

COMPENSATION (AUSTRALIAN GOVERNMENT EMPLOYEES) ACT 1974

No. 92 of 1974

An Act to amend the *Compensation (Australian Government Employees) Act 1971-1973*, and for other purposes.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Compensation (Australian Government Employees) Act 1974*.¹ Short title
and citation.

(2) The *Compensation (Australian Government Employees) Act 1971-1973*² is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Compensation (Australian Government Employees) Act 1971-1974*.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commence-
ment.

3. Section 5 of the Principal Act is amended by inserting after sub-section (2) the following sub-section:— Interpret-
ation of
“prescribed
Court”.

“(2A) For the purposes of paragraphs (c), (d) and (e) of the definition of ‘prescribed Court’ in sub-section (1), a court that does not have jurisdiction to hear a personal action if the amount claimed in that action is more than a specified amount shall be taken to be a court that has limited civil jurisdiction in personal actions notwithstanding that a verdict may be returned or a judgment may be given in that action for an amount greater than that specified amount.”.

4. (1) Section 11 of the Principal Act is repealed and the following section substituted:—

“11. (1) The Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid remuneration at the rate that was applicable immediately before the commencement of this section. Remuner-
ation of
Com-
missioner.

“(2) The Commissioner shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973-1974*.”.

(2) Regulations in force at the commencement of this section for the purposes of sub-section 11 (2) of the Principal Act continue in force as if made for the purposes of sub-section 11 (2) of the Principal Act as amended by this Act.

Function
and powers
of Com-
missioner.

5. Section 20 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(6) Where a determination has been made under this Act (whether before or after the commencement of this sub-section) and, in pursuance of a request made under paragraph (b) of sub-section (4), the Commissioner, on or after the commencement of this sub-section—

- (a) varies the determination in a manner favourable to a claimant or revokes the determination and makes a determination in substitution for the determination so revoked that is more favourable to a claimant than the determination so revoked; or
- (b) varies the determination in a manner adverse to a claimant (not being the claimant who made the request) or revokes the determination and makes a determination in substitution for the determination so revoked that is less favourable to a claimant (not being the claimant who made the request) than the determination so revoked,

the Commonwealth is liable to reimburse that claimant for any costs reasonably incurred by him in relation to the first-mentioned determination after it was made and before it was varied or revoked.”.

Average
weekly
earnings.

6. Section 25 of the Principal Act is amended—

- (a) by omitting from sub-section (2) the words “is intermittent or”;
- (b) by omitting sub-section (9) and substituting the following sub-sections:—

“(9) Subject to the following provisions of this section, if the minimum amount per week payable to the employee in respect of the employment by the Commonwealth in which he was engaged at the date of the injury is increased, or would if he had continued in that employment have been increased, by reason of—

- (a) the attainment by the employee of a particular age;
- (b) the completion by the employee of a particular period of service; or
- (c) the receipt by the employee of an increase in salary, wages or pay by way of an increment in a range of salary, wages or pay applicable to him or to the office, position or appointment held by him,

a reference in this Part to the average weekly earnings of the employee before the injury shall be read as a reference to the amount that is, by virtue of the foregoing provisions of this section, to be taken to be the amount of those average weekly earnings, increased by the same percentage as the percentage by which that minimum amount per week is increased, or would have been increased, as the case may be.

“(9A) Subject to the following provisions of this section, if the employee continues after the date of the injury to be employed by the Commonwealth and the minimum amount per week payable to the employee in respect of that employment is increased by reason of the promotion of the employee, a reference in this Part to the average weekly earnings of the employee before the injury shall be read as a reference to the amount that is, by virtue of the foregoing provisions of this section, to be taken to be the amount of those average weekly earnings, increased by the same percentage as the percentage by which the minimum amount per week payable to the employee is increased by reason of that promotion.”;

- (c) by omitting from sub-section (10) the words “Subject to the next succeeding sub-section” and substituting the words “Subject to the following provisions of this section”; and
- (d) by inserting after sub-section (11) the following sub-section:—

“(11A) If the amount of the average weekly earnings of an employee before the injury as calculated in accordance with the foregoing provisions of this section would exceed—

- (a) in the case of an employee who continues to be employed by the Commonwealth—the amount per week of the earnings that the employee would receive if the employee were not totally or partially incapacitated for work; or
- (b) in the case of an employee who has ceased to be employed by the Commonwealth—
 - (i) the amount per week of the earnings that the employee would receive if the employee had continued to be employed by the Commonwealth in the employment in which he was engaged at the date of the injury; or
 - (ii) the amount per week of the earnings that the employee would receive if the employee had continued to be employed by the Commonwealth in the employment in which he was engaged at the date on which his employment by the Commonwealth ceased,

whichever is the greater,

the amount so calculated shall be deemed to be reduced by the amount of the excess.”.

Compensation payable in respect of injuries resulting in total incapacity.

7. Section 45 of the Principal Act is amended by omitting sub-section (7) and substituting the following sub-section:—

“(7) If the employee—

- (a) is retired from his employment as a result of the incapacity for work; and
- (b) as a result of the retirement is in receipt of a pension under a superannuation or provident scheme established or maintained by the Commonwealth or by a prescribed authority of the Commonwealth,

the compensation payable to the employee in respect of each week during the period of the incapacity shall not exceed the amount, if any, by which the average weekly earnings of the employee before the injury exceed—

- (c) if a part of the pension is, under the scheme, attributable to contributions for the pension paid by the employee—the part of the pension paid or payable to the employee in respect of that week that is not attributable to those contributions;
- (d) if the employee has paid contributions under the scheme, the scheme does not identify a part of the pension as being attributable to those contributions and the Commissioner has determined that it is reasonable that a part of the pension should be treated as if it were attributable to those contributions—the part of the pension paid or payable to the employee in respect of that week that is determined by the Commissioner to be the part that is to be treated as not attributable to contributions for the pension paid by the employee; or
- (e) in any other case—the pension paid or payable to the employee in respect of that week.”.

Compensation payable in respect of injuries resulting in partial incapacity.

8. Section 46 of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-section:—

“(3) If the employee—

- (a) is retired from his employment as a result of the partial incapacity for work; and
- (b) as a result of the retirement is in receipt of a pension under a superannuation or provident scheme established or maintained by the Commonwealth or by a prescribed authority of the Commonwealth,

the compensation payable to the employee in respect of each week during the period of the incapacity shall not exceed the amount, if any, by which the average weekly earnings of the employee before the injury exceed from time to time the sum of—

- (c) the amount per week that he is able to earn in some suitable employment or business; and

(d) the amount of—

- (i) if a part of the pension is, under the scheme, attributable to contributions for the pension paid by the employee—the part of the pension paid or payable to the employee in respect of that week that is not attributable to those contributions;
- (ii) if the employee has paid contributions under the scheme, the scheme does not identify a part of the pension as being attributable to those contributions and the Commissioner has determined that it is reasonable that a part of the pension should be treated as if it were attributable to those contributions—the part of the pension paid or payable to the employee in respect of that week that is determined by the Commissioner to be the part that is to be treated as not attributable to contributions for the pension paid by the employee; or
- (iii) in any other case—the pension paid or payable to the employee in respect of that week.”.

9. Section 52 of the Principal Act is amended—

Reduction of
compensation in
certain cases.

- (a) by adding at the end of paragraph (c) of sub-section (4) the words “in pursuance of the following sub-sections of this section”; and
- (b) by omitting paragraph (d) of that sub-section and substituting the following paragraph:—

“(d) an amount paid or payable under a superannuation or provident scheme established or maintained by the Commonwealth or by a prescribed authority of the Commonwealth;”.

10. (1) Section 66 of the Principal Act is repealed and the following section substituted:—

“66. (1) A person constituting a Compensation Tribunal shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Remuneration Tribunal is in operation, he shall be paid remuneration at the rate that was applicable immediately before the commencement of this section.

Remuneration of
Tribunal.

“(2) A person constituting a Compensation Tribunal shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973-1974*.”.

(2) Regulations in force at the commencement of this section for the purposes of sub-section 66 (2) of the Principal Act continue in force as if made for the purposes of sub-section 66 (2) of the Principal Act as amended by this Act.

Amend-
ments
relating to
amount of
compensa-
tion.

11. The Principal Act is amended as set out in the Schedule.

Amendments
of the United
States Naval
Communi-
cation
Station
(Civilian
Employees)
Act.

12. (1) The Schedule to the *United States Naval Communication Station (Civilian Employees) Act* 1971-1973 is amended by omitting the words—

- “Section 45(7) (b) After ‘the Commonwealth’, insert ‘or by the Government of the United States of America’.
 Section 46 (3) (b) After ‘the Commonwealth’, insert ‘or by the Government of the United States of America’.
 Section 52 (1) and (3) After ‘the Commonwealth’ (wherever occurring), insert ‘or the Government of the United States of America’.
 Section 52 (4) After ‘by the Commonwealth’, insert ‘or the Government of the United States of America’.
 Section 52 (4) (d) After ‘of the Commonwealth’, insert ‘or by the Government of the United States of America’.”

and substituting the words—

- “Section 45 (7) (b) After ‘the Commonwealth’ (first occurring) insert ‘or by the Government of the United States of America’.
 Section 46 (3) (b) After ‘the Commonwealth’ (first occurring) insert ‘or by the Government of the United States of America’.
 Section 52 (1) and (3) After ‘the Commonwealth’ (wherever occurring), insert ‘or the Government of the United States of America’.
 Section 52 (4) After ‘by the Commonwealth’, insert ‘or the Government of the United States of America’.
 Section 52 (4) (d) After ‘the Commonwealth’ (first occurring), insert ‘or by the Government of the United States of America.’”.

(2) The *United States Naval Communication Station (Civilian Employees) Act* 1971-1973, as amended by this section, may be cited as the *United States Naval Communication Station (Civilian Employees) Act* 1971-1974.

Application
of
amendments.

13. (1) The amendments made by this Act apply in relation to any weekly payments of compensation made in respect of a period occurring on or after the date of commencement of this Act notwithstanding that the compensation is payable in respect of an injury sustained, a disease contracted, or an aggravation, acceleration or recurrence of a disease suffered, before that date.

(2) Where, on or after the date of commencement of this Act—

(a) an employee—

- (i) dies;
- (ii) suffers a loss of a kind referred to in section 39, 40 or 42 of the Principal Act as amended by this Act;
- (iii) suffers facial disfigurement of a kind referred to in section 41 of that Act as so amended; or
- (iv) becomes liable for any cost of a kind referred to in subsection (3) of section 37 of that Act as so amended, or

- (b) compensation under sub-section (5) of section 43 of that Act as so amended ceases to be payable for the benefit of a child,

the amendments made by this Act apply in relation to any compensation payable in respect of that death (including the cost of the funeral of the employee), loss, disfigurement or cost, or payable under sub-section (7) of section 43 of the Principal Act as so amended in relation to that child, notwithstanding that the compensation is payable as a result of a death that occurred, an injury sustained, a disease contracted, or an aggravation, acceleration or recurrence of a disease suffered, before that date.

SCHEDULE

Section 11

AMENDMENTS RELATING TO COMPENSATION

Provision	Amendment
Section 37 (3)	Omit "Three hundred and fifty dollars", substitute "\$500".
Section 39 (1)	Omit "Fourteen thousand five hundred dollars", substitute "\$20,000".
Section 39 (3)	Omit "Fourteen thousand five hundred dollars", substitute "\$20,000".
Section 39 (7)	Omit "Seven thousand two hundred and fifty dollars", substitute "\$10,000".
Section 40 (1)	Omit "Seven thousand two hundred and fifty dollars", substitute "\$10,000".
Section 41 (1)	Omit "Seven thousand two hundred and fifty dollars", substitute "\$10,000".
Section 41 (6) (b)	Omit "Seven thousand two hundred and fifty dollars", substitute "\$10,000".
Section 42 (1)	Omit "One thousand four hundred and fifty dollars", substitute "\$2,000".
Section 42 (2)	Omit "One thousand four hundred and fifty dollars", substitute "\$2,000".
Section 43 (3) (a)	Omit "Fourteen thousand five hundred dollars", substitute "\$20,000".
Section 43 (4) (a)	Omit "Fourteen thousand five hundred dollars", substitute "\$20,000".
Section 43 (5)	Omit "Five dollars", substitute "\$7".
Section 43 (7)	(a) Omit "less than Five hundred dollars", substitute "less than \$700"; (b) Omit "and Five hundred dollars", substitute "and \$700".
Section 44 (1)	Omit "Three hundred dollars", substitute "\$450".
Section 45 (2) (a)	Omit "Forty-three dollars", substitute "\$57".
Section 45 (3)	Omit "Eleven dollars", substitute "\$15".
Section 45 (4)	Omit "Five dollars", substitute "\$7".
Section 46 (2)	Omit "Forty-three dollars", substitute "\$57".
Section 48 (1)	Omit "Nine dollars", substitute "\$14".

NOTES

1. Act No. 92, 1974; assented to 16 November 1974.
2. Act No. 48, 1971, as amended by No. 136, 1971; No. 122, 1972; No. 105, 1973; and No. 216, 1973 (as amended by No. 20, 1974).