

## HOUSE OF REPRESENTATIVES

## Supplementary Order Paper

Thursday, the 12th Day of October 1972

## ACCIDENT COMPENSATION BILL

*Proposed Amendments*

Hon. Mr THOMSON, in Committee, to move the following amendments:

*Clause 2:* To insert in line 30 on page 7, after the word “section”, the words “and section 83 of this Act”; also to insert in line 14 on page 8, after the word “section”, the words “and section 83 of this Act”; also to insert in line 19 on page 16, before the words “a Chairman”, the word “or”.

*Clause 5, subclause (2), paragraph (b):* To omit from line 20 on page 18 the words “for damages”.

*Clause 39:* To insert in line 5 on page 39, after the word “committee”, the words “(other than a medical committee)”.

*Clause 56:* To omit from line 3 on page 52 the expression “Part I”, and substitute the expression “Part V”.

*Clause 58:* To add the following subclause:

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

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

(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 the commencement of that period:

(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 the commencement of that period.

*Clause 59, subclause (1), paragraph (b):* To omit from line 36 on page 56 the word “accident”, and substitute the word “injury”.

*Clause 62:* To insert in line 3 on page 66, after the word “emergency”, the words “(whether in New Zealand or elsewhere)”; also to omit from lines 5 and 6 on page 66 the words “notwithstanding the provisions of section 59 of this Act”.

*Clause 64:* To omit from line 34 on page 68 the word “by”, and substitute the word “of”; also to insert in line 5 on page 69, after the word “accident”, the words “in New Zealand”; also to insert in line 8 on page 69, after the words “New Zealand”, the words “but not elsewhere”.

*Clause 66:* To omit from line 32 on page 70 the expression “section 166”, and substitute the expression “section 136”.

*Clause 67:* To insert in line 6 on page 72, after the word “No”, the words “rehabilitation assistance shall be given and no”; also to insert in line 33 on page 72, after the word “any”, the words “earnings related”; also to omit from lines 37 to 39 on page 72 the words “and no compensation shall be paid in a lump sum in respect of incapacity caused by any such disease as aforesaid”.

*Clause 68:* To insert in line 38 on page 73, before the word “deafness”, the word “industrial”; also to add the following subclause:

(5) Where compensation has been paid or is payable under the Workers’ Compensation Act 1956 to any person for any degree of industrial deafness, that degree of deafness in that person shall be deemed not to be “industrial deafness” within the meaning of this section.

*Clause 69:* To insert in line 21 on page 75, after the word “levies”, the words “and penalties”; also to insert in line 24 on page 75, after the word “referees”, the words “members of medical committees”.

*Clause 69A:* To insert in line 30 on page 76, after the word “referees”, the words “members of medical committees”.

*Clause 73, subclause (1):* To omit the words in lines 5 to 23 on page 80, and substitute the following words:

(b) If those earnings have been derived from more than one employer, each of the employers from whom those earnings have been derived shall pay levy on all earnings as an employee on which levy is payable and which are paid by him to that employee during that period, but any employer making such a payment of levy may make application in writing to the Commission for a refund of the amount by which the levy so paid by him exceeds the amount of the levy that would have been paid by him in respect of those earnings if levy were payable on all the earnings first-mentioned in this paragraph but that levy were calculated only on the amount prescribed for the purposes of this section and the amount of the

earnings paid by each of the employers had abated accordingly in the proportion that the amount of earnings paid by each of the employers bears to the total of the earnings first-mentioned in this paragraph; and the Commission shall, in accordance with section 101 of this Act, refund to each employer, who makes such a payment of levy and makes an application as aforesaid, the amount by which, on the information then before the Commission, the amount of the levy paid by the employer exceeds the amount of the levy that would have been payable by him if such abatement had been made:

*Clause 73, subclause (2):* To omit the subclause and substitute the following subclauses:

(1A) If, in any period mentioned in subsection (1) of this section, the earnings as an employee derived by the employee include earnings on which no levy is payable under Part III of this Act by reason of paragraph (b) of section 62 (1) of this Act and also include any other earnings as an employee derived as an employee of the Crown, the aforesaid earnings on which no levy is so payable and those other earnings respectively shall be deemed for the purposes of subsection (1) of this section to have been derived from separate employers.

(2) Where a self-employed person is, in accordance with section 75B of this Act, required to pay a levy which is calculated on or in relation to his earnings as a self-employed person, 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:

Provided that, where a self-employed person is required to pay a levy in respect of past cover pursuant to paragraph (b) of subsection (2) or paragraph (b) of subsection (3) or paragraph (a) or paragraph (b) of subsection (4) of the said section 75B, that levy shall not exceed the amount of the levy that would be payable if, instead of being calculated on or in relation to his earnings as a self-employed person, the levy were calculated on the amount by which the amount prescribed for the purposes of this section exceeds the prescribed amount referred to in those paragraphs and defined in section 75 of this Act:

Provided also that, for the purposes of this subsection, each of the levies mentioned in subparagraphs (i) and (ii) of paragraph (a) and in subparagraphs (i) and (ii) of paragraph (b) of section 75B (4) of this Act shall be deemed to be a separate levy.

*Clause 73, subclause (3):* To omit from line 4 on page 81 the words “sections 75 to 75D”, and substitute the words “section 75B”; also to insert in line 13 on page 81, after the word “year”, the words “if that levy is one in the calculation of which those earnings as an employee are to be taken into account”; also to insert in line 18 on page 81 after the word “year” the words “(being levy in the calculation of which those earnings as an employee are to be taken into account)”.

*Clause 73, subclause (5):* To omit the subclause, and substitute the following subclause:

(5) For the purposes of subsections (3) and (4) of this section—

(a) Earnings of a member of the Armed Forces of New Zealand, as such a member, derived in respect of any period while he is serving in a war or emergency shall be deemed to be earnings as an employee of that member on which levy is payable by an employer, notwithstanding that, by reason of paragraph (b) of section 62 (1) of this Act, no levy is payable thereon:

(b) Earnings as an employee on which levy is not payable by reason of paragraph (b) of section 62 (1) of this Act but which may be exempted from liability for income tax for the purposes of the Land and Income Tax Act 1954 shall be deemed to be earnings as an employee which are included in the assessable income in which they would be included if they were not so exempted:

(c) Where, on the delivery by any person pursuant to section 75B of this Act of a statement of his earnings as a self-employed person during any financial year, 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 that levy is calculated on and by reference to the prescribed amount referred to in that section and defined in section 75 of this Act, that prescribed amount shall be deemed to be earnings as a self-employed person in place of the actual earnings as a self-employed person (if any) of that person during that financial year, and the amount by which that prescribed amount exceeds the amount of his actual earnings as a self-employed person (if any) during that financial year shall be deemed to form part of the assessable income of that person of which it would have formed part had it been actual earnings as a self-employed person derived by him during that financial year.

*Clause 74, subclause (5):* To omit from line 32 on page 83 the expression “(7), (8), and (9)”, and substitute the expression “(6) and (8)”; also to omit from line 37 on page 83 the expression “section 101”, and substitute the expression “sections 75c and 101”.

*Clause 75, subclause (1):* To insert in line 40 on page 88, after the word “in”, the words “Part I of”.

*Clause 75, subclause (3):* To omit from lines 12 and 13 on page 89 the words “section and sections 75A to 75D of this”; also to add the following proviso:

Provided that no such statement shall be required to be delivered in respect of earnings on which no levy is payable under Part III of this Act by reason of paragraph (b) of subsection (1) of section 62 of this Act.

*Clause 75, subclause (4):* To insert in line 22 on page 89, after the word “section”, the words “and the said sections 75A to 75D”.

*Clause 75A:* To insert, before the word “Any” where it appears in line 25 on page 89 and also where it appears in line 32 on page 90, the words “Subject to the provisions of this Act”.

*Clause 75B, subclause (2):* To insert in line 45 on page 93, after the word “Commission,” the word “and”; also to insert in line 11, and also in line 22, on page 94, before the words “to the extent”, the words “but only”.

*Clause 75B, subclause (4):* To insert in line 31 on page 95, before the word “Every”, the words “Subject to section 73 of this Act”; also to insert in line 36 on page 95, after the word “commences,” the words “deliver a statement in a form approved by the Commission, and”; also to insert in line 42 on page 95, after the word “Commission,” the word “and”.

*Clause 75D:* To omit from line 31 on page 99 the word “section”, and substitute the word “Act”; also to insert in line 14 on page 100, after the word “section”, the expression “and sections 75 to 75c of this Act”; also to omit from line 34 on page 100 the word “their”, and substitute the word “its”.

*Clause 77:* To omit from line 2 on page 102 the expression “section 76”, and substitute the words “this Part”.

*Clause 78:* To omit from line 39 on page 102 the expression “section 75”, and substitute the expression “sections 75 to 75D”; also to omit from line 4 on page 103 the expression “section 76”, and substitute the words “the foregoing provisions of this Part”; also to omit from line 26 on page 104 the expression “section 75”, and substitute the expression “sections 75 to 75D”.

*Clause 80:* To insert in line 9 on page 107, after the word “follow”, the words “or dies as a result of personal injury so suffered”.

*Clause 94:* To insert, after subclause (2), the following subclauses:

(2A) In any case where a levy on a motor vehicle is payable for less than a year, the levy in respect of the vehicle prescribed pursuant to this section shall be reduced by one-twelfth thereof for every complete month by which that period is less than a year.

(2B) Where pursuant to section 19 of the Transport Act 1962 the registration of any motor vehicle is cancelled, the Commission shall, on application in writing made to it by the owner of the vehicle, and on being satisfied that the registration of the motor vehicle has been cancelled as aforesaid, refund to the owner a sum equal to one-twelfth part of the amount of the levy in respect of the vehicle prescribed pursuant to this section for every complete month between the date on which the application was received by the Commission and the end of the licensing year in respect of which the levy is paid.

*Clause 98, subclause (1):* To insert in line 33 on page 117, after the word “Act”, the words “unless the context otherwise requires”.

*Clause 98, subclause (2)*: To omit subparagraph (iii) of paragraph (a), and substitute the following subparagraph:

(iii) Any commission, retainer, or other amount which is paid or payable (whether in cash or otherwise) to a person who, under subsection (2) or subsection (3) of section 2 of this Act is deemed to be an employee, by any person who under that subsection (2) is deemed to be the employer of that person or under that subsection (3) is deemed, in respect of the doing of the work or the rendering of the services referred to in that subsection (3), to be the employer of that first-mentioned person and who makes or is liable to make the payment in that capacity:

*Clause 98, subclause (2)*: To insert in line 24 on page 119 after the word "person", the words "and who makes or is liable to make the payment in that capacity"; also to insert in line 32 on page 119, after the word "subsection", the words "and who makes or is liable to make the payment in that capacity"; also to add the following paragraph:

(1) Any earnings in respect of which no levy is payable by reason of section 64 (2) of this Act.

*Clause 98, subclause (3)*: To omit paragraph (e), and substitute the following paragraph:

(e) Any amount to which subparagraph (ii) or subparagraph (iii) of paragraph (a), or paragraph (f) or paragraph (g) or paragraph (1) of subsection (2) of this section applies; or

*Clause 99*: To insert in line 40 on page 126, after the word "earnings", the words "as an employee"; also to insert in line 23 on page 127 and also in line 22 on page 128, after the words "financial year", the words "or if he has not completed a financial year"; also to insert in line 19 on page 128, after the word "not", the words "for the time being"; also to omit from lines 23 and 24 on page 128 the words "such amount as the Commission, in its discretion, considers fairly represents", and substitute the words "the average weekly amount of his earnings assessed by the Commission as fairly representing"; also to insert, after the word "earnings" in each place where it appears in lines 22 and 26 on page 129, line 27 on page 130, and line 20 on page 131, the words "as an employee"; also to omit from line 28 on page 129 the expression "subsection (2)", and substitute the expression "subsections (1) and (2)"; also to omit from line 30 on page 129 the words "that subsection", and substitute the words "each of those subsections"; also to omit from lines 37 and 38 on page 129 the word "represent", and substitute the word "reflect"; also to omit from line 39 on page 129 and from line 3 on page 130 the words "average weekly"; also to omit from line 21 on page 130 the word "represents", and substitute the word "reflects"; also to add the following subclause:

(12) In any case where a person suffers personal injury by accident in respect of which he has cover under this Act, for the purposes of determining, at any time or times after the expiration of 6 months from the date of the accident,—

(a) His loss of earning capacity for the purposes of either paragraph (a) of subsection (1) of section 108 or section 109 of this Act; or

- (b) The minimum rate of compensation payable to him under section 110 of this Act; or
- (c) The amount of his relevant earnings for the purposes of subsection (4) or the proviso to subsection (5) of section 111, or the second proviso to subsection (5) of section 112, of this Act—

his relevant earnings shall be the amount thereof determined under the foregoing provisions of this section increased by adding thereto the appropriate percentage (if any) of that amount, being the aggregate of the percentages of increases (if any) specified by Orders in Council made under section 109 (3) of this Act and coming into force after the expiration of the said 6 months and before the date as at which that determination is to be made.

*Clause 106, subclause (1)*: To omit paragraph (a), and substitute the following paragraph:

- (a) That person is not entitled to any benefit under Part II of the Social Security Act 1964 in respect thereof; and

*Clause 108*: To insert in line 28 on page 144, after the word “capacity”, the words “due to the injury”; also to insert in line 40 on page 145, after the word “earnings”, the words “or actual earnings”.

*Clause 109*: To omit from lines 35 and 36 on page 147 the expression “subsection (2A) of”.

*Clause 110*: To insert in line 37 on page 151, after the word “paid”, the words “or that would have been paid”; also to omit from lines 8 and 9 on page 152 the words “or been paid for leave on the basis of having worked”, and substitute the words “in paid employment”; also to insert in line 16 on page 152, after the word “worked”, the words “in paid employment”.

*Clause 113*: To insert in line 10 on page 162, after the word “any”, the word “such”.

*Clause 114, subclause (1A)*: To add the words “Any such Order in Council may be made to come into force on the day on which it is made or on any earlier or later date”.

*Clause 115*: To insert in line 40 on page 167, after the word “made”, the words “as a result of the injury or death”.

*Clause 117*: To omit from line 37 on page 173 the words “her or his”, and substitute the words “his or her”.

*Clause 118*: To omit from line 31 on page 176 the word “an”.

*Clause 120*: To omit from line 4, and also from line 11, on page 179 the words “or in respect of”; also to omit the words in line 20 on page 179, and substitute the following words:

- (2) The receipt of any person or guardian

*Clause 124*: To omit from line 33, and also from line 37, on page 184 the words “or in respect of”.

*Clause 125*: To omit from line 36 on page 185 the words “or any”.

*Clause 126, subclause (4)*: To omit from line 26 on page 187 the words “be required to”, and substitute the words “if so required by the Commission”.

*Clause 128:* To omit from line 4 on page 189 the words “or in respect of”; also to omit from line 35 on page 189 the word “benefit”, and substitute the word “compensation”.

*Clause 132:* To insert, after the word “sections” in each place where it appears in line 13 on page 192 and lines 13 and 17 on page 193, the expression “115 (2)”; also to omit from line 20 on page 193 the word “subsequently”, and substitute the words “or has been”; also to insert in its appropriate alphabetical order in subclause (6) the following definition:

“Dependant” includes a person who is entitled to compensation under subsection (2) of section 115 of this Act:

*Clause 138:* To insert in line 18 on page 200, after the word “be”, the words “made in writing and be”.

*Clause 144:* To insert, after the word “claim” in each place where it appears in lines 24 and 33 on page 203, the words “in writing”; also to omit from line 28 on page 203 the expression “section 128”, and substitute the expression “section 28”.

*Clause 145:* To insert in line 14 on page 204, after the word “to”, the word “any”; also to omit from line 15 on page 204 the word “to”, and substitute the words “which may”; also to insert in line 7 on page 205, after the word “application”, the words “in writing”; also to omit from line 9 on page 205 the expression “sections 113 and”, and substitute the word “section”; also to insert, after subclause (1A), the following subclause:

(1B) Any Order in Council made under subsection (1A) of this section may be made to come into force on the day on which it is made or on any earlier or later date.

*Clause 147, subclause (1):* To omit the words in lines 13 and 14 on page 206, and substitute the following words:

personal injuries to which the claims relate and the accidents by which they were caused:

*Clause 147, subclause (2):* To insert in line 34 on page 206, after the word “may”, the words “subject to the provisions of this Act”.

*Clause 148:* To omit from line 2 on page 207 the word “adversely”.

*Clause 152:* To insert in line 14 on page 211, after the word “Authority” the words “, and to any person who is appointed as an assessor under section 155 of this Act”; also to omit from line 18 on page 211 the word “that” and substitute the words “every such”.

*Clause 157:* To add the following paragraph:

(c) Any decision of the Commission under subsection (4) or subsection (5) of section 5 of this Act.

*Clause 158:* To omit from line 38 on page 213 the words “or he”.

*Clause 166B:* To add the words “and of compensation overpaid”.

*Clause 172:* To omit from line 1 on page 224 the expression “section 75”, and substitute the expression “sections 75 to 75D”; also to omit from line 3 on page 224 the expression “section 76”, and substitute the expression “Part III”.

*Clause 173:* To omit from line 14 on page 225 the expression “section 75”, and substitute the expression “sections 75 to 75D”; also to insert in line 16 on page 225, after the words “agent of”, the words “or committee appointed by”.



*Clause 174, subclause (1):* To insert, after paragraph (c), the following paragraph:

- (cc) Regulating and restricting the granting of work accident cover under section 57 (6) of this Act, and the extension under subsection (2B) of section 59 of this Act of the application of subsection (2A) of the said section 59:

*Clause 174, subclause (1), paragraph (ed):* To omit from line 9 on page 227 the expression "section 99" and substitute the expression sections 99 and 108".

*Clause 174, subclause (1), paragraph (f):* To omit the paragraph, and substitute the following paragraph:

- (f) Prescribing the circumstances in which, the extent to which, and the method by which the Commission shall, in accordance with section 106 of this Act, pay the cost of treatments and medical certificates in respect of which payments are to be made under that section, and may enter into arrangements and make contributions under that section; prescribing the persons to whom those payments may be so made; and regulating the making of payments under section 107 of this Act:

*Clause 175:* To insert in line 40 on page 231, after the word "section", the words "commits an offence and".

*First Schedule, Part II:* To omit the word "Premium" where it appears at the head of the third column on pages 234 and 235, and substitute in each case the word "Levy".

*First Schedule, Part III:* To insert in the heading, before the word "Levies", the word "Annual".

*Second Schedule:* To insert, after the item relating to total loss of one segment of a thumb, the following item:

Loss of pulp of a thumb ..... 8

*Third Schedule:* To insert, after the item relating to the Law Reform Act 1969, the following item:

1969, No. 47—The Legal Aid Act 1969		By adding to paragraph (c) of subsection (1) of section 15 the words "or before the Accident Compensation Appeal Authority".
----------------------------------------	--	------------------------------------------------------------------------------------------------------------------------------

## EXPLANATORY NOTE

EXCEPT in relation to the clauses expressly referred to in this explanatory note, the amendments provided for in this Supplementary Order Paper are of a minor drafting nature.

*Clause 5:* The words "for damages" are omitted from *paragraph (b) of subclause (2)* as being unduly restrictive.

*Clause 58:* The new *subclause (4)* makes it clear that references throughout the Bill to earners, self-employed persons, and employees extend as appropriate to persons with extended cover under the clause.

*Clause 68:* The new *subclause (5)* provides that where compensation has been paid or is payable under the Workers' Compensation Act 1956 to any person for any degree of industrial deafness, that degree of deafness in that person shall be deemed not to be industrial deafness within the meaning of the clause.

*Clause 73:* The amendments are designed to take into account problems connected with specifying the maximum amount on which levies are payable in the special cases of members of the Armed Forces who (during a war or emergency) receive pay on which no levy is payable, and any self-employed person who has derived earnings as an employee which are not to be taken into account but has earnings as a self-employed person in excess of \$10,400.

*Clause 94:* The amendments provide for adjustments in the amount of the levy in respect of a motor vehicle in any case where the levy is payable in respect of a period of less than a year.

*Clause 99:* The new *subclause (12)* provides that, in any case where a person suffers personal injury by accident, for the purposes of determining, at any time or times after the expiration of 6 months from the time of the accident,—

(a) His loss of earning capacity for the purposes of *clause 108 (1) (a) or clause 109*; or

(b) The minimum rate of compensation payable to him under *clause 110*; or

(c) His relevant earnings for the purposes of specified provisions in *clauses 111 and 112*—

his relevant earnings as initially ascertained shall be increased by adding thereto the appropriate percentage (if any) of that amount, being the aggregate of the percentages of increases (if any) specified by Orders in Council made under *clause 109 (3)* and coming into force after the expiration of the said 6 months and before that determination is to be made.

*Clause 114 and 145:* Power is taken to make the Orders in Council retrospective.

*Clause 174:* The power to make regulations is strengthened in the cases specified.

*Second Schedule:* The amendment prescribes the compensation payable for loss of pulp of a thumb.

*Third Schedule:* The Legal Aid Act 1969 is amended so as to provide that legal aid may be given in proceedings before the Accident Compensation Appeal Authority.

---