

ACCIDENT COMPENSATION AMENDMENT (NO. 2) BILL

EXPLANATORY NOTE

THIS Bill amends the Accident Compensation Act 1972. It makes provision for a supplementary scheme affording cover under the Act for non-earners; it modifies the earners' scheme so as to remove the distinction between continuous cover and work accident cover; it makes changes consequential on the decision that all the schemes shall come into operation on 1 April 1974; it varies the provisions of the Act relating to New Zealand residents overseas and visitors to New Zealand; it makes better provision for compensation for loss of potential earning capacity; and it makes certain other changes that are designed to facilitate administration or that are of a minor drafting nature.

Clause 1 relates to the Short Title to the Bill. Amendments to sections that are already in force are to come into force upon the passing of the Bill. Other amendments are to come into force on a date or dates to be appointed by Order in Council.

Clause 2 substitutes a revised Title to the principal Act so as to indicate its expanded scope and its effect in abolishing certain actions for damages and other actions.

Clause 3 revises and expands the interpretation provisions in the principal Act. Attention is drawn particularly to the definition of the term "personal injury by accident" which is a key to defining the scope of the legislation. It is inserted on the advice of a Medico-Legal Committee to which the question was referred for study. The clause also repeals the definition of the term "New Zealand" and makes express provision deeming certain persons to work in New Zealand while they are engaged in certain work on the continental shelf.

Clause 4 substitutes a new section 4 in the principal Act specifying the expanded purposes of that Act, and declaring the scope of the cover to be given under that Act. It is declared that, subject to the minor specified exceptions, all persons shall have cover under the Act in respect of personal injury by accident in New Zealand; and that persons shall have cover under the Act in respect of personal injury outside New Zealand in the cases expressly specified.

Clause 5 substitutes a new section 5 of the principal Act. *Subsection (1)* provides that, subject to the provisions of the section, where any person suffers personal injury by accident in New Zealand or dies as a result of personal injury so suffered, or where any person suffers outside New Zealand

personal injury by accident in respect of which he has cover under the Act, no proceedings for damages arising directly or indirectly out of the injury or death shall be brought in any Court in New Zealand independently of the Act, whether by that person or any other person, and whether under any rule of law or any enactment. *Subsection (2)* abolishes the actions for loss of services and loss of consortium. *Subsection (3)* preserves rights of action in the cases specified, including (in particular) cases where the accident occurred before 1 April 1974. The remaining provisions of the new section 5 substantially follow provisions in the present section 5.

Clause 6 is consequential on the establishment of the supplementary scheme. It requires the Commission to review and make annual recommendations to the Minister regarding the amounts required for the Supplementary Compensation Fund having regard to future commitments of that Fund.

Clause 7 makes a minor drafting change in relation to prescribing forms for use in cases of occupational diseases.

Clause 8 makes a minor drafting change designed to make better provision for defining the appropriate Fund to meet the costs of rehabilitation assistance.

Clause 9 repeals section 18 of the principal Act which imposed an obligation on the Commission to consider and report upon the possibility of extending the scope of cover.

Clause 10 amends a reference to cover in section 23 of the principal Act so as to recognise the extension of cover for which provision is made by the Bill.

Clause 11 brings the provisions for delegations in section 29 of the Act into line with the revised provisions of the legislation.

Clause 12 amends section 31 of the principal Act so as to provide for the establishment of an additional account to be known as the Supplementary Compensation Fund.

Clause 13 makes consequential amendments in the provisions of section 32 of the principal Act relating to the General Fund.

Clauses 14 and 15 bring the provisions in *sections 43 and 48* relating to the promotion of safety and rehabilitation into line with the revised concept of the legislation.

Clause 16 amends section 49 of the principal Act which relates to the functions of the Commission in relation to the promotion of rehabilitation. The amendment is consequential in the extension of the scope of cover under the legislation.

Clause 17 substitutes a new section 55 in the principal Act. The new section defines the scope of cover under the earners' scheme. Subject to the provisions of the Bill, this is to extend to all persons who suffer personal injury by accident in New Zealand while they are earners, and is also to extend to persons who suffer personal injury by accident outside New Zealand in the cases and to the extent specified in *clauses 60, 61, and 63*.

Clause 18 repeals sections 56 to 59 of the principal Act, and substitutes a new section 59. The new section provides that cover under the earners' scheme shall be deemed to extend to personal injury by accident for specified limited periods beyond the normal period of cover under that scheme.

Clause 19 makes substantial amendments to section 60 of the principal Act so as to restate the circumstances to which New Zealand residents shall have cover under the earners' scheme while they are overseas.

Clause 20 makes minor drafting amendments to section 61 of the principal Act which relates to seamen and airmen. The amendments are consequential on the abolition of the distinction between continuous cover and work accident cover.

Clause 21 amends section 62 of the principal Act. The repeal of subsection (3) is consequential on the dropping of the concept of continuous cover. The other amendment is of a minor drafting nature.

Clause 22 amends section 63 of the principal Act so as to remove a reference to continuous cover.

Clause 23 amends section 64 of the principal Act which defines the cover afforded to certain members of the staff of diplomatic missions and consular posts. The persons contemplated are not to have cover or pay levies under the earners' scheme, but are to have cover under the motor vehicle accident scheme and the supplementary scheme. By virtue of that cover they qualify for rehabilitation assistance, and for compensation under the sections specified.

Clause 24 amends section 65 of the principal Act so as to remove references to continuous cover and work accident cover.

Clause 25 amends section 69 of the principal Act so as to clarify the intention in relation to certain payments intended to be charged to the Earners' Compensation Fund.

Clause 26 revises the provisions of section 74 of the principal Act which relates to the maximum amount on which levies are payable.

Clause 27 repeals section 77 of the principal Act, and substitutes a new section prescribing the requirements in connection with statements by employers for levy purposes.

Clauses 28 and 29 revise the provisions of section 78 of the principal Act, which relates to the furnishing of statements by self-employed persons, and make consequential amendments to other sections.

Clause 30 makes minor drafting amendments to section 84 of the principal Act and the heading immediately preceding that section. The amendment to the heading is consequential on the abolition of the concept of work accident cover. The amendment to the section is consequential on the repeal of section 58.

Clause 31 makes minor drafting amendments to sections 85, 86, 87, and 89 of the principal Act. Those provided for in *subclause (1)* are consequential on the repeal of section 58. *Subclause (2)* cures a misprint.

Clause 32 substitutes a new section for section 88 of the principal Act so as to define the circumstances in which accidents to waterside workers awaiting engagement are to be deemed to arise out of and in the course of their employment. The point is material in relation to such provisions as sections 67, 107, and 112.

Clause 33 substitutes a new section for section 92 of the principal Act so as to make better provision for defining the circumstances in which cover shall exist under the motor vehicle accident scheme.

Clause 34 amends section 93 of the principal Act so as to state explicitly that the section does not apply until it comes into force. The point is material because levies under Part IV became payable at the beginning of the current licensing year before the section came into force.

Clause 35 repeals sections 94 and 95 of the principal Act, and substitutes a new section 94 which defines the circumstances in which cover under the motor vehicle accident scheme extends to towed unregistered or unlicensed vehicles.

Clause 36 amends section 97 of the principal Act so as to make it clear that the Motor Vehicle Compensation Fund is to bear all expenses resulting from the operation of the motor vehicle accident scheme, except amounts payable out of the Earners' Compensation Fund under section 69 (2) (d).

Clause 37 inserts in the principal Act a new Part IVA providing for a supplementary scheme.

The new section 102A requires the Commission to establish a supplementary scheme providing rehabilitation assistance and compensation for persons who have cover thereunder.

The new section 102B provides that all persons shall have cover under the supplementary scheme in respect of personal injury by accident in New Zealand if they do not have cover in respect thereof under either the earners' scheme or the motor vehicle accident scheme.

The new section 102C provides that cover under the supplementary scheme for a person who is not ordinarily resident in New Zealand shall commence when he completes disembarking and cease when he commences embarking.

The new section 102D establishes the Supplementary Compensation Fund, from which the expenses of the supplementary scheme shall be met. This Fund is to be financed from money appropriated by Parliament.

Clause 38 makes a consequential amendment to the heading to Part V of the principal Act.

Clause 39 substantially revises the provisions of section 103 of the principal Act relating to the calculation of earnings.

Clause 40 amends section 104 of the principal Act, which relates to the calculation of relevant earnings. The first amendment makes it clear that the section is restricted to cases involving earners. The second amendment affects subsection (3), and gives the Commission an extended discretion to increase the amount otherwise calculated in respect of relevant earnings in a case where the earner has been earning for less than the period by reference to which his relevant earnings would normally be calculated, if the Commission is satisfied that the earner was ordinarily resident in New Zealand at the date of the accident.

Clause 41 inserts a new section 105A. This provides that where any person who has cover under the legislation, not being a seaman or airman in the course of his employment as such, embarks in New Zealand on a ship or aircraft or other means of conveyance by sea or air to travel from one place in New Zealand to another place in New Zealand, or to return to his place of embarkation without disembarking at any other place, and in either case goes beyond the territorial sea of New Zealand but does not go beyond a limit of 300 nautical miles from any point or points in the territorial sea of New Zealand, that person shall, for the purposes of this Act, be deemed to have remained in New Zealand.

Clause 42 amends section 110 of the principal Act, which relates to damage to teeth or artificial limbs or aids or clothing. The clause varies the requirements in respect of notice having regard to the extended cover now contemplated.

Clause 43 substantially revises the provisions of section 113 of the principal Act relating to the payment of earnings related compensation after the first week.

Clause 44 amends section 115 of the principal Act so as to correct cross references to section numbers.

Clause 45 substitutes a new section for section 118 of the principal Act so as to revise the rules governing the award of compensation for loss of potential earning capacity.

Clause 46 amends section 123 of the principal Act so as to authorise earnings related compensation to be paid to a child of the deceased person where the child was not a minor at the time of the death of the deceased person but was dependant on that person immediately before that time. The revision of subsection (8) is consequential on the extension of the scope of cover under the Act.

Clause 47 amends section 126 of the principal Act which relates to payments to minors and persons under disability or needing protection. Provision is made for payment to a person deriving authority under the Maori Affairs Act 1953; also for payment to the Public Trustee of lump sums in the case of a minor or a person of feeble or unsound mind.

Clause 48 amends section 128 of the principal Act so as to prescribe an upper age limit for payment of earnings related compensation to dependent children and certain other dependants.

Clause 49 amends section 129 of the principal Act which relates to the power of the Commission to reduce, postpone, or cancel earnings related compensation where the person concerned is in a hospital or penal institution. *Subclause (1)* is designed to clarify the intention. *Subsection (2)* enables the provision to be extended to other institutions by Order in Council.

Clause 50 amends section 132 of the principal Act which relates to the duty of an injured person to submit to medical or surgical treatment. The first amendment is of a minor drafting nature. The second amendment extends the Commission's discretion under the proviso to subsection (6) so as to include dependants among the class for whose benefit compensation may be applied in circumstances where the primary recipient is disqualified.

Clause 51 amends section 135 of the principal Act, so as to extend the cases where there is to be restriction on the assignment of compensation. It is also declared that other specified enactments are not affected.

Clause 52 amends section 151 of the principal Act so as to set out in more detail the requirements in respect of notices of decisions of the Commission.

Clause 53 amends section 153 of the principal Act so as to provide that there shall be no right to a review of a decision of the Commission under subsection (5) or subsection (6) of section 5 of the principal Act; also to make it clear that there is a right to a review of all other decisions relating to cover. In the case of decisions under the said subsections (5) and (6) there is a right of appeal direct to the Appeal Authority.

Clause 54 corrects a clerical error in section 157 of the principal Act.

Clause 55 amends section 162 of the principal Act so as to bring cross references to subsections of section 5 into line with the new section 5 set out in *clause 5*.

Clause 56 amends section 181 of the principal Act by omitting references to provisions that are being repealed.

Clause 57 repeals Part V of the First Schedule which is linked with section 57 of the principal Act. That section is being repealed.

Clause 58 corrects a clerical error in the Third Schedule.

Clause 59 amends Part II of the First Schedule to the Summary Proceedings Act 1957 so as to include offences as to evading levies and making false statements and representations among the indictable offences that may be tried summarily.

Hon. Mr Watt

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PART IVA

SUPPLEMENTARY SCHEME

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- 102B. Cover under supplementary scheme
- 102c. Cover for persons not ordinarily resident in New Zealand
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- 38. Heading to Part V
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A BILL INTITULED

An Act to amend the Accident Compensation Act 1972

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 and commencement**—(1) This Act may be cited as the Accident Compensation Amendment Act (No. 2) 1973, and shall be read together with and deemed part of the Accident Compensation Act 1972* (hereinafter referred to as the principal Act).

(2) Sections 1, 3, 6 to 13, 36, and 53 to 56 of this Act shall come into force upon the passing of this Act.

(3) The remainder of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council, and different dates may be so appointed for the purpose of different provisions of the said remainder.

2. **Title to principal Act**—The principal Act is hereby amended by repealing the Title, and substituting the following Title:

“An Act to make provision for safety and the prevention of accidents; for the rehabilitation and compensation of persons who suffer personal injury by accident in respect of which they have cover under this Act; for the compensation of certain dependants of those persons where death results from the injury; and for the abolition as far as practicable of actions for damages arising directly or indirectly out of personal injury by accident and death resulting therefrom and certain other actions”.

3. Interpretation—(1) Subsection (1) of section 2 of the principal Act is hereby amended—

- 5 (a) By omitting from the definition of the term “agricultural trailer” the words “to and from”, and substituting the words “to or from”:
- (b) By omitting from the definition of the term “airman” the word “so”:
- 10 (c) By repealing the definitions of the terms “continuous cover” and “cover”, and substituting the following definitions:
- “‘Continental shelf’ means the continental shelf as defined in section 2 of the Continental Shelf Act 1964:
- 15 “‘Cover’, in relation to any person, means cover which he has under one or more of the following schemes, namely, the earners’ scheme, the motor vehicle accident scheme, and the supplementary scheme; and ‘cover under this Act’ has a corresponding meaning:
- 20 “‘The Crown’ means Her Majesty the Queen acting in right of her Government in New Zealand.”:
- 25 (d) By adding to the definition of the term “decision” the words “or to the necessity for any enactment or Order in Council”:
- (e) By inserting, after the definition of the term “dependant”, the following definition:
- 30 “‘Domestic earnings’, in relation to any employer, means all earnings as an employee which are paid by that employer, in respect of or in relation to the employment of any employee or employees, where—
- 35 “(a) That employer is the occupier or one of the occupiers of a dwellinghouse or other premises used exclusively for residential purposes; and
- “(b) The employment is for the performance of work in or about the dwellinghouse or premises or the garden or grounds appurtenant thereto; and
- 40 “(c) The employment is not in relation to any business carried on by that employer.”:

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- (f) By inserting in the definition of the term "Fund", after the words "Active Service Compensation Fund", the words "the Supplementary Compensation Fund,":
- (g) By inserting, after the definition of the term "international organisation", the following definition: 5
" 'Lease' means a lease within the meaning of section 2 of the Land and Income Tax Act 1954:"
- (h) By repealing the definition of the term "motor vehicle", and substituting the following definition: 10
" 'Motor vehicle' means a motor vehicle within the meaning of section 2 of the Transport Act 1962 (as substituted by section 2 of the Transport Amendment Act 1972):" 15
- (i) By repealing the definition of the term "motor vehicle accident", and substituting the following definition: 20
" 'Motor vehicle accident' means an accident which causes personal injury in respect of which there is cover under the motor vehicle accident scheme or death resulting therefrom:"
- (j) By inserting, after the definition of the term "occupational disease", the following definition: 25
" 'Owner of land' means an owner of land within the meaning of section 2 of the Land and Income Tax Act 1954:"
- (k) By omitting from the definition of the term "period of short term incapacity" the expression "27th", 30
and substituting the expression "28th":
- (l) By omitting from the definition of the term "person" the words "a Department of State", and substituting the words "the Crown, and a Government Department": 35
- (m) By inserting, after the definition of the term "spectacles", the following definitions: 40
" 'Supplementary Compensation Fund' means the Supplementary Compensation Fund established and maintained under sections 31 (e) and 102D of this Act:
" 'Supplementary scheme' means the supplementary scheme established by the Commission under Part IVA of this Act:"

(n) By inserting in the definition of the term "use", after the words "motor vehicle", the words "or an invalid carriage":

5 (o) By repealing the definitions of the terms "New Zealand" and "work accident cover".

(2) Subsection (1) of section 2 of the principal Act is hereby further amended by repealing the definition of the expression "personal injury by accident", and substituting the following definition:

10 "Personal injury by accident"—

"(a) Means (except as otherwise provided in this definition) damage to the human system which is not designed by the person who suffers it, and which—

15 "(i) Is caused or contributed to by a mishap, or an untoward event, external to the body; or

"(ii) Results from an occupational disease to the extent that cover extends in respect of the disease under sections 65 to 68 of this Act:

20 "(b) Includes—

"(i) All bodily and mental consequences of any such damage; and

25 "(ii) The consequences of medical, surgical, or first-aid treatment, care, or attention in respect of any such damage, whether or not the treatment, care, or attention was proper in the circumstances:

"(c) Does not include—

30 "(i) Normal physiological changes; or

"(ii) Except as provided in paragraph (b) of this definition, abnormal personal reactions to food, drugs, or other material introduced into the body; or

35 "(iii) Damage to the human system which is the result of disease, except as provided in subparagraph (ii) of paragraph (a) or in paragraph (b) or paragraph (d) of this definition;

40 "And for the purposes of this definition—

"(d) Damage to the human system to the extent that it is caused by exposure to conditions of temperature or of moisture, fumes, or other physical factors, shall be deemed to have been caused or contributed to

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by a mishap or an untoward event only if that damage is caused by special exposure on a particular occasion to abnormal conditions of temperature or of moisture, fumes, or other physical factors:

“(e) The human system includes the body and mind; 5

And ‘personal injury’ and ‘accident’ have corresponding meanings:”

(3) Section 2 of the principal Act is hereby further amended by omitting from subsection (3) the word “whose”, 10 and substituting the word “who”.

(4) Section 2 of the principal Act is hereby further amended by inserting in subsection (6), after the words “Magistrate and”, the words “the Solicitor-General”.

(5) Section 2 of the principal Act is hereby further amended 15 by adding the following subsections:

“(9) Where any person (being a person who is ordinarily resident in New Zealand), in the course of his employment under a contract of service or apprenticeship, works in or on or above the continental shelf in connection with the exploration of the continental shelf, or in connection with the exploitation of the mineral or other natural non-living resources of the continental shelf,—

“(a) That person shall, for the purposes of this Act, be deemed, in relation to that work, to work in New Zealand; and 25

“(b) Any earnings derived by that person from that work shall, for the purposes of this Act, be deemed to be earnings as an employee; and

“(c) If that person suffers personal injury by accident in the course of that work, or while travelling for the purposes of that work from New Zealand to any point over the continental shelf, or from one point over the continental shelf to another point over the continental shelf, or from any point over the continental shelf to New Zealand, that accident shall, for the purposes of this Act, be deemed to have happened in New Zealand; and 30 35

“(d) That person shall, for the purposes of this Act, be deemed to be an earner at the time of the accident. 40

“(10) Where any person (being a person who is ordinarily resident in New Zealand), in the course of the conduct of a business carried on by him in connection with the exploration

of the continental shelf, or in connection with the exploitation of the mineral or other natural non-living resources of the continental shelf, works in or on or above the continental shelf—

- 5 “(a) That person shall be deemed to carry on that business in New Zealand; and
- “(b) If that person suffers personal injury by accident in the course of the said work, or while travelling for the purposes of that work from New Zealand to any point over the continental shelf, or from one point over the continental shelf to another point over the continental shelf to New Zealand, that accident shall, for the purposes of this Act, be deemed to have happened in New Zealand; and
- 10
- 15 “(c) That person shall be deemed to be an earner at the time of the accident.”

4. Purposes and scope of principal Act—The principal Act is hereby amended by repealing section 4, and substituting the following section:

- 20 “4. (1) The purposes of this Act shall be—
- “ (a) To promote safety with a view to preventing accidents and minimising injury;
- 25 “ (b) To promote the rehabilitation of persons who suffer personal injury by accident in respect of which they have cover under this Act so as to seek to restore all such persons to the fullest physical, mental, social, vocational, and economic usefulness of which they are capable;
- 30 “ (c) To make provision for the compensation of—
- “ (i) Persons who suffer personal injury by accident in respect of which they have cover under this Act; and
- 35 “ (ii) Certain dependants of those persons where death results from the injury.
- “ (2) Subject to the provisions of this Act, all persons shall have cover under this Act in respect of personal injury by accident in New Zealand.
- “ (3) In the cases and to the extent specified in sections
- 40 60, 61, and 63 of this Act, persons shall have cover under this Act in respect of personal injury by accident outside New Zealand.

“(4) No person shall have cover under this Act in respect of personal injury by accident otherwise than under subsections (2) and (3) of this section.”

5. Act to be a code—The principal Act is hereby amended by repealing section 5, and substituting the following section: 5

“5. (1) Subject to the provisions of this section, where any person suffers personal injury by accident in New Zealand or dies as a result of personal injury so suffered, or where any person suffers outside New Zealand personal injury by accident in respect of which he has cover under this Act 10 or dies as a result of personal injury so suffered, no proceedings for damages arising directly or indirectly out of the injury or death shall be brought in any Court in New Zealand independently of this Act, whether by that person or any other person, and whether under any rule of law or any enactment. 15

“(2) Without limiting the generality of subsection (1) of this section, the action for loss of services (known as the action *per quod servitium amisit*) and the cause of action for loss of consortium (known as the action *per quod consortium amisit*) are hereby abolished. 20

“(3) Nothing in this section shall affect—

“(a) Any action which lies in accordance with section 131 of this Act; or

“(b) Any action for damages by the injured person or his administrator or any other person for breach 25 of a contract of insurance; or

“(c) Any proceedings for damages arising out of personal injury by accident or death resulting therefrom, if the accident occurred before the 1st day of April 1974. 30

“(4) No person shall have cover under this Act in respect of personal injury by accident if the accident occurred before the 1st day of April 1974.

“(5) Where in any proceedings before a Court a question arises as to whether any person has cover under this Act, 35 the Court shall refer the question to the Accident Compensation Commission for decision, and the Commission shall have exclusive jurisdiction to determine the question.

“(6) The Commission may, on the application of any person who is a party to any proceedings or contemplated 40 proceedings before a Court, determine any such question.

“(7) Subject to Part VII of this Act, a subsisting decision of the Commission under subsections (5) and (6) of this section shall be conclusive evidence as to whether or not the person to whom the decision relates had cover under this Act.”

6. Recommendations by Commission—Section 15 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) The Commission shall, in each financial year, review and make recommendations to the Minister regarding the amounts required for the Supplementary Compensation Fund having regard to future commitments of that Fund.”

7. Administrative functions and powers—Section 16 of the principal Act is hereby amended by inserting in paragraph (e) of subsection (2), after the word “accident”, the words “and occupational diseases”.

8. Functions and powers in relation to Funds—Section 17 of the principal Act is hereby amended by inserting in paragraph (a) of subsection (2), after the word “therewith”, the words “and all amounts payable in respect of rehabilitation assistance”.

9. Repeal of section 18—The principal Act is hereby amended by repealing section 18.

10. Medical referees, medical committees, and specialists—Section 23 of the principal Act is hereby amended by omitting from paragraph (a) of subsection (1) the words “the earners’ scheme or the motor vehicle accident scheme”, and substituting the words “this Act”.

11. Delegations—Section 29 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The Commission may from time to time, in writing, either generally or particularly, delegate to such medical referee, medical committee, specialist, consultant, or person appointed by it under section 23 of this Act as it thinks fit all or any of its functions and powers in relation to the examination of persons who suffer personal injury by accident, and of persons who suffer from occupational diseases, being

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persons who have cover under this Act, and the retraining, rehabilitation, education, and placement in employment of those persons.”

12. Funds—Section 31 of the principal Act is hereby amended by adding the following paragraph: 5

“(e) An account to be known as the Supplementary Compensation Fund.”

13. General Fund—(1) Section 32 of the principal Act is hereby amended, as from the commencement of that section, by inserting in paragraph (c) of subsection (1), after the word “Revenues” in the second place where it appears, the word “Amendment”. 10

(2) Section 32 of the principal Act is hereby further amended—

(a) By adding to paragraph (a) of subsection (1), paragraph (c) of subsection (2), and paragraph (d) of subsection (2) the words “or the Supplementary Compensation Fund”:

(b) By omitting from paragraph (d) of subsection (1) the words “and the Active Service Compensation Fund”, and substituting the words “the Active Service Compensation Fund, and the Supplementary Compensation Fund”. 20

(3) Section 32 of the principal Act is hereby further amended by repealing subsection (3), and substituting the following subsections: 25

“(3) In so far as the amounts to be credited to the General Fund in any financial year under paragraphs (a), (b), and (c) of subsection (1) of this section will be insufficient to meet the amounts to be charged to that Fund in that financial year under subsection (2) of this section, the Commission shall cause the amount of the deficiency to be met from the Earners’ Compensation Fund, the Motor Vehicle Compensation Fund, the Active Service Compensation Fund, and the Supplementary Compensation Fund rateably according to the total amounts (if any) credited to each of those Funds in the previous financial year: 30 35

“Provided that, until the first point of time when the Earners’ Compensation Fund, the Motor Vehicle Compensation Fund, and the Supplementary Compensation Fund have each received income for at least one complete financial year, the Commission shall cause any such deficiency to be 40

met by those 3 Funds or any one or more of them in such manner as it thinks most practicable, having regard to the money for the time being available in each of those Funds, subject to interest at such rate as the Commission shall
5 determine being credited from the General Fund to the Fund or respective Funds making contributions to meet the deficiency on the amount or amounts from time to time so contributed, and to adjustments being made, following the
10 arrival of that point of time, which will result in all such deficiencies in the General Fund up to that point of time (disregarding such contributions but taking into account interest credited from the General Fund as aforesaid) being borne by the Earners' Compensation Fund, the Motor Vehicle
15 and the Supplementary Compensation Fund rateably according to the total amounts (if any) credited to each of those Funds up to that point of time.

“(4) Every amount to be so met from any Fund may be transferred by the Commission to the General Fund in one or
20 more sums. Any surplus or deficit in the General Fund at the end of any financial year shall be taken into account by the Commission for the purposes of subsection (3) of this section in the next financial year.”

14. Commission to promote safety—Section 43 of the
25 principal Act is hereby amended by omitting from subsection (1) the words “without limitation to persons or classes of persons entitled to cover under this Act”, and substituting the words “in New Zealand”.

15. Commission to promote rehabilitation—Section 48 of
30 the principal Act is hereby amended by repealing paragraphs (a) and (b) of subsection (2), and substituting the following paragraphs:

- “(a) Their restoration as speedily as possible to the fullest
35 physical, mental, and social fitness of which they are capable having regard to their incapacity; and
“(b) Where applicable, their restoration to the fullest vocational and economic usefulness of which they are capable; and
40 “(c) Where applicable, their reinstatement or placement in employment.”

16. Functions of Commission in relation to the promotion of rehabilitation—Section 49 of the principal Act is hereby amended by repealing paragraph (c) of subsection (2), and substituting the following paragraph:

“(c) Assisting, where it considers appropriate, the development of the skills and talents of persons (other than earners) who suffer personal injury by accident in respect of which they have cover under this Act so that they may secure employment suited to their maximum capacity:”.

17. Cover under earners' scheme—The principal Act is hereby amended by repealing section 55, and substituting the following section:

“55. (1) Subject to the provisions of this Act, all persons who suffer personal injury by accident in New Zealand and are earners at the time of the accident shall have cover in respect of the injury under the earners' scheme.

“(2) In the cases and to the extent specified in sections 60, 61, and 63 of this Act, persons who are for the time being earners shall have cover under the earners' scheme in respect of personal injury by accident outside New Zealand.

“(3) No person shall have cover under the earners' scheme in respect of personal injury by accident otherwise than under the foregoing provisions of this section.”

18. Extension of cover under earners' scheme—The principal Act is hereby amended by repealing sections 56 to 59, and substituting the following section:

“59. (1) Subject to subsection (3) of this section, in any case where a person has had cover under the earners' scheme in respect of personal injury by accident and that cover would, but for this section, have ceased, that cover shall be deemed to extend to personal injury by accident during the period or periods specified in subsection (2) of this section.

“(2) Subject to subsection (3) of this section, the period or periods during which the cover of any person under the earners' scheme in respect of personal injury by accident shall be deemed to have so extended shall be a period not exceeding 13 weeks, which period shall be the 7 days after the day on which his cover under the earners' scheme would, but for this section, have ceased, plus a further 7 days for each complete 30 days, if any, during the 12 months immediately

before the date of the accident for which, apart from this section, he had cover under the earners' scheme, whether or not that cover was continuous:

5 Provided that the Commission may in its discretion determine that the cover shall be deemed to extend for such further period (if any) not exceeding 15 months from the date on which he would, but for this section, have ceased to have cover under the earners' scheme as the Commission may in its discretion consider reasonable, having regard to that person's
20 employment history, state of health, and age, and to the circumstances under which he ceased to be an earner.

"(3) The cover of any person under the earners' scheme shall not be deemed to have extended under this section for any period or periods extending beyond the date on
15 which he attains the age of 65 years.

"(4) If any question arises under this section as to the date on which any person would, but for the provisions of this section, have ceased to have cover under the earners' scheme, that question shall be determined by the Commission, and (subject to Part VII of this Act) its decision shall
20 be final and binding.

"(5) Unless the context otherwise requires, references in this Act to—

25 "(a) An earner shall be deemed to include a person who suffers personal injury by accident during any period for which his cover is deemed to have extended by virtue of this section:

30 "(b) A self-employed person shall be deemed to include any person to whom paragraph (a) of this subsection applies if he was a self-employed person immediately before his cover under the earners' scheme would, but for this section, have ceased:

35 "(c) An employee shall be deemed to include any person to whom paragraph (a) of this subsection applies if he was an employee immediately before his cover under the earners' scheme would, but for this section, have ceased.

40 "(6) Where at the commencement of this section a person does not have cover under the earners' scheme in respect of personal injury by accident occurring after the commencement of this section, but the person would be deemed to have such cover at the commencement of this section or at any time thereafter if this Part of this Act had commenced a year before the date of the commencement of this section, he shall
45 be deemed to have such cover.

19. **New Zealand residents overseas**—(1) Section 60 of the principal Act is hereby amended by repealing subsections (2) to (4), and substituting the following subsections:

“(2) Where any person who leaves New Zealand was entitled to cover under the earners’ scheme immediately before so doing, or where a person who (at the commencement of this section) was temporarily absent from New Zealand in the circumstances described in this subsection and would have been entitled to cover under the earners’ scheme immediately before he left New Zealand if this Part of this Act had then been in force, then, in either case, that cover shall, from the commencement of this section or the time when the person so left New Zealand, whichever is the later, extend or be deemed to extend to personal injury by accident that happens outside New Zealand within 12 months from the date on which he last left New Zealand, if,—

“(a) In the case of an employee, he intends to be absent from New Zealand only temporarily, and exclusively or principally for the purposes of his employment in New Zealand, and while he remains outside New Zealand he continues to derive earnings from that employment:

“(b) In the case of a self-employed person within the meaning of section 2 (1) of this Act, he remains such a self-employed person and intends to be absent from New Zealand only temporarily, and exclusively or principally for the purposes of any business in relation to which he is such a self-employed person.

“(3) Where a person who leaves New Zealand was entitled to cover under the earners’ scheme immediately before doing so, that cover shall extend to personal injury by accident that happens outside New Zealand until the expiration of the period or periods (if any) approved by the Commission under subsection (6) of this section,—

“(a) If he is an employee of the Crown, or of a Government Department, or of a person who carries on a business or an undertaking conducted in and controlled from New Zealand, or of any other person who carries on a business or an undertaking in New Zealand and to whom the Commission has (by notice in the *Gazette*) declared that this paragraph shall apply; and

5 “(b) So long as, within the period for which the Commission approves cover under the earners’ scheme outside New Zealand, the services in respect of which that cover has been approved remain wholly subject to and at the discretion and under the control of the Crown, or of a Government Department, or of the said person:

10 “Provided that in no case shall the cover of the person extend, by reason of this section, beyond the period for which his cover under the earners’ scheme would have continued in respect of personal injury by accident in New Zealand.

15 “(4) Subject to any regulations made under this Act, the Commission may, on the application of any employer or employee, and subject to such conditions as the Commission may impose, extend the application of subsection (3) of this section to—

20 “(a) Any person who is an employee of the Crown, or of a Government Department, or of another person to whom paragraph (a) of subsection (3) of this section applies, if that employee—

25 “(i) Before the commencement of this section has been posted or transferred or promoted to a position outside New Zealand in the service of the Crown, or of a Government Department, or of another person to whom paragraph (a) of subsection (3) of this section applies; or

30 “(ii) Either before or after the commencement of this section, has been appointed or engaged outside New Zealand, whether or not he is posted to a position outside New Zealand, as an employee of the Crown, or of a Government Department, or of another person to whom paragraph (a) of subsection (3) of this section applies, if, on the date
35 on which his employment commences, he would have had cover under the earners’ scheme if he had been such an employee within New Zealand and this Part of this Act had then been in force:

40 “(b) Any class of such employees.”
(2) Section 60 of the principal Act is hereby further amended by inserting in subsection (5), after the word “business”, the words “or an undertaking”.

(3) Section 60 of the principal Act is hereby further amended by repealing subsection (6), and substituting the
45 following subsection:

16 *Accident Compensation Amendment (No. 2)*

“(6) The period or periods to be approved by the Commission for the purposes of subsections (3) and (4) of this section shall not exceed 4 years in any case:

“Provided that, in the case of any employee or class of employees, the Commission, having regard to all the circumstances of the case, including the conditions governing the appointment and the service overseas, may in its discretion approve any period longer than 4 years, and may enter into any arrangement with the employer to govern the conditions in which cover under the earners’ scheme shall extend to the employee or employees while overseas in that employment.”

(4) Section 60 of the principal Act is hereby further amended by omitting from subsection (7) all words after the word “require”.

20. Seamen and airmen—Section 61 of the principal Act is hereby amended—

- (a) By omitting from subsection (2) the words “either continuous cover or work accident cover”, and substituting the word “cover”;
- (b) By omitting from subsection (3) the words “work accident cover”, and substituting the word “cover”;
- (c) By omitting from subsection (4) the words “either continuous cover or work accident cover”, and substituting the word “cover”;
- (d) By omitting from subparagraph (ii) of paragraph (b) of subsection (6) the word “continuous”.

21. Husband or wife employed by or rendering services to spouse—Section 62 of the principal Act is hereby amended—

- (a) By omitting from paragraph (b) of subsection (2) the words “so received, or the commencement of this section (whichever is the later)”, and substituting the words “or was so received”;
- (b) By repealing subsection (3).

22. Members of Armed Forces of New Zealand—Section 63 of the principal Act is hereby amended by omitting from paragraph (c) of subsection (1) the words “continuous cover under Part III of this Act”, and substituting the words “cover under the earners’ scheme”.

23. Diplomatic missions and consular posts—Section 64 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

5 “(2) While this section applies to any person he shall not have cover under the earners’ scheme, and no levy shall be payable under Part III of this Act in respect of his earnings.

10 “(3) While this section applies to any person he shall have cover under the motor vehicle accident scheme and the supplementary scheme, and in the event of his suffering personal injury by accident in New Zealand or dying as a result of personal injury so suffered, he shall, by virtue of that cover, qualify under this Act for rehabilitation assistance within New Zealand but not elsewhere, and compensation in respect of the injury or death shall be payable under sections 15 108, 109 (1), 110, 111, 119, 120, 121, 122, and 124 of this Act, but not under any other provisions of this Act.”

24. Extension of cover to occupational diseases—Section 65 of the principal Act is hereby amended by omitting the words “Continuous cover and work accident cover”, and 20 substituting the words “Cover under the earners’ scheme”.

25. Earners’ Compensation Fund—Subsection (2) of section 69 of the principal Act is hereby amended—

(a) By adding to paragraph (b) the words “and deaths resulting therefrom”:

25 (b) By omitting from paragraph (c) all words after the word “separately”, and substituting the words “identified as payments resulting from the operation of the earners’ scheme, and which, in the opinion of the Commission, cannot be separately identified as 30 payments resulting from the operation of the motor vehicle accident scheme”.

26. Maximum amount on which levies are payable—(1) Section 74 of the principal Act is hereby amended—

35 (a) By omitting from subsection (1) the words “subsection (1) or subsection (2) of”:

(b) By inserting in subsection (1), after the words “has derived earnings as an employee,” and also after the words “paid by each of the employers” in each place where they appear in paragraph (b) of the said subsection (1), the words “(other than earnings 40 which under subsection (5) of section 77 of this Act are not to be included in the statement)”:

18 *Accident Compensation Amendment (No. 2)*

(c) By omitting from subsection (4) the expression “subsection (4)”, and substituting the expression “subsection (5)”:

(d) By omitting from paragraph (c) of subsection (6) the words “a levy is payable under subsection (1) or subsection (5) or paragraph (c) of subsection (2) of that section, or in respect of current cover under paragraph (b) of subsection (2) or paragraph (b) of subsection (3) or paragraph (a) or paragraph (b) of subsection (4) of that section”, and substituting the words “a levy calculated on or in relation to his earnings as a self-employed person in accordance with subsection (5) of section 78 of this Act is payable”.

(2) Section 74 of the principal Act is hereby further amended by repealing subsection (3), and substituting the following subsection:

“(3) Where a self-employed person is required to pay a levy which is calculated on or in relation to his earnings as a self-employed person in accordance with subsection (5) of section 78 of this Act, that levy shall not exceed the amount of the levy that would be payable if, instead of being calculated on or in relation to those earnings, the levy were calculated on the amount prescribed for the purposes of this section.”

(3) Section 74 of the principal Act is hereby further amended by repealing subsection (5), and substituting the following subsection:

“(5) Earnings as an employee shall be taken into account, for the purposes of subsection (4) of this section, only in calculating the amount of a levy which is calculated on or in relation to earnings as a self-employed person in accordance with subsection (5) of section 78 of this Act, and the earnings as an employee to be so taken into account shall be only the earnings of that person as an employee on which levy is payable by an employer, and which are included in the assessable income (as determined under and for the purposes of the Land and Income Tax Act 1954) of which those earnings as a self-employed person form part.”

27. Statements by employers—(1) The principal Act is hereby amended by repealing section 77, and substituting the following section:

“77. (1) Subject to subsection (5) of this section and the other provisions of this Act, any person who was an employer on the 1st day of April last preceding the operative date and continues to be an employer on the operative date—

5 “(a) Shall, within the period of 3 months commencing on the operative date, deliver a statement of the amount of earnings as employees paid by him during the year ended with the 31st day of March last preceding the operative date, and shall pay a levy on the amount of the earnings shown in that
10 statement:

“ (b) Shall, within the period of 3 months commencing on every 1st day of April after the operative date on which he continues to be an employer, deliver a
15 statement of the amount of earnings as employees paid by him during the year ended with the day immediately preceding that 1st day of April, and shall pay a levy on the amount of the earnings shown in that statement.

20 “(2) Subject to subsections (4) and (5) of this section and the other provisions of this Act, any person who is an employer on the operative date and to whom subsection (1) of this section does not apply—

25 “(a) Shall, within the period of 3 months commencing on the operative date, deliver a statement showing an estimate of the amount of earnings as employees which will be paid (including any which, before the delivery of the statement, have been paid) by him during the period commencing on the operative
30 date and ending with the 31st day of March next following the operative date, and shall pay a levy on the amount of the estimate shown in that statement:

35 “(b) Shall, if he continues to be an employer throughout that period, deliver, within the period of 3 months commencing on the 1st day of April immediately following the expiration of that period, a statement of the amount of earnings as employees paid by him during the period first mentioned in this paragraph, whereupon the provisions of subsection (7)
40 of this section shall apply:

20 *Accident Compensation Amendment (No. 2)*

“(c) Shall, if he continues to be an employer on the 1st day of April immediately following the expiration of the last-mentioned period, deliver, concurrently with the delivery of the last-mentioned statement, a duplicate of that statement, and pay a levy on the amount of the earnings shown in that statement: 5

“(d) Shall, within the period of 3 months commencing on every succeeding 1st day of April on which he continues to be an employer, deliver a statement of the amount of earnings as employees paid by him during the year ended with the day immediately preceding that 1st day of April, and shall pay a levy on the amount of the earnings shown in that statement. 10 15

“(3) Subject to subsections (4) and (5) of this section and the other provisions of this Act, any person who becomes an employer after the operative date—

“(a) Shall, within the period of one month commencing on the date on which he becomes an employer, deliver a statement showing an estimate of the amount of earnings as employees which will be paid (including any which, before the delivery of the statement, have been paid) by him during the period (hereafter in this subsection (3) referred to as ‘the first employment period’) commencing on the date on which he becomes an employer and ending with the 31st day of March next following the date on which he becomes an employer, and shall pay a levy on the amount of the estimate shown in that statement: 20 25 30

“(b) Shall, if he continues to be an employer throughout the first employment period, deliver, within the period of 3 months commencing on the 1st day of April immediately following the expiration of that period, a statement of the amount of earnings as employees paid by him during the first employment period, whereupon the provisions of subsection (7) of this section shall apply: 35

“(c) Shall, if he continues to be an employer on the 1st day of April immediately following the expiration of the first employment period, deliver, within the period of 3 months commencing on that 1st day of April, a statement showing an estimate of the 40

5 amount of earnings as employees which will be paid
(including any which, before the delivery of the
statement, have been paid) by him during the year
(hereafter in this subsection (3) referred to as 'the
second employment period') commencing on that
1st day of April, and shall pay a levy on the amount
of the estimate shown in that statement:

10 "(d) Shall, if he continues to be an employer throughout
the second employment period, deliver, within the
period of 3 months commencing on the 1st day of
April immediately following the expiration of that
period, a statement of the amount of earnings as
employees paid by him during the second employ-
ment period, whereupon the provisions of subsection
15 (7) of this section shall apply:

20 "(e) Shall, if he continues to be an employer on the 1st
day of April immediately following the expiration
of the second employment period, deliver, con-
currently with the delivery of the last-mentioned
statement, a duplicate of that statement, and pay
a levy on the amount of the earnings shown in that
statement:

25 "(f) Shall, within the period of 3 months commencing on
every succeeding 1st day of April on which he
continues to be an employer, deliver a statement
of the amount of earnings as employees paid by
him during the year ended with the day immedi-
ately preceding that 1st day of April, and shall pay
a levy on the amount of the earnings shown in that
30 statement.

35 "(4) If, in any period in respect of which a statement show-
ing an estimate of earnings would, apart from the provisions
of this subsection, be required to be delivered in accordance
with the foregoing provisions of this section, earnings as
employees estimated to become payable by an employer
(including any which have already been paid during that
period) consist of or include domestic earnings (as defined
in section 2 (1) of this Act), and the domestic earnings
40 estimated to become payable by that employer (including
any which have already been so paid) during that period
amount to less than the amount of the prescribed domestic
allowance, then, notwithstanding anything to the contrary in
this Act, those domestic earnings shall not be included in any
estimate required to be delivered, and, if no other earnings as

employees have been paid or are estimated to become payable by that employer during that period, no estimate in respect of that period shall be required to be delivered.

“(5) If, in any period in respect of which a statement of actual earnings would, apart from the provisions of this subsection, be required to be delivered in accordance with the foregoing provisions of this section, earnings as employees paid by an employer consist of or include domestic earnings and those domestic earnings amount to less than the amount of the prescribed domestic allowance, then, notwithstanding anything to the contrary in this Act, those domestic earnings shall not be included in that statement, and, if no other earnings have been paid by that employer during that period and no statement showing an estimate of earnings for that period has been delivered, no statement of actual earnings shall be required to be delivered in respect of that period.

“(6) Subject to the provisions of this Act, any person who ceases to be an employer during any year commencing on the operative date or commencing on any 1st day of April after the operative date shall, within 14 days after the date on which he so ceases, deliver a statement showing the amount of earnings as employees which have been paid or become payable by him during the period commencing on the operative date, or on the 1st day of April last preceding the date on which he so ceases, as the case may be, and ending at the time at which he so ceases, and shall also deliver any other statement required by section 76 of this Act and the foregoing provisions of this section to be delivered by him, notwithstanding that the time for delivery thereof, in accordance with those provisions, may not have expired, whereupon the provisions of section 79 of this Act shall apply:

“Provided that where any person ceases to be an employer, whether or not for the first time, during any year commencing on the operative date or any 1st day of April after the operative date, that person shall not be required to deliver a statement of the earnings as employees which for the time being have been paid or become payable by him during that year if the only such earnings which for the time being have been paid or become payable by him during that year are domestic earnings amounting to less than the amount of the prescribed domestic allowance.

“(7) Where, in accordance with the foregoing provisions of this section, this subsection is to apply:

5 “(a) If the amount of a levy paid in respect of estimated earnings for any period is less than the amount of the levy payable on the actual earnings during that period, a further amount of levy, equal to the amount of the deficiency, shall be paid:

10 “(b) If a statement of estimated earnings for any period which would otherwise be required to be delivered is by reason of subsection (4) of this section not required to be delivered but a statement of earnings actually paid during that period is required to be delivered, a levy shall be paid on the amount of earnings shown in that last-mentioned statement:

15 “(c) If the amount of a levy paid in respect of estimated earnings for any period exceeds the amount of the levy (if any) payable on the actual earnings during that period, the levy shall be deemed, to the extent of the amount of that excess, to have been overpaid, and section 106 of this Act shall apply accordingly:

20 “(d) If the amount of a levy paid in respect of the estimated earnings for any period is equal to the amount of the levy payable on the actual earnings during that period, no further payment of levy in respect of those actual earnings shall be required.

25 “(8) References in subsections (4) to (6) of this section to the ‘amount of the prescribed domestic allowance’ mean the amount prescribed for the purposes of those subsections in Part I of the First Schedule to this Act.”

30 (2) The principal Act is hereby consequentially amended—

(a) By omitting from subsection (3) of section 76 the words “subsections (1) and (2) of”:

35 (b) By omitting from section 79 the words “paragraph (e) of subsection (1), or paragraph (g) of subsection (2), of section 77”, and substituting the words “subsection (6) of section 77”:

(c) By adding to Part I of the First Schedule the following item:

40 “Amount of the prescribed domestic allowance for the purposes of subsections (4) to (6) of section 77 of this Act \$400”

28. Statements by self-employed persons—(1) The principal Act is hereby amended by repealing section 78, and substituting the following section:

“78. (1) Every person who is a self-employed person on the operative date, or who, after the operative date and before the 1st day of October 1974, commences (whether or not for the first time) to be a self-employed person shall, within a period of one month commencing on the operative date or within a period of one month commencing on the date on which he so commences, as the case may be, deliver a statement in a form approved by the Commission, and pay a levy calculated at the rate of \$3 for every month or part of a month which falls within the period commencing on the operative date or on the date on which he so commences, as the case may be, and ending with the 30th day of September 1974.

“(2) Every person who is a self-employed person on the 1st day of October 1974 and also on the 30th day of September 1974 and who has, within the 12 months immediately preceding the 1st day of October 1974, completed a financial year during which he has been a self-employed person—

“(a) Shall, within a period of 2 months commencing on the 1st day of October 1974, deliver a statement of his earnings as a self-employed person during that financial year and pay a levy calculated in accordance with subsection (5) of this section:

“(b) Shall, within a period of 2 months commencing on every 1st day of October (being a 1st day of October after the 1st day of October 1974) on which he continues to be a self-employed person, deliver a statement of his earnings as a self-employed person during the financial year last ended before that 1st day of October, and pay a levy calculated in accordance with paragraph (a) of subsection (5) of this section.

“(3) Every person who is a self-employed person on the 1st day of October 1974 and also on the 30th day of September 1974, and who has not within the 12 months immediately preceding the 1st day of October 1974 completed a financial year during which he has been a self-employed person,—

“(a) Shall, within a period of one month commencing on the 1st day of October 1974, deliver a statement in a form approved by the Commission, and pay a levy amounting to \$36:

5 “(b) Shall, if he continues to be a self-employed person until and including the 1st day of October 1975, deliver, within a period of 2 months commencing on that date, a statement of his earnings as a self-employed person during the financial year last ended before the 1st day of October 1975, and pay a levy calculated in accordance with subsection (5) of this section:

10 “(c) Shall, on or within a period of 2 months commencing on every subsequent 1st day of October on which he continues to be a self-employed person, deliver a statement of his earnings as a self-employed person during the financial year last ended before that 1st day of October, and pay a levy calculated in accordance with paragraph (a) of subsection (5) of this section:

15 “(4) Every person who, on or after the 1st day of October 1974, commences (whether or not for the first time) to be a self-employed person—

20 “(a) Shall, within a period of one month commencing on the date on which he so commences, deliver a statement in a form approved by the Commission and pay a levy calculated at the rate of \$3 for every month or part of a month which falls within the period commencing on the date on which he so commences and ending with the 30th day of September next following that date:

25 “(b) Where he continues to be a self-employed person until the 1st day of October next following the date on which he so commences,—

30 “(i) If his first financial year (being his financial year in which he so commences) ends before that 1st day of October, shall, within a period of 2 months commencing on that 1st day of October, deliver a statement of his earnings as a self-employed person during that financial year, and pay a levy calculated in accordance with subsection (5) of this section:

35 “(ii) If that first financial year ends with or after that 1st day of October, shall, within a period of one month commencing on that 1st day of October, deliver a statement in a form approved by the Commission and pay a levy amounting to \$36, and shall, within a period of 2 months commencing

on the next succeeding 1st day of October, deliver a statement of his earnings as a self-employed person during that financial year, and pay a levy calculated in accordance with subsection (5) of this section:

“(c) Shall, on or within a period of 2 months commencing on every 1st day of October (being a 1st day of October after the 1st day of October next following the completion of the financial year in which he commences as aforesaid to be a self-employed person) on which he continues to be a self-employed person, deliver a statement of his earnings as a self-employed person during the financial year last ended before that 1st day of October, and pay a levy calculated in accordance with paragraph (a) of subsection (5) of this section. 5 10 15

“(5) Subject to sections 73 and 74 of this Act, where, in accordance with the foregoing provisions of this section, a person is required to deliver a statement of his earnings as a self-employed person during a financial year and to pay a levy calculated in accordance with this subsection, that levy shall be calculated, at the appropriate rate prescribed in accordance with section 72 of this Act, as follows— 20

“(a) If the person has been a self-employed person throughout that financial year and that financial year was of a period of 12 months, the levy shall be calculated on the earnings shown in the statement or on the prescribed amount, whichever is the greater: 25

“(b) If he has been a self-employed person for less than 12 months during that financial year or if that financial year was of a period of less than 12 months, the levy shall be calculated on the earnings shown in the statement increased in the proportion that 365 bears to the number of days in that financial year during which he was a self-employed person or on the prescribed amount, whichever is the greater. 30 35

“(6) Notwithstanding anything in the foregoing provisions of this section but subject to any regulations made under this Act, if any self-employed person (with the consent of the Commissioner of Inland Revenue) changes the date of the annual balance of his accounts for the purpose of furnishing a return of income under the Land and Income Tax Act 1954, 40

he shall comply with such requirements concerning the delivery of statements and payment of levies as shall, in the opinion of the Commission, be necessary in order to effect consequential adjustments and as shall be notified to him in writing.

“(7) Notwithstanding anything in the foregoing provisions of this section, where a person (being a person who on or after the operative date is or becomes a self-employed person) ceases to be a self-employed person, he shall, within a period of one month commencing on the date on which he so ceases, deliver a statement in writing to the Commission stating that he has so ceased and the date on which he so ceased, and shall also deliver any other statement required by section 76 of this Act and the foregoing provisions of this section to be delivered by him, notwithstanding that the time for delivery thereof in accordance with those provisions may not have expired, whereupon the provisions of section 79 of this Act shall apply.

“(8) Notwithstanding anything in the foregoing provisions of this section but subject to any regulations made under this Act, if any person (being a person who on or after the operative date is or becomes a self-employed person) ceases to be a self-employed person and recommences to be a self-employed person in the same financial year as that in which he so ceased, he shall comply with such requirements concerning the delivery of statements and payment of levies as may, in the opinion of the Commission, be necessary or desirable in order to facilitate adjustments and as may be notified to him in writing.”

(2) The principal Act is hereby consequentially amended—

(a) By omitting from subsection (1) of section 71 the words “at the rate or rates prescribed under section 72 of this Act and”, and by adding to that subsection the words “and except as stated in section 78 of this Act, shall be payable at the rate or rates prescribed under section 72 of this Act”:

(b) By omitting from paragraph (b) of subsection (2) of section 71 the words “in respect of or in relation to earnings as a self-employed person”, and substituting the words “in accordance with section 78 of this Act”:

(c) By omitting from subsection (1) of section 72 the expression “section 73”, and substituting the expression “sections 73 and 78”.

29. General provisions regarding statements of earnings, etc.—Section 80 of the principal Act is hereby consequentially amended by repealing paragraph (f) of subsection (7), and substituting the following paragraph:

“(f) Instead of requiring payment of or determining the levies payable by an employer or a self-employed person in accordance with the foregoing provisions of this Act, determine those levies at such amount as it thinks fit, having regard to the special circumstances of the case, upon the ground that in its opinion, the amount of the levy so required to be paid or determined would be substantially more or substantially less than would in the circumstances be fair and reasonable.”

30. Accidents to earners acting in breach of Act, regulations, or orders—(1) Section 84 of the principal Act is hereby amended by omitting the expression “sections 58 and”, and substituting the word “section”.

(2) The heading immediately preceding section 84 of the principal Act is hereby amended by omitting the words “Accident Cover”, and substituting the word “Accidents”.

31. Consequential amendments to sections 85, 86, 87, and 89—(1) The principal Act is hereby amended by omitting the words “Without limiting the provisions of section 58 of this Act” in each place where they appear in sections 85 (1), 86, 87, and 89.

(2) Section 85 of the principal Act is hereby further amended by omitting from subsection (1) the word “inquiry”, and substituting the word “injury”.

32. Accidents to waterside workers—The principal Act is hereby amended by repealing section 88, and substituting the following section:

“88. (1) For the purposes of this Act, any person whose name is entered on a bureau register kept under section 28 of the Waterfront Industry Act 1953 shall be deemed at all times while his name is so entered to have engaged to work in New Zealand in waterside work (as defined in section 2 of the Waterfront Industry Act 1953) under a contract of service.

“(2) For the purposes of this Act, where any person is deemed to have engaged to work in New Zealand in waterside work under a contract of service in accordance with subsection (1) of this section—

5 “(a) That contract of service shall be deemed for the purposes of this Act to have been entered into with the Waterfront Industry Commission constituted under the Waterfront Industry Act 1953, and the Waterfront Industry Commission shall be deemed
10 in respect of that engagement to be the sole employer of that person notwithstanding that he may from time to time be employed in waterside work as the employee of another person; and

15 “(b) If that person suffers personal injury by accident—

“*(i)* While, having presented himself for engagement on waterside work, he is at any place of engagement or is in any premises set aside as a place of waiting or is in any premises to which he has been directed by the Waterfront Industry
20 Commission or is travelling by the most direct practicable route between any of those places; and

“*(ii)* During the hours of engagement of labour prescribed under any principal order of the Waterfront Industry Tribunal under the Waterfront
25 Industry Act 1953; and

“*(iii)* While he has not been engaged for work within the meaning of and in the manner prescribed by any such principal order,—

30 “and in any case where that person dies as a result of personal injury so suffered, the accident shall be deemed to arise out of and in the course of employment.

“*(3)* For the purposes of this Act, any person who is engaged to work as an employee in waterside work and to
35 whom subsection (1) of this section does not apply, shall be deemed in respect of that engagement to be an employee of the Waterfront Industry Commission, and that Commission shall be deemed in respect of that engagement to be the sole employer of that person notwithstanding that in the course
40 of that engagement he may be employed in waterside work as the employee of another person.”

33. Cover under motor vehicle accident scheme—The principal Act is hereby amended by repealing section 92, and substituting the following section:

“92. Subject to the provisions of this Act, all persons shall have cover under the motor vehicle accident scheme in respect of personal injury by accident in New Zealand if the accident occurs on or after the date on which this section comes into force and is caused by or through or in connection with the use of a vehicle in New Zealand and that vehicle is— 5

“(a) A vehicle that is registered and licensed as a motor vehicle under Part II of the Transport Act 1962; or 10

“(b) A motor vehicle that is required to be registered and licensed under Part II of the Transport Act 1962 by reason of the fact that it is, at the time of the accident, being used on a road, or had, at any time before the accident and during the currency of the licensing year (as defined in section 6 of the Transport Act 1962) in which the accident occurs, been used on a road; or 15 20

“(c) A vehicle that is one to which any of the provisions of sections 93, 94, and 96 of this Act conferring cover under the motor vehicle accident scheme applies as if it were a registered and licensed motor vehicle; or 25

“(d) A motor vehicle which, at the time of the accident, is being used in pursuance of the provisions of section 22 of the Transport Act 1962, as substituted by section 5 of the Transport Amendment Act 1971, and has affixed to it, pursuant to those provisions, the specified trade plates and trade licence for the current licensing year.” 30

34. Motor vehicles of visitors to New Zealand—(1) Section 93 of the principal Act is hereby amended by adding to paragraph (b) the word “and”. 35

(2) Section 93 of the principal Act is hereby further amended by adding the following paragraph:

“(c) This section is in force.”

35. Towed unregistered or unlicensed vehicles—The principal Act is hereby amended by repealing sections 94 and 95, and substituting the following section: 40

“94. (1) Where any vehicle that is an agricultural trailer, or is normally propelled by mechanical power and is not for the time being registered and licensed under Part II of the Transport Act 1962, is being towed or propelled without
5 the use of its own power by a motor vehicle which at the time of the accident is,—

“(a) Required to be registered or licensed under Part II of the Transport Act 1962; or

10 “(b) Being used pursuant to and in accordance with section 22 of the Transport Act 1962, as substituted by section 5 of the Transport Amendment Act 1971; or

15 “(c) A motor vehicle in New Zealand of a visitor to New Zealand to which the provisions of this Act conferring cover under the motor vehicle accident scheme apply as if it were a registered and licensed motor vehicle,—

“the provisions of this Act conferring cover under the motor vehicle accident scheme shall apply in relation to the towed
20 or propelled vehicle as if it were a registered and licensed motor vehicle.

“(2) For the purposes of this section the terms ‘towed’ and ‘propelled’ include the temporary parking, standing, or stopping on any road of the towed or propelled motor vehicle
25 which may arise out of or in the course of towing or propelling the motor vehicle.”

36. Motor Vehicle Compensation Fund—Subsection (2) of section 97 of the principal Act is hereby amended—

30 (a) By inserting in paragraph (b), after the words “motor vehicle accident”, the words “and death resulting therefrom”:

(b) By omitting from paragraph (c) the words “motor vehicle accidents”, and substituting the words “the operation of the motor vehicle accident scheme”.

35 **37. New Part IVA inserted in principal Act**—The principal Act is hereby amended by inserting, after Part IV, the following new Part:

“PART IVA

“SUPPLEMENTARY SCHEME

“102A. **Supplementary scheme**—The Commission shall establish in accordance with this Act a supplementary scheme, which shall (subject to the provisions of this Act) have the purposes of— 5

“(a) Promoting safety, and promoting the rehabilitation of persons who become incapacitated as a result of personal injury by accident, being persons who have cover under the scheme in respect of the injury; and 10

“(b) Providing for the compensation of those persons; and for the compensation of certain dependants of persons who have died as a result of personal injury by accident, being persons who had cover under the scheme in respect of the injury. 15

“102B. **Cover under supplementary scheme**—Subject to the provisions of this Act, all persons shall have cover under the supplementary scheme in respect of personal injury by accident in New Zealand if they do not have cover in respect thereof under either the earners’ scheme or the motor vehicle accident scheme. 20

“102C. **Cover for persons not ordinarily resident in New Zealand**—(1) Subject to the provisions of this Act, the cover under the supplementary scheme of any person who is not ordinarily resident in New Zealand and who is entering New Zealand from any place outside New Zealand shall not commence until he has completed the operation of disembarking from the ship or aircraft or other means of conveyance by which he entered New Zealand. 25 30

“(2) Where any person, who has cover under the supplementary scheme and who is not ordinarily resident in New Zealand, commences to embark on any ship or aircraft or other means of conveyance, by which he is to leave New Zealand for a destination outside New Zealand, that cover shall cease when he commences so to embark. 35

“102D. **Supplementary Compensation Fund**—(1) There shall be credited to the Supplementary Compensation Fund established under section 31 of this Act:

“(a) All money appropriated by Parliament for the purpose of meeting payments out of that Fund: 40

“(b) All interest and other income derived from the money and investments comprising the Supplementary Compensation Fund:

5 “(c) All amounts payable to the Commission which in its opinion can be separately identified as relating to the Supplementary Compensation Fund.

“(2) There shall be charged to the Supplementary Compensation Fund:

10 “(a) All amounts which have to be transferred from that Fund to the General Fund under section 32 (1) (d) of this Act:

15 “(b) All compensation payable by the Commission under this Act in relation to personal injuries by accident to persons who have cover in respect thereof under the supplementary scheme or in relation to death resulting therefrom:

20 “(c) All amounts paid by the Commission in respect of rehabilitation assistance, costs (including costs awarded against or incurred by the Commission), and expenses which, in the opinion of the Commission, can be separately identified as payments resulting from the operation of the supplementary scheme:

25 “(d) All remuneration, travelling allowances, and expenses payable to medical referees, members of medical committees, specialists, consultants, and other persons under section 23 of this Act, and all fees, commission, and expenses payable to agents under this Act, which can be separately identified as payments so resulting.”

30

38. Heading to Part V—The principal Act is hereby amended by repealing the heading to Part V, and substituting as a heading the words “Provisions Relating to Schemes”.

39. Calculation of earnings—(1) Subsection (2) of section 35 103 of the principal Act is hereby amended by inserting, after paragraph (d), the following paragraph:

“(dd) Any allowance of the kind referred to in section 88c of the Land and Income Tax Act 1954; or”.

(2) Subsection (2) of section 103 of the principal Act is 40 hereby further amended—

(a) By omitting from paragraph (g) the words “director of a company”, and substituting the word “person”:

(b) By omitting from paragraph (k) the words "Act; or", and substituting the words "Act, or any compensation payable under the Workers' Compensation Act 1956; or".

(3) Section 103 of the principal Act is hereby further amended by repealing subsections (3) to (5), and substituting the following subsections: 5

"(3) For the purposes of this Act, the expression 'earnings as a self-employed person', in relation to a self-employed person, means so much of the assessable income (as determined under and for the purposes of the Land and Income Tax Act 1954) of that person as is beneficially derived by him from the carrying on by him of a business; but does not include income so derived to the extent to which that income consists of— 10 15

"(a) Income from dividends (as defined in section 4 of the Land and Income Tax Act 1954), not being income derived by that person from the carrying on by him of the business of dealing in shares; or

"(b) Income from interest or from any premium or like revenue arising from a debt, not being income derived by that person from the carrying on by him of the business of lending money or of a business in the course of the conduct of which financial accommodation is regularly given to customers; or 20 25

"(c) Income from rents, fines, premiums, or other revenues (including payment for or in respect of the goodwill of any business, or the benefit of any statutory licence or privilege) derived by that person as the owner of land from any lease of, or licence relating to, the land (including any chattels included in the lease or licence), not being income derived by that person from the carrying on by him of the business of— 30 35

"(i) Operating an hotel, motel, motor camp, hostel, convalescent home, private hospital, or boarding house; or

"(ii) Hiring premises in conjunction with the provision of goods and services thereon where the hiring of the premises is for the sole or principal purpose of enabling the provision of those goods and services; or 40

- “(d) Income from the lease or bailment of livestock; or
- “(e) Income from the grant or renewal, or from the sale or other disposition, of any right relating to—
- 5 “(i) The operation of any mine or quarry; or
- “(ii) The extraction, removal, or other exploitation of any standing timber or of any natural resource; or
- “(iii) The taking in any other manner of profits or produce from land; or
- 10 “(f) Income from any easement affecting land; or
- “(g) Income from payments of any kind made as consideration for—
- 15 “(i) The sale or other disposition of, or the use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trade mark, or other like property or right; or
- “(ii) The supply of scientific, technical, industrial, or commercial knowledge or information (but not including any services which are rendered as a means of enabling the application or enjoyment of such knowledge or information); or
- 20 “(h) Income derived by that person from a partnership or joint undertaking where that person does not render personal services to a substantial degree in the carrying on of the business of the partnership or joint undertaking; or
- 25 “(i) Any share or interest in income derived by that person as a beneficiary under any will, trust, or settlement, not being a share or interest referred to in subsection (4) of this section; or
- 30 “(j) Income which is neither derived from New Zealand (as defined in section 2 of the Land and Income Tax Act 1954) nor deemed for the purposes of the Land and Income Tax Act 1954 to be derived from New Zealand (as so defined); or
- 35 “(k) Any compensation as defined in section 2 (1) of this Act; or
- “(l) Any earnings referred to in paragraph (1) of subsection (2) of this section:
- 40 “Provided that, for the purpose of assessing earnings for the payment of compensation, any income of a person allowed by any provision of the Land and Income Tax Act 1954 to be spread back or apportioned to a financial year earlier than that in which the income was derived shall not be included

in the earnings of that person for any financial year other than that in which it was derived, if the application to the Commissioner of Inland Revenue for the spread-back or apportionment was made subsequent to the time of the accident in respect of which earnings related compensation is or is to be claimed. 5

“(4) For the purposes of subsection (3) of this section, in the case of a person to whom paragraph (b) of the definition of the expression ‘self-employed person’ in section 2 (1) of this Act applies, any income referred to in that paragraph shall, to the extent of that person’s vested beneficial share or interest in that income, be deemed to have been derived by him from the carrying on by him of a business. 10

“(5) Every reference in this section to the carrying on of a business by a person shall be read as a reference to the carrying on of that business by that person either alone or together with another person or other persons. 15

“(6) Nothing in this section shall restrict subsection (8) of section 60 of this Act.”

40. Relevant earnings—Section 104 of the principal Act 20 is hereby amended—

- (a) By omitting from subsection (1) and also from subsection (2) the words “a person”, and substituting in each case the words “an earner”;
- (b) By omitting from subsection (3) all the words that appear between the expression “calculated under this section” and the expression “the Commission may”, and substituting the words “if the Commission is satisfied that he was ordinarily resident in New Zealand at the date of the accident: 25 30
- (c) By omitting from subsection (8) the word “continuous”.

41. Persons travelling between places in New Zealand—The principal Act is hereby amended by inserting, after section 105, the following section: 35

“105A. Where any person who has cover under this Act, not being a seaman or airman in the course of his employment as such, embarks in New Zealand on a ship or aircraft or other means of conveyance by sea or air to travel from one place in New Zealand to another place in New Zealand, or to return to his place of embarkation without disembarking at any other 40

place, and in either case goes beyond the territorial sea of New Zealand but does not go beyond a limit of 300 nautical miles from any point or points in the territorial sea of New Zealand, that person shall, for the purposes of this Act, be
5 deemed to have remained in New Zealand.”

42. Damage to teeth or artificial limbs or aids or clothing—
Section 110 of the principal Act is hereby amended by omitting from the proviso to subsection (1) all the words
10 after the word “accident”, and substituting the words “to the employer in any case where the accident arises out of and in the course of the employment of the employee, or in any other case to the agent of the Commission to whom
notice of the accident is given under section 142 of this Act”.

43. Earnings related compensation after first week—
15 (1) Section 113 of the principal Act is hereby amended by repealing subsections (1) to (4), and substituting the following subsections:

“ (1) Where as a result of incapacity due to personal injury by accident a person who has cover in respect of the injury
20 suffers any loss of earning capacity as determined under the provisions of this section during any period after the expiration of the working week comprising the day of the accident and the 6 days thereafter, the Commission shall pay him earnings related compensation in accordance with this section
25 in respect of that loss,—

“ (a) Until an assessment has been made under section 114 of this Act of the amount to be paid in respect of his permanent loss of earning capacity, at the rate
30 of 80 percent of the amount of his loss of earning capacity due to the injury for the time being as determined by the Commission:

“ (b) After such an assessment has been made, at the rate of the amount specified in that assessment, or any other assessment made pursuant to subsection (5)
35 of section 114 of this Act which is for the time being in force, as adjusted from time to time under subsection (4) of that section.

“ (2) For the purposes of this section and of section 114 of this Act, a person’s loss of earning capacity due to the injury
40 for any period while he remains incapacitated on account of the injury shall, subject to the provisions of this section, be determined by deducting from the amount of his relevant

earnings for a like period the aggregate of the amount of his earnings as an employee (if any) and the amount of his earnings as a self-employed person (if any) during the period:

“Provided that, if the Commission considers, having regard to the medical and other evidence available to it, that the person is, in any such period, not endeavouring to work to the extent of his capacity, the Commission may fix the amount to be deducted, in accordance with the foregoing provisions of this subsection, at such figure as, having regard to that evidence, it considers appropriate: 5 10

“Provided also that, for the purposes of the foregoing proviso to this subsection, where the person is entitled to earnings related compensation by reason of section 118 of this Act, the Commission may have regard to the extent (if any) to which it is reasonable to expect him to endeavour to work in paid employment during that period. 15

“(3) Notwithstanding anything in subsection (2) of this section, where the amount to be deducted in accordance with the provisions of that subsection consists of or includes earnings as a self-employed person during any such period, the Commission may have regard to— 20

“(a) The extent (if any) to which those earnings as a self-employed person are due to operations conducted before the date of the accident in respect of any business then carried on by the incapacitated person (whether alone or together with any other person or persons); and 25

“(b) The extent (if any) to which the value of the interest of the incapacitated person in any such business may be detrimentally affected in that period by the incapacity; and 30

“(c) Any other factors relating to any such business that it considers relevant in the circumstances,—

“and if, after having had regard to those factors, it considers that, for the purpose of arriving at a fair assessment of the incapacitated person’s loss of earning capacity for that period the amount of his earnings as a self-employed person for that period should be reduced, the Commission shall fix the amount to be deducted from his relevant earnings for that period in place of his earnings as a self-employed person for that period at such amount as it considers appropriate. 35 40

“(4) If, as a result of the incapacity due to the injury, an employee is unable to work in employment as an employee for any period and his employer pays him earnings as an employee for that period, then, if—

5 “(a) The amount so paid; and

 “(b) The amount of earnings related compensation which would have been payable, in accordance with the foregoing provisions of this section, in respect of his loss of earning capacity as an employee for that period if the employer had made no such payment—

10 “are together in excess of what would, in accordance with those provisions, have been the amount of his loss of earning capacity as an employee for that period if the employer had made no such payment, the amount of earnings related compensation payable to him for that period in respect of his loss of earning capacity as an employee shall, notwithstanding those provisions, be determined by deducting the amount of that excess from the amount of the earnings related compensation which would, in accordance with those provisions, have been payable to him in respect of his loss of earning capacity as an employee for that period if the employer had made no such payment; and if there is no such excess amount then the amount of earnings related compensation to which the employee shall be entitled for that period shall be the amount which would have been payable to him if his employer had paid no earnings as an employee to him for that period.

15 “(4A) Notwithstanding the foregoing provisions of this section, it is the intent and purpose of this section that, where earnings related compensation is payable under this section for any period, the commencement of the payment thereof and the ascertainment of the amount thereof should not be unduly delayed on account of difficulties or uncertainties which may arise in ascertaining the amount of the relevant earnings of the incapacitated person or his earnings as an employee or as a self-employed person during that period, and to the end that the said intent and purpose may be effected, the Commission shall, subject to any regulations made under this Act, have unrestricted authority to exercise, as and when it thinks fit, the powers conferred on it by subsections (4B), (5), and (8) of this section:

“Provided that in the exercise of those powers, the Commission shall, so far as is for the time being practicable, be guided by the principles set out in the foregoing provisions of this section.

“(4B) Subject to the provisions of subsection (4A) of this section, and of any regulations made under this Act, where, in the determination of the Commission, a person is entitled to earnings related compensation under this section, the Commission may, having regard to the evidence which is presently available, determine his loss of earning capacity during the period of short term incapacity (as defined in section 2 (1) of this Act) or any part of that period at such amount as it considers will provide fair and just compensation without being required to make assessments of relevant earnings and actual earnings, if (in its opinion) undue delay would be involved in making such assessments: 5 10 15

“Provided that any determination made under this subsection shall not bind or prejudice the Commission or limit or restrict its powers with regard to any determination of that person’s loss of earning capacity during any part of the period of short term incapacity to which the determination does not relate or during any period after the period of short term incapacity. 20

“(4c) In any case where an employee suffers personal injury by accident in respect of which he becomes entitled to claim earnings related compensation under the provisions of this section, then, subject to the prior approval of the Commission being obtained and subject to such terms and conditions as the Commission may require, if his employer makes any payment or payments to that employee up to the amount of any earnings related compensation to which that employee may from time to time become entitled under the provisions of this section for any period or periods of incapacity, the Accident Compensation Commission may reimburse that employer for any such payments, and any amount so reimbursed shall be deemed to be earnings related compensation paid to the employee: 25 30 35

“Provided that no reimbursement shall be made of any payments which exceed the amount of earnings related compensation to which the employee would have been entitled if the Commission had made the payments direct to him: 40

“Provided also that the provisions of this subsection shall not apply to any payments of earnings related compensation made after an assessment under the provisions of section 114 of this Act has been made.” 45

(2) Subsection (8) of section 113 of the principal Act is hereby amended:

5 (a) By omitting the words "Subject to the provisions of this Act and of any regulations made thereunder", and substituting the words, "Subject to any regulations made under this Act":

(b) By inserting, after the words "paragraph (b) of subsection (1)", the words "or subsection (2)".

10 (3) Section 113 of the principal Act is hereby further amended by repealing subsection (12), and substituting the following subsection:

15 "(12) Except as provided in section 118 of this Act, no earnings related compensation shall be payable under this section to a person who suffers personal injury by accident unless, at the time of the accident, he had cover under the earners' scheme."

44. Compensation, etc., in case of subsequent accident—
Section 115 of the principal Act is hereby amended—

20 (a) By omitting from paragraph (c) the expression "section 114", and substituting the expression "section 113":

(b) By omitting from paragraph (d) the expression "section 114" in the first place where it appears, and substituting the expression "section 113".

25 **45. Compensation for loss of potential earning capacity in certain cases—**The principal Act is hereby amended by repealing section 118, and substituting the following section:

30 "118. (1) Where, as a result of incapacity due to personal injury by accident, a person suffers any loss of potential earning capacity, compensation shall be payable in accordance with and subject to this section, if—

"(a) The accident occurred in New Zealand; and

"(b) The person was at the time of the accident ordinarily resident in New Zealand; and

35 "(c) At the date of the accident, the person—

"(i) Had not attained the age of 16 years; or

"(ii) Was a pupil enrolled for secondary education or special education as those terms are defined in section 2 of the Education Act 1964; or

40 "(iii) Was actively studying or training for an occupation, career, or profession which he intended to take up on completing his study or training, and satisfies the Commission to this effect; or

“(iv) Was not in regular work in paid employment in any occupation, career, or profession, and had completed a course of secondary education or special education within a period of 6 months before the date of the accident; or 5

“(v) Had completed his study or training for an occupation, career, or profession, and satisfies the Commission that he intended to enter upon that occupation, career, or profession within a reasonable time (not being more than 6 months) after 10 so completing his study or training, or that, having entered upon that career or that profession, his relevant earnings, although at the time of the accident less than the amount prescribed for the purposes of this section, would have reached that 15 amount if the accident had occurred at a later time, not being more than 12 months after the date of his so entering upon his occupation, career, or profession; or

“(vi) Was not in regular work in paid employ- 20 ment, and had made positive arrangements and preparations to take up such work in New Zealand (either as an employee or a self-employed person) at a future time, being not more than 12 months after the date of the accident, and satisfies the 25 Commission to this effect.

“(2) In any case where compensation for loss of potential earning capacity is so payable under this section, an assessment of the amount payable shall, subject to subsections (3) and (4) of this section, be made in accordance with 30 section 113 of this Act as if the injured person were an earner whose relevant earnings were the amount determined under subsection (5) of this section.

“(3) In any such case an assessment under section 113 of this Act shall be made on such date, being not earlier 35 than the date on which the person (if under the age of 16 years) attains the age of 16 years, as may be agreed upon by the Commission and the injured person or his guardian, or (failing agreement) as the Commission may fix having regard to all the circumstances of the case: 40

“Provided that, if no assessment of the person’s permanent incapacity can be made under section 114 of this Act at that date, that assessment shall be made as soon thereafter as the Commission determines that the conditions enabling it to make that assessment have been met. 45

“**(4)** No compensation for loss of potential earning capacity shall become payable under this section in respect of any period before an assessment in accordance with the provisions of subsection (2) of this section has been made, and
5 in fixing the amount of compensation payable until a permanent assessment under section 114 of this Act has been made, the Commission may have regard to the extent to which the person is receiving rehabilitation assistance, or assistance from any scholarship or bursary.

10 “**(5)** In any case to which this section applies, the relevant earnings of the injured person shall be deemed to be the amount prescribed for the purposes of this section, being the amount specified in Part IV of the First Schedule to
15 this Act or such other amount (not differing therefrom by more than 20 percent) as may from time to time be specified for the purposes of this section by the Governor-General by Order in Council:

“Provided that the Commission may from time to time fix the relevant earnings of the injured person at such
20 greater amount, being not more than 50 percent in excess of the amount prescribed, as it thinks fit in any case where the injured person was studying or training for any career or profession at the time of the accident so as to allow for the gradual attainment by qualification or training or job
25 experience of full earning status:

“Provided also that, in any case where the injured person is an earner whose relevant earnings ascertained in accordance with section 104 of this Act would be more than the amount so prescribed for the purposes of this section, the
30 Commission may fix the relevant earnings at such greater amount as it thinks fit (not exceeding the amount so ascertained) if, but only if, the Commission is satisfied that, were it not for the injury, the person had the capacity to continue to earn throughout a normal working life at
35 a rate not less than that greater amount.

“**(6)** This section shall not apply to an earner while a higher rate of compensation would be payable to him under section 116 or section 117 of this Act.”

46. Earnings related compensation payable to dependent widows, widowers, and children and other dependants—
40 Section 123 of the principal Act is hereby amended by repealing subsections (7) and (8), and substituting the following subsections:

“(7) The Commission may, in its discretion,—

“(a) Continue to pay earnings related compensation to any child of the deceased person after the expiration of the period for which it is payable under the foregoing provisions of this section; and 5

“(b) Pay earnings related compensation to any child of the deceased person who was not a minor at the time of the death of the deceased person but was dependent on the deceased person immediately before the death of the deceased person,— 10

if and to the extent that the Commission considers that payments under this subsection are needed for the education of that child or in special circumstances for the maintenance of that child:

“Provided that, while the total amount of earnings related compensation payable under subsection (1) of this section (having regard to subsections (2) and (3) of this section) and under this subsection would exceed the maximum allowable amount so payable, being the amount of the earnings related compensation mentioned in the proviso to subsection (1) of this section that would for the time being have been payable to the deceased person had he or she remained alive but suffered a total loss of earning capacity due to the injury, no payments shall be made under this subsection or subsection (1) of this section, but compensation of that maximum allowable amount shall be applied by the Commission in accordance with subsection (4) of this section as if any child of the deceased person who would otherwise have been entitled to receive earnings related compensation under this subsection were a member of the class mentioned in the said subsection (4), and as if that subsection applied to any period while, in accordance with this proviso, the said maximum allowable amount is to be applied in accordance with that subsection, and as if the proviso to that subsection applied to compensation which a child of the deceased person would otherwise have been entitled to receive under this subsection. 15 20 25 30 35

“(8) Except as provided in section 118 of this Act, where a person dies as a result of personal injury by accident, no earnings related compensation shall be payable under this section unless, at the time of the accident, the person had cover under the earners' scheme.” 40

47. Payments to minors and persons under disability or needing protection—(1) Section 126 of the principal Act is hereby amended—

5 (a) By inserting in subsection (1), before the words “there is another person”, the words “the Commission has notice that”:

(b) By inserting in subsection (1), after the words “the Aged and Infirm Persons Protection Act 1912”, the words “or the Maori Affairs Act 1953”:

10 (c) By omitting from subsection (1) the word “either”, and substituting the word “any”.

(2) Section 126 of the principal Act is hereby further amended by inserting, after subsection (4), the following subsections:

15 “(4A) Notwithstanding the provisions of subsections (2) and (4) of this section, but subject to subsection (1) of this section, in any case where any lump sum is paid as compensation under any of the provisions of sections 119, 120, and 124 of this Act, and the person to whom the payment is to
20 be made is for the time being under 20 years of age or is of feeble or unsound mind and the Commission is satisfied that payment of the compensation in accordance with subsection (2) of this section would not be in the best interests of that person, the Commission may pay the compensation to the
25 Public Trustee to be held in trust and applied by the Public Trustee (as to the capital as well as the income thereof) for the maintenance, education, advancement or benefit of that person in such manner as the Public Trustee thinks fit while that person is under the age of 20 years or is of feeble or
30 unsound mind; and upon that person attaining the age of 20 years or ceasing to be of feeble or unsound mind (after having attained the age of 20 years) the Public Trustee shall pay the balance of the compensation remaining in his hands to that person, or if that person dies while any compensation is held
35 for him the Public Trustee shall pay the compensation to that person’s administrator or to a person to whom it may be paid under section 65 of the Administration Act 1969, as amended by section 184 of this Act.

40 “(4B) All compensation paid to the Public Trustee under subsection (4A) of this section shall be invested by him in the Common Fund of the Public Trust Office or (notwithstanding section 30 of the Public Trust Office Act 1957) in

such other investments as are authorised by law for the investment of trust funds, or partly in that Common Fund and partly in such other investments as aforesaid as the Public Trustee thinks fit having regard to the circumstances of the persons for whose benefit the compensation is so held.” 5

48. Upper age limit for payment of earnings related compensation—Section 128 of the principal Act is hereby amended by inserting in subsection (2), after the word “widower” in each place where it appears, the words “or child or other dependant”. 10

49. Power to reduce, postpone, or cancel earnings related compensation where person in hospital or penal institution—(1) Subsection (1) of section 129 of the principal Act is hereby amended—

(a) By omitting the words “under section 113 or section 123 of this Act while”, and substituting the words “in respect of any period during which”: 15

(b) By adding to paragraph (c) the word “or”.

(2) Section 129 of the principal Act is hereby further amended by adding to subsection (1) the following 20 paragraph:

“(d) Any other institution to which the Governor-General, by Order in Council, declares that this section shall apply.”

50. Duty to submit to medical examination and medical or surgical treatment—Section 132 of the principal Act is hereby amended by— 25

(a) Omitting from subsection (2) the word “accident”, and substituting the word “injury”:

(b) By inserting in the proviso to subsection (6), after the 30 word “children”, the words “and other dependants”.

51. Compensation not assignable—(1) Section 135 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) While any money payable by the Commission by way 35 of compensation under this Act is held—

“(a) By the Commission; or

“(b) By any person to whom the money has been paid by the Commission pursuant to subsection (1) or paragraph (b) of subsection (2) or subsection (4) or subsection (4A) of section 126 of this Act and
5 by whom the money is to be applied as therein mentioned—

“it shall not be capable of being assigned, charged, taken in execution, or attached, nor shall any claim be set off against it, nor shall it be assets in the bankruptcy of the person to
10 whom, apart from the provisions of section 126 of this Act, that compensation was payable.”

(2) Section 135 of the principal Act is hereby further amended by adding the following subsection:

“(5) Nothing in this section shall affect sections 4 and 5
15 of the Maori Housing Act 1935, section 71 of the Social Security Act 1964, and section 101 of the Domestic Proceedings Act 1968.”

52. Decisions and payments—Section 151 of the principal Act is hereby amended by repealing subsection (1), and
20 substituting the following subsections:

“(1) Subject to the provisions of this Act and any regulations made thereunder, the Commission or any agent of the Commission authorised in that behalf shall, as soon as practicable, give notice in writing of any decision in respect of
25 which an application for review may be made under section 153 of this Act:

“Provided that the foregoing provisions of this subsection shall not apply to any decision which results in payment in full, by or on behalf of the Commission, of any amounts
30 claimed for compensation under any of the provisions of sections 107 to 111 or section 122 of this Act.

“(1A) Subject to the provisions of this Act and any regulations made thereunder, notice required to be given in accordance with subsection (1) of this section shall—

35 “(a) Where a claim for rehabilitation assistance or compensation is made and the decision is one to which paragraph (a) or paragraph (c) of section 153 (1) of this Act applies, be given to the person making the claim, if he has made it on his own behalf, or, if
40 the claim has been made on his behalf by another person in accordance with section 148 of this Act, to both that other person and the person on whose behalf the claim has been made; or

“(b) Where the decision is one affecting the liability of any person to pay any levy under this Act or the amount of any such levy, be given to that person.

“(1B) The Commission shall, as soon as practicable, give notice in writing of the revocation by the Commission of the appointment of an agent to that agent. 5

“(1c) Subject to any regulations made under this Act, the Commission shall, as soon as practicable, give notice in writing of any decision of the Commission under subsection (5) or subsection (6) of section 5 of this Act in manner following: 10

“(a) In the case of a decision under the said subsection (5), the notice shall be given to each of the parties to the proceedings in which the question for decision arose, and, if the person in relation to whom the question arose is not a party to those proceedings, to that person; and a copy of the notice shall be sent to the Registrar of the Court by which the question was referred to the Commission: 15

“(b) In the case of a decision under the said subsection (6), the notice shall be given to the person on whose application the decision has been made, and, if that person is not the person in relation to whom the question arose, to that last-mentioned person. 20

“(1D) Subject to sections 83 (3), 114 (5), 120 (4), 168 (5) and 169 (13) of this Act, any decision made by the Commission may be revised by the Commission if it appears to it that the decision has been made in error, whether by reason of mistake or by reason of false or misleading information having been supplied or by reason of fresh evidence or for any other reason, and the Commission may thereupon alter or amend any such decision or revoke the decision and substitute another decision therefor: 30

“Provided that any such alteration, amendment, or revocation and substituted decision shall be deemed to be a decision of the Commission for the purposes of subsection (1) of this section and sections 153 to 169 of this Act.” 35

53. Application for review—Subsection (1) of section 153 of the principal Act is hereby amended—

(a) By inserting, after the words “appointed by the Commission”, the words “not being a decision under subsection (5) or subsection (6) of section 5 of this Act”: 40

(b) By omitting from paragraph (a) the words “the applicant or any employee of the applicant”, and substituting the words “any person or deceased person”:

5 (c) By omitting from the first proviso the words “in accordance with or under the provisions”, and substituting the words “under and for the purposes”.

54. Remuneration and travelling allowances—Section 157 of the principal Act is hereby amended by omitting the word “mean”, and substituting the word “meaning”.

10 **55. Right of appeal**—Section 162 of the principal Act is hereby amended by omitting from paragraph (c) the expression “subsection (4) or subsection (5)”, and substituting the expression “subsection (5) or subsection (6)”.

15 **56. Regulations and Orders in Council**—Section 181 of the principal Act is hereby amended—

(a) By omitting from paragraph (d) of subsection (1) the words “the granting of work accident cover under section 58 (6) of this Act, and”:

20 (b) By omitting from paragraph (a) of subsection (2) the number “57”.

57. First Schedule amended—The First Schedule to the principal Act is hereby amended by repealing Part V.

25 **58. Third Schedule amended**—The Third Schedule to the principal Act is hereby amended, as from its commencement, by inserting in the second item relating to the Criminal Justice Amendment Act 1962, after the expression “subsection (4)”, the words “of section 18”.

30 **59. Consequential amendment**—The Summary Proceedings Act 1957 is hereby amended by inserting in Part II of the First Schedule the following item:

“The Accident Compensation Act 1972	180(1)	Offences as to evading levies and making false statements and representations.”
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