

WORKERS' COMPENSATION.**No. 94 of 1963.****AN ACT to amend the *Workers' Compensation Act 1927.* [17 December 1963.]**

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—(1) This Act may be cited as the *Workers' Compensation Act 1963.* Short title and citation.

(2) The *Workers' Compensation Act 1927*, as subsequently amended, is in this Act referred to as the Principal Act.

2 Section three of the Principal Act is amended— Interpretation.

(a) by inserting in subsection (1) thereof, after the definition of "Ambulance service", the following definitions:—

“‘Approved insurer’ means an insurer approved by the Governor under subsection (1) of section thirty-four;

“‘Basic wage for Hobart’ means—

(a) the sum of fourteen pounds fourteen shillings a week; or

(b) such other sum as may be fixed and declared to be the basic wage for Hobart pursuant to subsection (5) of this section;”;

(b) by inserting in that subsection, after the definition of "Member of the family", the following definition:—

“‘Nominal insurer’ means the person who is appointed as the nominal insurer pursuant to section sixteen A;” and

(c) by adding at the end thereof the following subsections:—

“(5) Subject to this section, if at any time it appears to the Governor that the basic wage for Hobart, as determined pursuant to the provisions of the *Conciliation and Arbitration Act 1904-1961* of the Commonwealth has been altered (whether by way of increase or decrease) the Governor may, by order, fix and declare, as and to be the basic wage for Hobart for the purposes of this Act, such sum per week as may be necessary in order to conform to that alteration, and any sum so fixed and declared shall be deemed to be the basic wage for Hobart for the purposes of this Act as if it were expressly prescribed as such in this Act.

“(6) An order under subsection (5) of this section—

- (a) takes effect from the first day of July next after the date on which it is made; and
- (b) subject to subsection (7) of this section, continues in force until it is revoked by a subsequent order.

“(7) An order under subsection (5) of this section shall not be revoked until it has been in force for at least twelve months.”.

Application
of Act.

3 Section four of the Principal Act is amended by omitting the first paragraph of subsection (3) thereof.

Bankruptcy
of insured
employer.

4 Section seven of the Principal Act is amended by adding at the end thereof the following subsection:—

“(7) Nothing in the foregoing provisions of this section shall be construed as—

- (a) requiring a worker to pay to an insurer any sum that, at the time when the worker's right to compensation arose or at any time thereafter, was or becomes due and owing to the insurer by the employer in respect of any premium payable by the employer in relation to a policy of insurance or indemnity obtained by him from the insurer; or
- (b) entitling an insurer to retain from, or to set off against, any payments due to the worker under this Act any sum so due and owing.”.

Right of
worker to
take action
independently
of this Act.

5 Section nine of the Principal Act is amended—

- (a) by omitting from subsection (7) thereof the word “six” and substituting therefor the word “twelve”; and

- (b) by omitting from subsection (8) thereof the word "eighteen" and substituting therefor the word "twelve".

6 Section thirteen of the Principal Act is amended—

Settlement
of claims.

- (a) by omitting from subsection (1) thereof the word "Claims" and substituting therefor the words "Subject to subsection (1A) of this section, claims"; and
- (b) by inserting after that subsection the following subsection:—

"(1A) An agreement for the payment of a lump sum in settlement of a claim for compensation under this Act has no force or effect unless and until it has been registered as prescribed with the Chief Inspector."

7 Section fifteen of the Principal Act is amended by omitting subsections (2) and (3) thereof and substituting therefor the following subsections:—

Proceedings
before a
judge.

"(2) A judge—

- (a) may in any case if he thinks fit; and
- (b) shall, if either party makes an application to him requesting him to do so, and gives such security as the judge may order for payment of the fees and expenses of the assessor,

summon a legally-qualified medical practitioner to sit with him as an assessor.

"(3) Where an assessor is summoned pursuant to subsection (2) of this section, the party on whose application the assessor is summoned is, subject to any order as to costs, liable to pay to the assessor such fees and such sums by way of reimbursement of expenses as the judge may order."

8 After section sixteen of the Principal Act the following sections are inserted in Part VI:—

"16A—(1) The Minister may, by notice in the *Gazette*, appoint a person who resides in this State to be the nominal insurer for the purposes of this Act, and may, in like manner, revoke any such appointment.

The nominal
insurer.
Cf. 16 Geo.
V No. 33,
s. 65D.

"(2) An appointment under this section shall be made on the nomination of the approved insurers or a majority of them, but if the approved insurers fail, within one month after being requested by the Minister so to do, to nominate a person for appointment as the nominal insurer the Minister may appoint such person as he thinks fit to be the nominal insurer for the purposes of this Act.

“(3) Any proceedings by or against the nominal insurer may be taken in the name of ‘The Nominal Insurer’.

“(4) The death or resignation of a person holding office as the nominal insurer, or the revocation of such a person’s appointment, does not abate any proceedings commenced by or against him before the date of his death or resignation or the revocation of his appointment, and the proceedings may be continued and concluded by or against the person appointed in his place as if the death, resignation, or revocation had not occurred.

When proceedings may be taken against the nominal insurer.
Ibid., s. 65A.

“ 16B Where—

(a) an employer—

(i) has not obtained from an approved insurer such a policy of insurance or indemnity as is referred to in subsection (1) of section thirty-four or has failed to maintain in force any such policy so obtained by him;

(ii) has become bankrupt or has made a composition or arrangement with his creditors; or

(iii) has left the State and his whereabouts are unknown;

(b) an employer or the approved insurer from which an employer obtained such a policy is a company and—

(i) the winding up of the company has commenced; or

(ii) a receiver or manager of the property of the company has been appointed, or the company has been placed under official management, under the provisions of the *Companies Act* 1962 or any corresponding previous enactment; or

(c) for any other reason there are reasonable grounds for believing that an employer or an approved insurer from whom or from which he has obtained such a policy is, or is likely to be, unable to discharge in full any liability arising under this Act in respect of a claim by a worker or any dependant of a worker for payment of compensation,

that worker or dependant may make against the nominal insurer any claim for compensation and take against the nominal insurer any proceedings for the recovery of compensation that, but for this section, he might have made or taken against that employer and, in any such proceedings,

may obtain against the nominal insurer any judgment that, but for this section, he might have obtained against that employer.

“16c—(1) Where—

- (a) judgment is obtained by or on behalf of a worker or a dependant of a worker for payment of compensation under this Act; and
- (b) the judgment debtor does not satisfy the judgment in full within the period of one month after it is obtained,

Judgment
against
nominal
insurer.
Ibid., s. 65a.

the court in which the judgment is obtained may, on the application of the judgment creditor, direct that that judgment be entered against the nominal insurer.

“(2) For the purposes of subsection (1) of this section, where execution of the judgment obtained against a person for payment of compensation under this Act is stayed pending appeal, the time during which it is so stayed shall be excluded in calculating the period referred to in paragraph (b) of that subsection.

“(3) Where proceedings are taken for the recovery of compensation under this Act, the defendant in those proceedings or his solicitor shall, within forty-eight hours after filing a notice of defence, serve on the nominal insurer a copy of that notice, and thereupon the nominal insurer may apply to the court to be made a party to the proceedings and to take over the conduct of the defence.

“(4) On an application under subsection (3) of this section the court may order that the nominal insurer be made a party to the proceedings and that, to such extent and upon and subject to such conditions as the court may determine, the conduct of the defence be taken over by the nominal insurer.

“(5) In any proceedings to which this section relates, no judgment by default shall be entered for the plaintiff unless, within the prescribed time, a copy of the summons has been served, by or on behalf of the plaintiff, on the nominal insurer.

“(6) If the defendant in any proceedings to which this section relates has not filed a notice of defence to the summons the nominal insurer may, on receiving a copy of the summons apply to the court to be made a party to the proceedings and to take over the conduct of the defence, and the provisions of subsection (4) of this section apply to and in relation to an application under this subsection as if it were an application under subsection (3) of this section.

“(7) The right conferred on a judgment creditor by subsection (1) of this section to have judgment entered against the nominal insurer is not affected or prejudiced by any

non-compliance by the judgment creditor or judgment debtor, or by the judgment creditor's solicitor or judgment debtor's solicitor, with any of the provisions of subsections (3), (4), and (5) of this section.

Payment by
the nominal
insurer.
Ibid., s. 65E.

"16D—(1) The nominal insurer is not personally liable to pay any amount that is payable by him pursuant to this Act in satisfaction of any claim made, or judgment obtained, against the nominal insurer, or the amount of any costs incurred by him in relation to any claim made, or the proceedings in which any judgment is obtained, against him pursuant to this Act, but any such amount shall be paid by the nominal insurer out of moneys provided by the approved insurers in accordance with this section.

"(2) Any moneys that are required by this section to be provided by the approved insurers shall be provided by the approved insurers in such proportions as the Minister may determine, having regard, so far as is practicable, to the premium income in respect of policies of insurance under this Act received by each approved insurer during the preceding financial year.

"(3) Any amounts (not being amounts to which subsection (1) of this section applies), required from time to time to meet any costs and expenses incurred by the nominal insurer in or in connection with the exercise and discharge of the powers, functions, and duties conferred and imposed on him by or under this Act shall be paid by the insurers in such proportions as the Minister may determine, having regard, so far as is practicable, to the premium income in respect of policies of insurance under this Act received by each insurer during the preceding financial year.

"(4) For the purpose of making a determination under subsection (2) or subsection (3) of this section, the Minister may rely upon information as to the premium income of approved insurers that is furnished to him by any person appointed by the approved insurers for the purpose of furnishing that information.

"(5) When the Minister makes a determination under subsection (2) or subsection (3) of this section, he shall give notice to each approved insurer of the sum he has determined as being payable by that approved insurer and shall, in that notice, require the approved insurer to pay that sum to the nominal insurer within such time as is specified in that behalf in the notice.

"(6) If an approved insurer fails to pay to the nominal insurer the sum specified in a notice given to the approved insurer pursuant to subsection (5) of this section within the time specified in that behalf in the notice the approved insurer is guilty of an offence against this section.

Penalty: One hundred pounds.

"(7) Where an approved insurer is convicted of an offence against this section the justices by whom he is convicted may, in addition to imposing a penalty for the offence, order the

approved insurer to pay to the nominal insurer the sum in respect of the non-payment of which the offence was committed, or such portion of that sum as may remain unpaid at the date of the conviction.

“(8) An order under subsection (7) of this section for the payment of a sum to the nominal insurer may be enforced in the same manner as a summary conviction or order under the *Justices Act* 1959 for the payment of a sum of money, and the provisions of that Act, with the necessary adaptations, apply thereto accordingly.

“16E An amount that is paid by the nominal insurer in satisfaction of a claim made, or judgment obtained, against him pursuant to this Act, together with his costs of and incidental to the claim or the proceedings in which the judgment was obtained, may be recovered by the nominal insurer as a debt due to him by action in a court of competent jurisdiction against—

Recovery
by nominal
insurer
from
employer, &c.
Ibid., s. 65f.

- (a) the employer of the worker by or on behalf of whom, or by or on behalf of whose dependants, the claim was made or the proceedings were instituted;
- (b) the approved insurer from whom or from which that employer obtained a policy of insurance or indemnity that was in force on the date when the injury by reason of which the claim arose or in respect of which the judgment was obtained was sustained; or
- (c) that employer and that approved insurer jointly.”.

9 Section twenty-four of the Principal Act is amended—

Redemption
of weekly
payments.

- (a) by omitting from subsection (1) thereof the word “Where” and substituting therefor the words “Subject to subsection (1A) of this section, where”; and
- (b) by inserting after that subsection the following subsection:—

“(1A) An agreement to which subsection (1) of this section relates has no force or effect unless and until it has been registered as prescribed by the Chief Inspector.”.

10 Section twenty-seven of the Principal Act is amended by omitting from subsection (1) thereof the words “rule 4 or rule 5” and substituting therefor the words “rule 5 or rule 6”.

Payment to
Public
Trustee and
investment
of com-
pensation
moneys.

11 Section thirty-four of the Principal Act is amended—

- (a) by omitting from subsection (2) thereof the words “two pounds” and substituting therefor the words “twenty pounds”; and

Insurance
of employer
obligatory.

(b) by omitting from that subsection the words "one pound" and substituting therefor the words "ten pounds".

The first schedule.

12 The Principal Act is amended by omitting the first schedule thereto and substituting therefor the following schedule:—

"THE FIRST SCHEDULE.

"(Section 5.)

"RULES RELATING TO THE CALCULATION OF COMPENSATION.

Interpretation.

"1—(1) For the purposes of this schedule—

(a) in any formula specified or referred to in any provision of this schedule, B represents the amount for the time being of the basic wage for Hobart; and

(b) the amount of—

(i) any weekly payment under this schedule shall be calculated in pounds, shillings, and pence and adjusted to the nearest shilling; or

(ii) any other sum, payment, or benefit payable under this schedule shall be calculated in pounds, shillings, and pence and adjusted to the nearest pound.

"(2) For the purposes of an adjustment required to be made under—

(a) paragraph (a) of sub-rule (1) of this rule, if the number of pence in any amount calculated as provided in that paragraph is six or more, those pence shall be regarded as one shilling; or

(b) paragraph (b) of that sub-rule, if the number of shillings in any amount calculated as provided in that paragraph is ten or more, those shillings shall be regarded as one pound.

Amount of compensation in case of death.

"2—(1) The compensation payable under this Act, where death results from the injury sustained by the worker, is a lump sum calculated in accordance with sub-rule (2) of this rule.

"(2) The lump sum referred to in sub-rule (1) of this rule shall be calculated in accordance with the following provisions:—

(a) If the worker leaves any dependants wholly dependent upon his earnings, the amount of compensation shall be a sum calculated in accordance with the formula $B \times 284$, together with an additional sum calculated in accordance with the formula $B \times 7$ in respect of each child of the worker who is under the age of sixteen years at the date when the injury is sustained;

(b) If the worker does not leave any such dependants but leaves any dependant in part dependent upon his earnings, the amount of the compensation shall be such sum, not exceeding in any case a sum calculated in accordance with the formula $B \times 284$, as is reasonable and proportionate to the injury to that dependant;

(c) Where the worker, being under the age of twenty-one years at the date when the injury was sustained, leaves no dependants, but immediately before that date was contributing towards the maintenance of the home of the members of his family, those members of his family shall be deemed to be dependants of the worker in part dependent upon his earnings, and the provisions of paragraph (b) of this sub-rule apply to and in relation to those members of his family accordingly; and

- (d) No amounts paid or payable before the death of the worker as weekly payments in respect of his total or partial incapacity for work resulting from the injury shall be taken into consideration in calculating the amount of compensation payable under this rule upon his death, but any sum paid before the death of the worker in redemption of the liability for future weekly payments or in respect of an injury for which compensation is payable in accordance with rule 5 or rule 6 (except so much thereof as is referable to compensation for total or partial incapacity before the death) shall be deducted from the amount payable in accordance with this rule upon the death of the worker.

"3—(1) Subject to this rule, where total or partial incapacity for work results from an injury sustained by the worker the compensation payable under this Act is, in addition to any lump sum that may be payable under rule 5 or rule 6 in respect of that injury, a weekly payment during the incapacity calculated in accordance with this rule. Amount of compensation in case of incapacity.

"(2) A weekly payment required to be calculated in accordance with this rule shall be calculated in accordance with the following provisions, namely:—

- (a) In the case of total incapacity for work, the compensation shall be a weekly payment during the incapacity of an amount equal to the aggregate of the following sums, namely:—
- (i) A sum equal to seventy per cent of the amount for the time being of the basic wage for Hobart in respect of the worker himself;
 - (ii) Where applicable, a sum equal to seventeen per cent of the amount for the time being of the basic wage for Hobart in respect of the wife of the worker or any relative standing *in loco parentis* to the children of the worker who are under sixteen years of age if the wife or relative is wholly or mainly dependent on the earnings of the worker at the date when the injury is sustained; and
 - (iii) Where applicable, a sum equal to nine per cent of the amount for the time being of the basic wage for Hobart in respect of each child of the worker who is wholly or mainly dependent on the earnings of the worker at the date when the injury is sustained, and who—
 - (A) is under the age of sixteen years; or
 - (B) is under the age of twenty-one years and is receiving full-time education at a university, college, school, or similar institution;
- (b) No weekly payment under paragraph (a) of this sub-rule shall exceed—
- (i) where the average weekly earnings of the worker before the date when the injury was sustained did not exceed the amount for the time being of the basic wage for Hobart by more than twenty per cent—eighty-five per cent of those average weekly earnings;
 - (ii) where those average weekly earnings exceeded the amount for the time being of the basic wage for Hobart by more than twenty per cent but not more than thirty-six per cent—a sum equal

- to the amount for the time being of the basic wage for Hobart plus two per cent of that amount; or
- (iii) where those average weekly earnings exceeded the amount for the time being of the basic wage for Hobart by more than thirty-six per cent—seventy-five per cent of those average weekly earnings;
- (c) In the case of partial incapacity for work, the compensation shall be a weekly payment during the incapacity of such amount as bears the same ratio to the amount of the weekly payment that would be payable if the worker were totally incapacitated for work as the worker's loss of weekly earnings bears to the amount of his average weekly earnings before the date when the injury was sustained;
- (d) In fixing the amount of the weekly payment under paragraph (a) or paragraph (c) of this sub-rule, regard shall be had, subject to section eight C, to any payment, allowance, or benefit that the worker may receive from his employer during the period of his incapacity, not being a payment, allowance, or benefit paid in respect of a period of long service leave or of any entitlement thereto or in lieu of the taking of a period of long service leave;
- (e) When the question of the amount that a worker is earning or is able to earn arises, if it appears to a judge that because of the injury that the worker has suffered (including the physical disfigurement of the worker) he is or will be unable to obtain employment or to remain in reasonably regular employment the judge may decide that the worker is incapacitated by the injury either totally or partially and either permanently or temporarily, as the circumstances of the case require, and thereupon compensation in accordance with this schedule shall be paid to the worker accordingly; and
- (f) Where a worker has so far recovered from the injury as to be fit for employment (but only for employment of a more limited kind than the employment in which he was engaged before the date when the injury was sustained) and proves to the satisfaction of a judge that he has taken all reasonable steps to obtain, and has failed to obtain, employment of any such kind and that his failure to obtain that employment is a consequence wholly or mainly of the injury (including the physical disfigurement of the worker), the judge may, notwithstanding any other provision of this Act or any earlier order, award, determination, or decision made under this Act by any judge in the case of that worker, order that his incapacity shall continue to be treated as total incapacity for such period and subject to such conditions as the judge determines, and upon the making of any such order compensation in accordance with this schedule shall be paid to that worker accordingly.

“(3) In paragraph (c) of sub-rule (2) of this rule, the expression ‘loss of weekly earnings’ means the difference between the amount of the average weekly earnings of the worker before the date when the injury was sustained and the average weekly amount that he is earning or is able to earn in some suitable employment or business after that date.

“(4) In determining whether a child is dependent on the earnings of a worker or the degree to which a child is dependent on the earnings of a worker, no regard shall be had to any payments that have been or may be made in respect of the child under Part VI of the *Social Services Act 1947-1963* of the Commonwealth, but every such determination shall be made as if no such payment has been or will be made.

"(5) In determining the amount of compensation payable under any of the foregoing provisions of this schedule, no regard shall be had to any sum paid or payable under any contract of assurance or insurance (including a contract made with a friendly society or other benefit society or association or a trade union) or out of any relief, superannuation, or sustentation fund, or other fund (whether statutory or otherwise) of the like nature.

"(6) The total liability of an employer in respect of compensation under either or both of paragraphs (a) and (c) of sub-rule (2) of this rule does not, in any one case, exceed a sum calculated in accordance with the formula $B \times 284$.

"4—(1) For the purposes of this Act, a reference to the earnings or average weekly earnings of a worker shall be construed as a reference to the average weekly earnings of the worker, as determined in accordance with sub-rule (2) of this rule. Computation of average weekly earnings.

"(2) The average weekly earnings of a worker shall be determined in accordance with the following provisions, namely:—

- (a) In computing average weekly earnings, amounts paid for overtime worked by the worker shall be included;
- (b) Where, by reason of the shortness of time during which the worker has been in the employment of his employer or the terms of the employment, it is impracticable at the date when the injury is sustained to compute the average weekly earnings of the worker under that employer, regard may be had to the average weekly amount that, during the twelve months before that date, was being earned 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;
- (c) Where the worker had entered into concurrent contracts of service with two or more employers under which he worked at one time for one of those employers and at another time for the other or another of those employers, or where the worker's employment has been of a casual nature, his average weekly earnings shall be computed as if his earnings under all such contracts or in the employment of his several employers were earnings in the employment of the employer for whom he was working at the date when the injury was sustained;
- (d) 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 date when the injury was sustained, uninterrupted by absence from work due to illness or other unavoidable cause, and the worker shall be deemed to have been employed in a new grade of employment whenever his rate of payment has been lawfully increased or decreased otherwise than by reason of any cost of living adjustments;
- (e) 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; and
- (f) Where the worker delivers to the employer a statement in writing verified by statutory declaration setting out the amount of his earnings during any period, that statement is evidence that that amount was the earnings of the worker during that period.

Scale of compensation for specified injuries.

"5—(1) In respect of an injury specified in the second column of the table set forth hereunder, compensation is payable under this Act of an amount that is equal to the amount calculated in accordance with the formula respectively specified opposite that injury in the third column of that table:—

FIRST COLUMN. No. of item.	SECOND COLUMN. Injury.	THIRD COLUMN. Formula for calculating the amount of compensation payable.
1	Total loss of the sight of both eyes	B x 284
2	Total loss of sight of an only eye	B x 284
3	Total loss of both hands	B x 284
4	Total loss of both feet	B x 284
5	Total loss of a hand and a foot	B x 284
6	Total and incurable loss of mental powers involving inability to work	B x 284
7	Total and incurable paralysis of the limbs or of mental powers	B x 284
8	Total loss of an arm or of the greater part of an arm	B x 149
9	Total loss of the lower part of an arm	B x 128
10	Total loss of a hand or of five fingers of a hand	B x 128
11	Total loss of a leg	B x 138
12	Total loss of a foot	B x 113
13	Total loss of the lower part of a leg	B x 117
14	Total loss of the sight of one eye, together with the serious diminution of the sight of the other eye	B x 138
15	Total loss of speech	B x 113
16	Total loss of hearing	B x 113
17	Total loss of the hearing of one ear	B x 51
18	Total loss of the sight of one eye	B x 78
19	Loss of binocular vision	B x 78
20	Total loss of a thumb	B x 51
21	Total loss of a forefinger	B x 35
22	Total loss of two joints of forefinger of either hand	B x 21
23	Total loss of the joint of a thumb	B x 32
24	Total loss of the first joint of the forefinger of either hand	B x 16
25	Total loss of the first joint of the middle or little or ring finger of either hand	B x 14
26	Total loss of the middle finger of either hand	B x 20
27	Total loss of the little or ring finger of either hand	B x 19
28	Total loss of two joints of the middle finger of either hand	B x 16
29	Total loss of two joints of the little or ring finger of either hand	B x 16
30	Total loss of the great toe of either foot	B x 35
31	Total loss of a joint of the great toe of either foot	B x 19
32	Total loss of any other toe	B x 14
33	Total loss of a joint of any other toe	B x 4

FIRST COLUMN. No. of item.	SECOND COLUMN. Injury.	THIRD COLUMN. Formula for calculating the amount of compensation payable.
34	Partial loss of the sight of both eyes or of an only eye	Such percentage of the amount payable under item 1 of this table as is equal to the percentage of the diminution of sight measured without the aid of a corrective lens.
35	Partial loss of the sight of one eye	Such percentage of the amount payable under item 18 of this table as is equal to the percentage of the diminution of sight measured without the aid of a corrective lens.
36	Partial loss of the hearing of both ears	Such percentage of the amount payable under item 16 of this table as is equal to the percentage of the diminution of hearing measured without any hearing aid.
37	Partial loss of the hearing of one ear	Such percentage of the amount payable under item 17 of this table as is equal to the percentage of the diminution of hearing measured without any hearing aid.

“(2) The provisions of sub-rule (1) of this rule shall be read and construed subject to the following provisions, namely:—

- (a) Where the use of a member or part is wholly and permanently lost, there shall be deemed to be a total loss of that member or part;
- (b) Where compensation has been paid under this Act to the worker in respect of the loss of a part of a limb, hand, thumb, finger, foot, or toe, that compensation shall be deducted from any compensation payable in respect of the total loss of the same member or part, as the case may be; and
- (c) Where a worker suffers by the same accident more than one of the injuries mentioned in the table set forth in sub-rule (1) of this rule he is not, in any case, entitled to receive more than a sum calculated in accordance with the formula $B \times 532$.

“(3) Where a period of total incapacity due to illness resulting from an injury is additional to any other period of total incapacity resulting from the injury, the period of total incapacity due to that illness shall, for the purposes of this rule, be deemed not to be a period of total incapacity caused solely by the injury.

"(4) Notwithstanding anything contained in sub-rule (1) of this rule, the amount of compensation payable under this rule for permanent loss of speech shall not be paid wholly or in part until the expiration of one year after the date of the accident causing that injury.

"(5) Where it is necessary, for the purposes of sub-rule (1) of this rule, to determine the percentage of the diminution of sight or hearing of a worker, the percentage is such percentage as is agreed upon between the worker and his employer; and if the worker and employer are not able to agree thereon, the percentage of diminution shall be determined by a medical practitioner appointed by the employer and a medical practitioner appointed by the worker.

"(6) If the medical practitioners referred to in sub-rule (5) of this rule do not agree upon the percentage of the diminution, the matter shall be referred, as prescribed, to a medical referee, whose decision thereon shall be final.

Compensation for injuries comprising more than or part of any injury specified in rule 5.

"6.—(1) Where a worker sustains an injury—

(a) that, as to the major part thereof, consists of an injury for which compensation is payable under rule 5 of this schedule; or

(b) that consists, to any lesser degree, of an injury for which compensation is payable under that rule,

the injury shall, subject to this rule, be regarded as an injury for which compensation based on the table set forth in sub-rule (1) of rule 5 is payable, and a judge may award as compensation such amount as, having regard to the provisions of rule 5, appears to be just and proportionate to the degree of injury sustained by the worker.

"(2) In no case shall the amount of compensation payable to a worker under this rule in respect of any one injury exceed a sum calculated in accordance with the formula $B \times 532$."

LAUNCESTON CORPORATION (SCOTCH AND ROMAN CATHOLIC CEMETERIES IMPROVEMENT).

No. 95 of 1963.

AN ACT to amend the *Launceston Corporation (Scotch and Roman Catholic Cemeteries Improvement) Act 1947*. [17 December 1963.]

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:—

Short title and citation.

1—(1) This Act may be cited as the *Launceston Corporation (Scotch and Roman Catholic Cemeteries Improvement) Act 1963*.

(2) The *Launceston Corporation (Scotch and Roman Catholic Cemeteries Improvement) Act 1947*, as subsequently amended, is in this Act referred to as the Principal Act.