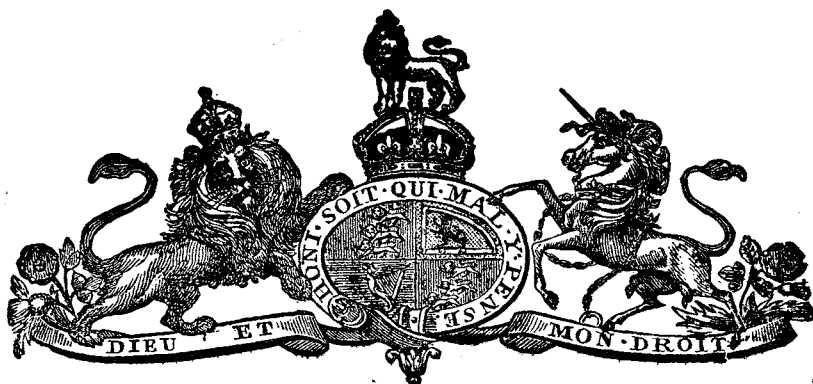


1373

T A S M A N I A .



1933.

ANNO VICESIMO QUARTO

GEORGII V. REGIS.

No. 42.

ANALYSIS.

1. Short title.
2. Repeal and re-enactment of schedule of 18 Geo. V. No. 82.
3. Compulsory insurance.
4. Amendment of Section 27 of Principal Act.
5. Amendment of Section 21 of Principal Act.

AN ACT to amend the Workers' Compensation Act, 1927. [10 January, 1934.]

A.D.
1933.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as "The Workers' Compensation Act, Short title, 1933."

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Repeal and
re-enactment of
schedule of 18
Geo. V.]No. 82.

2—(1) The word “first” appearing in the fourth line of Section Five of the Principal Act is hereby deleted.

(2) The schedule to the Principal Act is hereby repealed and the following new schedule is inserted in lieu thereof:—

“SCHEDULE.

“1.—(1) The compensation under this Act, where death results from the injury, shall be a lump sum of an amount calculated in accordance with the rules hereinafter contained, but such lump sum shall not in any case exceed in the aggregate Five hundred Pounds.

“(2) The lump sum shall be calculated in accordance with the following rules:—

Rule i. If the worker leaves any dependants wholly dependent on his earnings, the lump sum shall be a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of Three hundred Pounds, whichever of those sums is the larger, but not exceeding in any case Five hundred Pounds:

Rule ii. If the period of the worker's employment by the said employer has been less than the said three years, the amount of his earnings during the said three years shall, for the purposes of the foregoing rule, be deemed to be one hundred and fifty-six times his average weekly earnings during the period of his actual employment under the said employer:

Rule iii. There shall be deducted from the sum as above calculated the amount of weekly payments (if any) made to the worker before his death so, however, as not to reduce the lump sum below Three hundred Pounds: and, if such weekly payments have been redeemed under this Act, there shall also be deducted the amount paid in respect of the redemption thereof:

Rule iv. If the worker does not leave any dependants wholly dependent on his earnings, but leaves any dependants in part so dependent, the lump sum shall be such sum not exceeding in any case the amount payable under the foregoing rules as may be agreed upon or, in default of agreement, may be determined by the Court under this Act to be reasonable and proportionate to the injury to the said dependants:

Rule v. If there are both total and partial dependants the compensation shall be allotted partly to the total and partly to the partial dependants, and in the same manner as is provided by the last rule:

Rule vi. If the worker leaves no dependants, the lump sum shall be an amount equal to the reasonable expenses of his medical attendance and burial, not exceeding Twenty-five Pounds.

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"2.—(1) The compensation under this Act, except as is provided in Section Four of this schedule, in respect of the specified injuries therein mentioned, where total or partial incapacity for work results from the injury, shall be a weekly payment during the incapacity of an amount calculated in accordance with the rules hereinafter contained: Provided that —

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- i. In fixing the amount of the weekly payment, regard shall be had to any payment, allowance, or benefit which the worker may receive from the employer during the period of his incapacity:
- ii. The weekly payment shall in no case exceed Three Pounds: and
- iii. The total sum payable in respect of total or partial incapacity for work shall in no case exceed Six hundred Pounds.

"(2) The rules for calculating the weekly payment in the case of total incapacity shall be—

Rule i. The weekly payment shall, subject to the next following rule, be a sum not exceeding fifty per centum of the worker's average weekly earnings during the previous twelve months, if he has been so long employed by the same employer, but, if not, then for any less period during which he has been in the employment of the same employer:

Rule ii. The weekly payment shall, in the case of an adult male worker, be not less than Two Pounds, nor in any other case less than Thirty Shillings, except that, in the case of a minor whose average weekly earnings are less than Thirty Shillings, the weekly payment shall be a sum equal to such average weekly earnings.

"(3) The weekly payment in the case of partial incapacity shall be one-half the difference between the amount of the average weekly earnings of the worker before the accident and the average weekly amount which he is earning, or is able to earn, in some suitable employment or business after the accident.

"3. For the purposes of the provisions of this Act, relating to "earnings" and "average weekly earnings" of a worker, the following rules shall be observed:—

Rule i. Average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the worker was being remunerated, and shall include all payments in respect of overtime, and, where meals or board or either are supplied by the employer, shall include the fair weekly value thereof: Provided that, where by reason of the shortness of the time during which the worker has been in the employment of his employer or the casual nature of the employment, or the terms of the employment, it is impracticable, at the date of the accident, to compute the rate of remuneration, regard shall be had to the average weekly amount which, during the twelve months previous to the accident, was being earned

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by a person in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district :

- Rule ii. Where the worker has entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident :
- Rule iii. Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the worker was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause :
- Rule iv. Where the employer has been accustomed to pay to the worker a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings :
- Rule v. Where the worker has been habitually employed by the same employer at different times in different grades or at different classes of work involving different rates of pay, the average weekly earnings of such worker shall be the average of his total weekly earnings throughout the year preceding the accident, irrespective of the grade or class in which the worker was working at the time of injury :
- Rule vi. Upon request of the worker or his dependants to the employer liable to pay compensation, that employer shall furnish in writing a list of the earnings of that worker upon which the amount of the average weekly earnings may be calculated for the purpose of determining the amount of any weekly payment under this Act.

Cf. W.C. Act,
N.S.W., No. 15
of 1926.

“ 4. In respect of any injury mentioned in the first column of the table hereunder set forth, the compensation under this Act shall, when the injury results in total or partial incapacity, be the respective amounts stated in the second column of that table, subject to the following rules :—

- Rule i. In no case shall a higher sum be payable in respect of an injury specified hereunder than would have been payable had the incapacity been total :
- Rule ii. The compensation payable in respect of any period of total incapacity caused by the injury in respect of which compensation is payable under this section shall not be limited by this section, but the total sum paid as weekly payments in respect of such period of total incapacity shall be deducted from the lump sum payment provided in this section :

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Rule III. When the use of any member or part is wholly and permanently lost, there shall be deemed to be a total loss of such member or part: A.D. 1933.

Rule IV. Where compensation has been paid under this Act to the worker in respect of the loss of any part of any limb, hand, thumb, finger, foot, or toe, the same shall be deducted from any compensation payable in respect of the total loss of the same member or part as the case may be:

TABLE.

Nature of Injury.	Amount Payable.
	£
Loss of both eyes	600
Loss of an only eye	600
Loss of both hands	600
Loss of both feet	600
Loss of a hand and foot	600
Total and incurable loss of mental powers involving inability to work	600
Total and incurable paralysis of the limbs or of mental powers	600
Total loss of the right arm or of the greater part of that arm	480
Total loss of the left arm or of the greater part of that arm	450
Total loss of the right hand or of five fingers of the right hand or of the lower part of the right arm	420
Total loss of the left hand or of five fingers of the left hand or of the lower part of the left arm	390
Total loss of a leg	450
Total loss of a foot or the lower part of a leg	360
Total loss of the sight of one eye, together with a serious diminution of the sight of the other eye ..	450
Total loss of hearing	300
Total loss of the sight of one eye ..	180
Total loss of the thumb of the right hand	180
Total loss of the thumb of the left hand	150
Total loss of the forefinger of the right hand	120
Total loss of the forefinger of the left hand	90

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TABLE.

Nature of Injury.	Amount Payable.
	£
Total loss of a joint of the thumb of the right hand	90
Total loss of a joint of the thumb of the left hand	75
Total loss of a little finger	72
Total loss of a second or third finger	48
Total loss of two joints of the fore-finger of the right hand	75
Total loss of two joints of the fore-finger of the left hand	60
Total loss of two joints of a little finger	51
Total loss of two joints of a second or third finger	39
Total loss of a toe or of one joint of a finger	30
Complete deafness of one ear	60

“5—(1) In addition to the compensation payable to a worker as provided by this schedule, an employer shall also pay all reasonable hospital expenses, medical charges, and charges for medicines and appliances, not exceeding in all the sum of Twenty-five Pounds incurred by such worker as a result of the injury in respect of which the compensation is payable.

“ (2) This section shall not apply to any employer in respect of whom a certificate under Section Twelve of the Principal Act or an exemption under the next following subsection of this section has been issued.

“ (3) The Chief Inspector of Factories may, upon proof to his satisfaction that any employer has made other sufficient arrangement for the payment of the expenses and charges mentioned in Subsection (1) of this section, grant to such employer exemption from the provisions of the lastmentioned subsection for such period and on such conditions, if any, as such Chief Inspector shall determine.

“6. In any case in which an employer, in good faith and on reasonable grounds, believes that any worker is over sixty years of age or has received a certificate by a qualified medical practitioner stating that the worker to whom the same relates is specially liable through any infirmity or incapacity to accident, or, for the same reason, especially liable to serious results from accident, such employer may enter into an agreement with such worker limiting the compensation payable under this Act to a less amount than is hereinbefore provided, but so that the amount so limited shall not be less than One hundred Pounds, if a lump sum payment, or One Pound a week, with a total aggregate liability to the employer of One hundred Pounds if a weekly payment.

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Provided that in the absence of any such agreement the compensation payable to a worker over sixty years of age shall not exceed the amounts specified respectively in this subsection. And in cases in which this subsection applies, an employer may make the entering into of such agreement a condition of hiring or employment”

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3—(1) Save as provided in Subsection (4) of this section, or by Section Twelve of the Principal Act as to schemes of compensation, it shall be obligatory for every employer to obtain from an insurer approved by the Governor a policy of accident insurance or indemnity for the full amount of his liability to pay compensation under the Principal Act to any worker or workers.

Compulsory
insurance.Vic., No. 3806,
s. 37.

(2) Every employer who fails to comply with this section shall be liable to a penalty of Two Pounds in respect of each uninsured worker employed by him, and, from and after the date of any conviction for a contravention of this section, such employer shall be liable to further penalties of One Pound for every week during which he fails to comply with this section.

(3) In any proceedings against an employer for failing to comply with this section, the burden of proof that the provisions of the section have been complied with by the employer shall be on the defendant.

(4) The Chief Inspector of Factories may, upon proof to his satisfaction that an employer has adequate resources, or has made other sufficient arrangement for the payment of compensation under this Act, grant to him exemption from the provisions of this section, and thereupon this section shall not apply to such employer.

(5) This section shall come into force on the first day of April, one thousand nine hundred and thirty-four.

4 Section Twenty-seven of the Principal Act, as amended by the Workers' Compensation Act, 1929, is hereby amended by substituting the words "Section Four of" for the words "Rule II. in".

Amendment of
Section 27 of
Principal Act.

5 Section Twenty-one, Subsection (4), of the Principal Act is hereby amended by substituting the figure "(3)" for the figure "(4)" in the first line thereof.

Amendment of
Section 21 of
Principal Act.

