

New Zealand



Title.

ANALYSIS

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| <ol style="list-style-type: none"> 1. Short Title and commencement. 2. Application of this Act. 3. Extension of definition of term "worker". 4. Application of principal Act to industrial life assurance agents. | <ol style="list-style-type: none"> 5. Workers employed under illegal contracts. 6. Weekly payments of compensation not to be discontinued except in accordance with this section. Repeal. |
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1945, No. 19

AN ACT to amend the Workers' Compensation Act, 1922. Title.
[7th December, 1945

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the Workers' Compensation Amendment Act, 1945, and shall be read together with and deemed part of the Workers' Compensation Act, 1922 (hereinafter referred to as the principal Act).

Short Title and commencement.

See Reprint of Statutes, Vol. V, p. 597

(2) This Act shall come into force on the first day of January, nineteen hundred and forty-six.

2. Nothing in this Act shall apply with respect to claims for compensation or other rights or liabilities in respect of accidents happening before the commencement of this Act.

Application of this Act.

Extension of
definition of
term "worker".

3. The definition of the term "worker" in section two of the principal Act is hereby amended by omitting the words "but does not include any person employed otherwise than by way of manual labour whose remuneration exceeds four hundred pounds a year".

Application of
principal Act
to industrial
life assurance
agents.

Cf. 1944,
No. 25, s. 34

4. For the purposes of the principal Act, every person who is wholly or mainly engaged in procuring proposals or contracts of industrial life assurance or in collecting industrial life assurance premiums for any person, firm, company, society, association, or corporation carrying on industrial life assurance business and is remunerated wholly or partly by fees or commission shall be deemed to be a worker employed by that person, firm, company, society, association, or corporation, whether or not the relation between them is that of master and servant.

Workers
employed under
illegal
contracts.

Cf. *Workmen's
Compensation
Act, 1925* (15
& 16, Geo. V,
c. 84), s. 3
(3) (Imp.);
see *Halsbury's
Statutes of
England*,
Vol. XI, p. 526

5. If on any proceedings for the recovery of compensation under the principal Act it appears to the Judge, Magistrate, or other person by whom the claim for compensation is to be settled that the contract of service or apprenticeship under which the injured person was working at the time when the accident causing the injury happened was illegal, he may, if, having regard to all the circumstances of the case, he thinks proper so to do, deal with the matter as if the injured person had at the time aforesaid been a person working under a valid contract of service or apprenticeship.

Weekly
payments of
compensation
not to be
discontinued
except in
accordance
with this
section.

6. (1) Subject to subsections seven and eight of section five and to section fifty-seven of the principal Act, the weekly payments of compensation payable to any worker under the principal Act shall not be ended or diminished except in the following cases:—

- (a) Where the weekly payment is in respect of total disablement and the worker has actually returned to work; or
- (b) By agreement with the worker; or
- (c) With the leave of the Compensation Court or of a Magistrate granted under this section; or
- (d) By judgment or order of a Court of competent jurisdiction.

(2) Upon an application in that behalf made after a registered medical practitioner has certified, after examining the worker, that he is wholly or partially recovered, or that any incapacity from which he suffers is not due in whole or in part to the accident, the Compensation Court or a Magistrate may, in its or his discretion, grant leave to end or diminish the weekly payments of compensation. The fact that any application for leave under this subsection is granted or refused or that the worker has agreed to the ending or diminishing of the weekly payments shall not be taken into account by the Compensation Court in determining in any proceedings whether or not the worker is entitled to compensation.

(3) Upon an application in that behalf the Compensation Court may, in its discretion, grant leave to end the weekly payments of compensation upon payment of such lump sum as the Court fixes in accordance with subsection three of section five of the principal Act after taking into account the weekly payments previously made. The fact that any application for leave under this subsection is granted or that a lump sum is paid accordingly shall not be deemed to constitute a recovery of judgment for compensation within the meaning of subsection four of section forty-nine of the principal Act.

(4) If any employer ends or diminishes, in contravention of this section, the weekly payments of compensation payable to any worker, the employer shall be liable to pay to the worker, in addition to the weekly payments or so much thereof as has not been paid, as the case may be, a further amount equal to the amount in respect of which default has been made. Any additional amount payable under this subsection may be recovered in the same manner as if it were compensation duly payable, but shall not be taken into account for the purposes of subsections seven and eight of section five of the principal Act.

(5) For the purposes of subsection four of this section, the amount in respect of which default has been made shall, subject to subsections seven and eight of section five of the principal Act, be deemed to be not

less than the full amount of the weekly payments for the period from the date on which they were actually ended or diminished until the date on which they are or have been legally ended or diminished in accordance with this section or with section sixty-two of the Statutes Amendment Act, 1938.

Repeal.
1938, No. 20

(6) This section is in substitution for section sixty-two of the Statutes Amendment Act, 1938, and that section is hereby accordingly repealed.

1943, No. 23

(7) The reference in subsection two of section three of the Workers' Compensation Amendment Act, 1943, to subsection three of section sixty-two of the Statutes Amendment Act, 1938, shall hereafter be read as a reference to subsection two of this section.
