



ANALYSIS

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1964, No. 33

An Act to amend the Workers' Compensation Act 1956

[3 November 1964]

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

1. Short Title—This Act may be cited as the Workers' Compensation Amendment Act 1964, and shall be read together with and deemed part of the Workers' Compensation Act 1956 (hereinafter referred to as the principal Act).

2. Compensation for incapacity when worker under twenty-one, etc.—The principal Act is hereby amended by repealing section 16, and substituting the following section:

"16. (1) This section shall apply to the following workers, namely:

"(a) A worker under the age of twenty-one years:

"(b) An apprentice under the Apprentices Act 1948:

"(c) An apprentice or improver under an award or industrial agreement:

“(d) A worker employed under a contract of service under which he is expressly required to undergo any training, instruction, or examination for the purpose of becoming qualified for the occupation to which the contract of service relates.

“(2) Notwithstanding anything to the contrary in section 14 or section 15 of this Act, when an accident happens to a worker to whom this section applies, and his incapacity, whether total or partial, is permanent, his weekly earnings shall be deemed to be the weekly sum which, if he had not suffered the incapacity, he would probably have been able to earn after he had attained the age of twenty-one years, or had completed his apprenticeship, or had ceased to be an improver, or had become qualified as aforesaid, as the case may be, and his loss of earnings (if any) shall be deemed to be the amount by which that sum exceeds the weekly sum which he will probably be able to earn after attaining the age of twenty-one years, or on the completion of his apprenticeship, or on ceasing to be an improver, or on becoming qualified, as aforesaid.

“(3) Notwithstanding anything to the contrary in section 14 or section 15 of this Act, when an accident happens to a worker to whom this section applies, then in respect of any period of temporary incapacity, whether total or partial, occurring after he has attained the age of twenty-one years, or has completed his apprenticeship, or has ceased to be an improver, or has become qualified as aforesaid, as the case may be, his weekly earnings shall be deemed to be a full working-week's earnings (exclusive of any payment for overtime) at the ordinary rate of pay for the work in which the worker was employed at the commencement of that period of temporary incapacity:

“Provided that where the worker's weekly earnings as so ascertained would be less than his average weekly earnings, his weekly earnings, instead of being so ascertained, shall be deemed to be his average weekly earnings:

“Provided further that where the worker's weekly earnings ascertained in accordance with this section would be less than his weekly earnings ascertained in accordance with section 15 of this Act, his weekly earnings shall be ascertained in accordance with the said section 15.

“(4) In the first proviso to subsection (3) of this section the expression 'average weekly earnings' has the same meaning as in subsection (6) of section 15 of this Act as if for the

words 'the accident' wherever they occur in the said subsection (6) there were substituted in each case the words 'the commencement of the period of temporary incapacity'."

3. Salary and allowances of Judge—(1) The principal Act is hereby further amended by repealing section 42 (as substituted by section 4 of the Workers' Compensation Amendment Act 1960), and substituting the following section:

"42. (1) There shall be paid to the Judge of the Compensation Court out of the Consolidated Revenue Account, without further appropriation than this section, a salary at the rate of four thousand one hundred pounds a year, together with such travelling allowances as may be fixed from time to time by the Governor-General:

"Provided that, while the person holding office as the Judge of that Court on the first day of April, nineteen hundred and sixty-four, continues to hold that office, his salary shall be at the rate of four thousand seven hundred pounds a year.

"(2) The salary of the Judge shall not be diminished during the continuance of his appointment."

(2) Section 4 of the Workers' Compensation Amendment Act 1960 is hereby repealed.

(3) This section shall be deemed to have come into force on the first day of April, nineteen hundred and sixty-four.

4. Statements of wages to be delivered by employer to authorised insurer—Section 85 of the principal Act is hereby amended by omitting from subsection (3) the words "one month", and substituting the words "two months".

5. Extra charge on premium—(1) The principal Act is hereby further amended by repealing section 95, and substituting the following section:

"95. (1) Where in the opinion of the Board, on consideration of the accident experience of an employer as compared with the general accident experience of employers in his class of business, the safety of his workers is not ensured as adequately as the safety of workers employed by employers in that class of business is in general ensured, the Board may impose an extra charge to be made in assessing the premium payable by that employer for any period:

"Provided that the total premium payable by the employer shall not exceed by more than a hundred per cent the premium computed at the maximum rate for the time being prescribed under section 90 of this Act:

“Provided further that, where an extra charge has been imposed by the Board under this section, that charge shall be imposed on a premium computed at the maximum rate for the time being prescribed under section 90 of this Act.

“(2) Where the Board has imposed an extra charge under this section, every authorised insurer commits an offence against this Part of this Act who, in respect of any contract of insurance with the employer, charges a premium that is less than the premium computed at the appropriate maximum rate for the time being prescribed under section 90 of this Act increased by the amount of the extra charge imposed under this section.”

(2) Section 5 of the Workers' Compensation Amendment Act 1960 is hereby repealed.

6. Wages not stated or understated by employer—Section 120A of the principal Act (as inserted by section 22 of the Workers' Compensation Amendment Act 1962) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where any person fails to deliver a statement to an authorised insurer as required by section 85 or section 89 of this Act, or in a statement delivered by him as required by either of those sections understates the amount of wages paid by him during any period, he shall be liable, without conviction, to a penalty of an amount equal to ten per cent of the amount of the premium payable in respect of the amount of the wages not returned or, as the case may be, of the amount by which the wages were understated (the amount of that premium being in this section referred to as the deficient premium):

“Provided that, if the Board considers that having regard to all the circumstances of the case a penalty of an amount equal to ten per cent of the deficient premium would be inadequate, it may fix a penalty of a greater amount, not exceeding fifty per cent of the amount of the deficient premium.”

7. Compensation and damages for injury in mine, etc.—

(1) Section 130 of the principal Act is hereby amended by adding the following subsection:

“(6) Nothing in this section shall apply to any employer who is indemnified by an authorised insurer pursuant to section 86 of this Act or by the Board pursuant to section 99 of this Act, to the extent of that indemnity.”

(2) Section 97 of the principal Act is hereby amended by omitting from subsection (5) all the words after the words "the claim and the proceedings concerned".

This Act is administered in the Department of Labour.
