

COMMONWEALTH EMPLOYEES' COMPENSATION.

No. 27 of 1951.

An Act to amend the *Commonwealth Employees' Compensation Act 1930-1950*, and for other purposes.

[Assented to 16th November, 1951.]

[Date of commencement, 14th December, 1951.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title
and citation.

1.—(1.) This Act may be cited as the *Commonwealth Employees' Compensation Act 1951*.

(2.) The *Commonwealth Employees' Compensation Act 1930-1950** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Commonwealth Employees' Compensation Act 1930-1951*.

Definitions.

2. Section four of the Principal Act is amended—

(a) by omitting from sub-section (1.) paragraph (d) of the definition of “employee” and inserting in its stead the following paragraph :—

“ (d) a member of the Defence Force to and in relation to whom this Act applies ; and ” ;

* Act No. 24, 1930, as amended by No. 8, 1944 ; No. 61, 1948 ; and No. 80, 1950.

- (b) by omitting from that sub-section paragraphs (g) and (h) of that definition and inserting in their stead the following paragraphs :—

“(g) an officer or employee of the Public Service of a Territory of the Commonwealth that does not form part of the Commonwealth ;

“(h) a master, mate, engineer, or operator of the wireless telegraph installation, of a ship engaged in trade and commerce ; or

“(j) a seaman to and in relation to whom the *Seamen's Compensation Act 1911-1949* applies ;” ;

- (c) by omitting from that sub-section the definition of “ medical, surgical or hospital treatment ” and inserting in its stead the following definition :—

“ ‘ medical treatment ’ means—

(a) medical or surgical treatment by a duly qualified medical practitioner ;

(b) treatment by a registered dentist, a registered physiotherapist or a registered masseur ;

(c) the provision of skiagrams, crutches, artificial members and artificial replacements ;

(d) treatment and maintenance as a patient at a hospital ; or

(e) nursing attendance, medicines, medical and surgical supplies and curative apparatus supplied or provided in a hospital or otherwise ;” ; and

- (d) by omitting from that sub-section the definition of “ Territory of the Commonwealth ”.

3. Section four A of the Principal Act is repealed and the following section inserted in its stead :—

“ 4A.—(1.) This Act applies to and in relation to an employee of the Commonwealth, whether employed within or outside the territorial limits of Australia. Application of Act.

“(2.) Except as provided by this section, this Act applies to and in relation to a member of the Defence Force.

“(3.) This Act does not apply to a member of the Defence Force who, before the first day of July, One thousand nine hundred and forty-seven—

(a) was appointed or enlisted—

(i) for service in a part of the Defence Force raised in time of war for war service ; or

(ii) solely for service in time of war or during time of war and a definite time thereafter ; or

(b) was appointed or enlisted in the Citizen Forces and was called up for continuous service for the duration of, and directly in connexion with, the war, in respect of that service.

“(4.) This Act does not apply in respect of active service on which a member of the Permanent Forces, being a member appointed or enlisted before the first day of July, One thousand nine hundred and forty-seven, and not included in a class of members specified in the last preceding sub-section, was employed during time of war and before the third day of January, One thousand nine hundred and forty-nine.

“(5.) This Act does not apply in respect of the service of a member of the Interim Forces.

“(6.) This Act does not apply in respect of service of a member of the Defence Force in respect of which section one hundred and seven c of the *Repatriation Act* 1920-1951 makes provision for the payment of pension.

“(7.) This Act does not apply in respect of the service of an aboriginal inhabitant of a Territory of the Commonwealth who is a member of a part of the Defence Force consisting, or consisting mainly, of such inhabitants and raised in that Territory.”

Injury while travelling to or from employment, &c.

4. Section nine A of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (1.) the words “place of”; and
- (b) by omitting sub-section (3.).

Medical benefits.

5. Section eleven of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “medical, surgical or hospital treatment” and inserting in their stead the words “medical treatment”;
- (b) by omitting from sub-section (2.) the words “medical, surgical or hospital treatment” and inserting in their stead the words “medical treatment”; and
- (c) by omitting from that sub-section the words “One hundred pounds” and inserting in their stead the words “One hundred and fifty pounds”.

Maximum compensation.

6. Section thirteen of the Principal Act is amended by omitting from sub-section (1.) the words “One thousand two hundred and fifty pounds” and inserting in their stead the words “One thousand seven hundred and fifty pounds”.

Remedy against a stranger.

7. Section seventeen of the Principal Act is amended—

- (a) by omitting from paragraph (a) the words “, but shall not be entitled to retain both damages and compensation”; and
- (b) by adding at the end thereof the following sub-section:—

“(2.) For the purposes of this section, ‘compensation’ includes a payment under section eleven of this Act.”

8. Section seventeen A of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section :—

Liability of
Commonwealth
independently
of this Act.

“(2.) If the injury is an injury in respect of which an employee is entitled to receive a pension, other than a service pension, under the *Repatriation Act* 1920–1951, the employee shall not be entitled to compensation under the provisions of this Act.”

9. Section twenty-two of the Principal Act is amended—

Application
of Act to
Commonwealth
authorities.

- (a) by omitting from sub-section (1.) the words “authorities under the Commonwealth” and inserting in their stead the words “authorities of the Commonwealth”; and
- (b) by omitting from sub-section (2.) the words “authority under the Commonwealth” and inserting in their stead the words “authority of the Commonwealth”.

10. Section twenty-three of the Principal Act is amended by omitting the words “medical, surgical and hospital treatment” and inserting in their stead the words “medical treatment”.

Regulations.

11. The First Schedule to the Principal Act is amended—

Amendments
of the First
Schedule.

- (a) by omitting from clause (i) of sub-paragraph (a) of paragraph (1.) the words “One thousand pounds” and inserting in their stead the words “One thousand five hundred pounds”;
- (b) by omitting from that clause the words “Fifty pounds” and inserting in their stead the words “Seventy-five pounds”;
- (c) by omitting clause (iii) of that sub-paragraph and inserting in its stead the following clause :—
 - “(iii) such sum, not exceeding Fifty pounds, on account of the expenses of the employee’s funeral, as the Commissioner considers reasonable;”;
- (d) by omitting sub-paragraphs (b) and (c) of that paragraph and inserting in their stead the following sub-paragraphs :—
 - “(b) where the employee is totally incapacitated for work by the injury—a weekly payment during his incapacity of the sum of Six pounds and, in addition, the sum of—

- (i) One pound fifteen shillings in respect of—

- (1) the wife of the employee, if she was married to the employee at the date of the injury and is wholly or mainly dependent upon his earnings; or

(2) if he has no wife, or if compensation is not payable in respect of his wife—one female, over the age of sixteen years, who is wholly or mainly dependent upon the earnings of the employee and was, at the date of the injury a member of the employee's family or caring for a child who was at that date, and is, under the age of sixteen years and wholly or mainly dependent upon the earnings of the employee; and

(ii) Fifteen shillings in respect of each child, born before or after the date of the injury, who, not being a child of a marriage contracted, or an ex-nuptial relationship formed, after the date of the injury, is under the age of sixteen years and wholly or mainly dependent upon the earnings of the employee; and

“(c) where the employee is partially incapacitated for work by the injury—a weekly payment during his incapacity—

(i) of the amount (if any) by which the weekly amount that he is earning, or is able to earn in some suitable employment or business, after the injury is less than his weekly pay at the date of the injury, or of the amount of Six pounds, whichever is the less; or

(ii) of the amount (if any) by which the weekly amount that he is earning, or is able to earn in some suitable employment or business, after the injury is less than the weekly amount that would have been payable to him under sub-paragraph (b) of this paragraph, if he had been totally incapacitated,

whichever is the greater.”;

(e) by omitting from clause (ii) of sub-paragraph (a) of paragraph (1A.) the word “or” (last occurring);

- (f) by omitting from clause (iii) of sub-paragraph (b) of paragraph (1A.) the words "Three pounds" and "Four pounds" and inserting in their stead the words "Four pounds ten shillings" and "Six pounds", respectively;
- (g) by adding at the end of paragraph (1A.) the following word and sub-paragraph :—
 “; and (c) where the employee is totally incapacitated for work by the injury, eligibility for weekly payment under sub-paragraph (b) of that paragraph in respect of a child born after the date of the injury shall not accrue until the date of birth of the child.”;
- (h) by omitting from the proviso to paragraph (5.) the words “medical, surgical and hospital treatment” and inserting in their stead the words “medical treatment”;
- (j) by omitting from paragraph (10A.) the words “One thousand pounds” (wherever occurring) and inserting in their stead the words “One thousand five hundred pounds”.

12. The Third Schedule to the Principal Act is repealed and the following Schedule inserted in its stead :—

Third Schedule.

THE THIRD SCHEDULE.
 COMPENSATION FOR SPECIFIED INJURIES.

Section 12.

Nature of Injury.	Amount Payable.
	£ s. d.
Loss of both eyes	1,750 0 0
Loss of an only useful eye, the other being blind or absent ..	1,750 0 0
Loss of one eye, with serious diminution of the sight of the other ..	1,312 10 0
Loss of one eye	700 0 0
Loss of hearing	1,225 0 0
Complete deafness of one ear	350 0 0
Loss of both hands	1,750 0 0
Loss of right arm or greater part thereof	1,400 0 0
Loss of left arm or greater part thereof	1,200 0 0
Loss of lower part of right arm, right hand or five fingers of right hand	1,225 0 0
Loss of lower part of left arm, left hand or five fingers of left hand ..	1,102 10 0
Loss of right thumb	525 0 0
Loss of left thumb	472 10 0
Loss of right forefinger	350 0 0
Loss of left forefinger	315 0 0
Loss of right middle finger	280 0 0
Loss of left middle finger	262 10 0
Loss of right ring finger	245 0 0
Loss of left ring finger	227 10 0
Loss of right little finger	227 10 0
Loss of left little finger	210 0 0
Loss of total movement of joint of right thumb	245 0 0
Loss of total movement of joint of left thumb	227 10 0
Loss of distal phalanx or joint of right thumb	280 0 0

THE THIRD SCHEDULE—continued.

Nature of Injury.	Amount Payable.		
	£	s.	d.
Loss of distal phalanx or joint of left thumb	262	10	0
Loss of portion of terminal segment of right thumb involving one-third of its flexor surface without loss of distal phalanx or joint ..	245	0	0
Loss of portion of terminal segment of left thumb involving one-third of its flexor surface without loss of distal phalanx or joint ..	227	10	0
Loss of two phalanges or joints of right forefinger	210	0	0
Loss of two phalanges or joints of left forefinger	192	10	0
Loss of two phalanges or joints of right middle or ring finger ..	192	10	0
Loss of two phalanges or joints of left middle or ring finger ..	175	0	0
Loss of two phalanges or joints of right little finger	175	0	0
Loss of two phalanges or joints of left little finger	157	10	0
Loss of distal phalanx or joint of right forefinger	175	0	0
Loss of distal phalanx or joint of left forefinger	157	10	0
Loss of distal phalanx or joint of other finger of right hand ..	140	0	0
Loss of distal phalanx or joint of other finger of left hand ..	126	0	0
Loss of hand and foot	1,750	0	0
Loss of both feet	1,750	0	0
Loss of leg above knee	1,312	10	0
Loss of leg below knee	1,137	10	0
Loss of foot	1,050	0	0
Loss of great toe	350	0	0
Loss of any other toe	140	0	0
Loss of two phalanges or joints of any other toe	112	0	0
Loss of phalanx or joint of great toe	175	0	0
Loss of phalanx or joint of any other toe	105	0	0

Adjustment of
weekly
payments under
prior Acts.

13.—(1.) Where, at the date of commencement of this Act, a person is receiving weekly payments under the *Commonwealth Workmen's Compensation Act 1912* or is receiving or entitled to receive weekly payments in accordance with the First Schedule to the Principal Act, he shall, on and from that date, be entitled to receive weekly payments in accordance with the Principal Act as amended by this Act.

(2.) Where, before the date of commencement of this Act, an employee sustained an injury or contracted a disease in respect of which weekly payments in accordance with the First Schedule to the Principal Act would have been payable at that date if he had been incapacitated for work at that date, and he is not, at that date, so incapacitated, but after that date he becomes incapacitated for work as a result of the injury or disease, weekly payments in respect of that incapacity shall be in accordance with the Principal Act as amended by this Act.

(3.) Where, after the date of commencement of this Act, death results from an injury or a disease which was sustained or contracted before that date and in respect of which compensation was payable under the Principal Act, compensation shall be paid in respect of that death in accordance with the Principal Act as amended by this Act.