500	0	(
Loss of a forefinger	350	0	(
Loss of joint of a thumb	300	0	(
Loss of little finger, middle finger			
or ring finger	200	0	(
Loss of a toe or the joint of a finger	150	0	(
Loss of a joint of a toe	100	0	(
Loss of great toe	350	0	(
Loss of joint of forefinger or of joint			
of great toe	200	0	(

* For the partial loss of sight of one eye there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

15

10

5

1

20

25

30

35

5.

5. (1) The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

(a) by inserting in paragraph (a) of subsection two Sec. 18c. of section 18c after the word "injury" the words (Uninsured liability "or the employer having been a self-insurer at scheme.) the time of the happening of the worker's injury has ceased to undertake liability to pay compensation to his own workers and has withdrawn in accordance with the provisions of this Act the deposit lodged by him with the Colonial Treasurer'':

(b) by inserting next after section twenty-five the New sec. following new section :---

25A. If any self-insurer who has deposited Return of with the Treasurer a sum of money under this to self-Act has ceased either before or after the insurers. commencement of the Workers' Compensation (Amendment) Act, 1951, to undertake the liability to pay compensation under this Act to workers employed by him, the self-insurer may withdraw the sum so deposited-

- (a) on the expiration of three months after service on the Colonial Treasurer of a notice in writing duly signed by or on behalf of the self-insurer stating that the self-insurer has ceased to undertake the liability to pay compensation under this Act to the workers employed by him; and
- (b) on satisfying the Colonial Treasurer that all the liabilities of the self-insurer under this Act in respect of workers employed by it or him while a selfinsurer are fully liquidated or provided for.
- (c) (i) by omitting from subsection one of section Sec. 31. thirty-one the words "One of such persons (Appointshall be by his commission appointed ment of Commission.) chairman" 123-B

deposits

10

5

20

15

25

1

30

chairman'' and by inserting in lieu thereof the words "The Governor may appoint one of such persons as chairman'';

- (ii) by inserting in paragraph (a) of subsection three of the same section after the word "member" the words "other than the Chairman";
- (iii) by inserting at the end of the same paragraph the words "The Chairman of the Commission shall, subject to this section, hold his office during ability and good behaviour, shall have the same rank, title, status and precedence, and the same salary, pension and other rights as the Chairman of the District Court Judges, and shall be removable from office in the same manner only as a District Court Judge is by law liable to be removed from his office."

(d) by inserting at the end of section thirty-four the sec. 34. following new subsection:— (Summe

(Summoning witnesses, etc.).

(e)

(2) In addition to the powers conferred by etc.). subsection one of this section the Commission, for the purpose of conducting any inquiry, investigation or hearing under this Act, shall have all such powers, rights and privileges as are vested in a District Court or any judge thereof in or in relation to any action or trial, in respect of the following matters:—

(a) compelling the attendance of witnesses;

- (b) compelling witnesses to answer questions which the Commission deems to be relevant to the inquiry, investigation or hearing;
- (c) compelling the production of books, documents and writings:
- (d) punishing persons guilty of disobedience of any order or summons made or issued by the Commission.

15

10

5

20

25

30

-	Workers' Compensation (Amendment).	
l	(e) (i) by omitting paragraph (c) of section thirty-eight;	Sec. 38. (Proceed- ings of
5	 (ii) by inserting in paragraph (g) of the same section after the word "just" the following words "to the extent of the fees and costs 	Commission.)
	actually incurred by the applicant''; and by inserting at the end of such paragraph the following words "provided that any such order or assessment shall not exceed the	
10	fees and costs provided by the highest scale applicable to proceedings in the Supreme Court of New South Wales in its common	IU
15	law jurisdiction. The amount of costs shall in respect of the attendance of any medical witness be the actual cost of such attendance to the party calling the witness, or calcu-	15
20	lated according to the scale of costs applicable to proceedings in the Supreme Court of New South Wales in its common law jurisdiction, whichever is the less. The	
	Commission shall not order the payment of costs by an applicant for compensation unless it is satisfied that such application has been made fraudulently."	
25	(f) (i) by omitting from subsection one of section forty-seven the words "but any such worker shall not, save to the extent indicated in subsection two of this section, be entitled to receive compensation or benefits under this	(Workers of Crown.)
30	Act as well as benefits under any other Act"; (ii) by omitting subsections two and three of	
;	the same section; (g) by inserting at the end of section fifty-one the	
35	following new subsection:	(Medical inspection.)

compensation otherwise provided, the amount of any wages lost by him by reason of his so submitting himself for examination together with the cost to him of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in so submitting himself.

- (h) by inserting in subsection one of section fifty- Sec. 53. three after the words "occasioned by" wherever (Time for occurring the word "ignorance"; proceed-ings.)
- (i) by omitting from subsection two of section sixty Sec. 60. the word "before" and by inserting in lieu (Review.) thereof the words "the application for the review is made before or within six months after";
- (j) (i) by inserting in paragraph (a) of subsection Sec. 63A. three of section 63A after the words "class (Notice of election.) of cases" the words "or by a law clerk of the applicant's solicitor authorised in writing in that behalf by the registrar of the Commission, either generally or for any particular case or class of cases";
 - (ii) by inserting in the same paragraph after the words "clerk of petty sessions" where secondly occurring the words "law clerk";
- (k) by inserting in subsection one of section sixty- Sec. 66. six after the word "regulations" where firstly (Regulations occurring the words "not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed.

(2) The amendment made by subparagraphs (ii) and (iii) of paragraph (c) of subsection one of this 35 section shall be deemed to have commenced upon the twentieth day of May, one thousand nine hundred and fifty. 6.

and rules.)

10

5

6t

20

15

25

30

6. Any policy of insurance against liability under the Subsisting Workers' Compensation Act, 1926, or any amendment of policies. that Act, being maintained in force at the commencement Act No. 40, 1948, s. 2 of this Act shall be deemed to insure the employer and (2) (b).

5 always to have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Workers' Compensation Act, 1926, as amended by subsequent Acts, made by this Act. Where a person is 10 in receipt of compensation at the commencement of this

Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

Sydney: A. H. Pettifer, Government Printer-1951.

[28.]

.1681 . .07. 197.

Workers' (Sommensation (Amendment).

(i. Any policy of insurance against liability under the Workers' Compensation det 1926, or any moudment of that Act, being montained in force at the continement of a single this Act shall be deduced to insure the employer and additional liability to which he naw became liable during the currency of the poly power any aneutheet the the currency of the subsequent of the currency of the poly power any aneutheet the subsequent of the currency of the poly power any aneutheet the subsequent of this subsequent of the subsequent of this het. Where a person is atch insure that the subsequent of this atch is possible by an insure such as the subsequent of this atch is possible by an insure such and the subsequent of the subsequen



