

16 Section five of the *Superannuation Act (No. 2) 1968* is amended by omitting from paragraph (a) of subsection (6) of that section the numerals "1970" and substituting therefor the numerals "1971".

Amendment of the *Superannuation Act (No. 2) 1963*.

17—(1) A pension that was payable under the Principal Act to a former contributor or the widow of a former contributor on the first day of January 1970 and a pension so payable to the widow of a former contributor to whom a pension was payable on that day under that Act shall be increased, on and after the first pay-day occurring after the first day of January 1971, by an amount equal to 2.6 per cent of the pension payable under that Act to the former contributor or widow on the thirty-first day of December 1970.

Adjustment of certain pensions.

(2) In this section, "pay-day" means a day on which a fortnightly payment of pension is payable pursuant to section thirty-nine A of the Principal Act.

18 For the purposes of section twenty-six of the Principal Act—

(a) the Treasurer; and

(b) every State instrumentality or authority by which the salary of a person to whom or to whose widow a pension to which this Act relates is payable was paid immediately before his retirement or death (not being a salary that was payable out of the Consolidated Revenue),

Treasurer, &c., to pay to the Fund the amounts necessary to give effect to the increased rates of pension.

shall pay to the Fund all such amounts as are necessary to give effect to the alterations to the rates of pensions made by section seventeen of this Act.

WORKERS' COMPENSATION.

No. 74 of 1970.

AN ACT to amend the *Workers' Compensation Act 1927*. [11 January 1971.]

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 1970*.

Short title and citation.

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

Interpre-
tation.

2 Section three of the Principal Act is amended—

- (a) by omitting from subsection (1) the definition of “basic wage for Hobart” and substituting therefor the following definition:—

“ ‘basic rate’ means—

(a) the sum of forty-three dollars a week;
or

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

- (b) by omitting from the definition of “disease” in that subsection the word “disease” (second and third occurring) and substituting therefor, in each case, the words “disease or condition”; and

- (c) by omitting subsections (5), (5A), (6), and (7) and substituting therefor the following subsections:—

“(5) Subject to this section, the Governor may, by order, fix and declare the sum that is to be treated for the purposes of this Act to be the basic rate, and, in exercising his powers under this subsection, the Governor shall ensure that, as far as appears to him to be practicable, the sum that is for the time being so fixed is a sum that appears to him to be equal to the weekly wage of the lowest paid adult male employee employed in Hobart and classified in the Metal Trades Award.

“(6) An order made under subsection (5) of this section takes effect from the first day of the month next following the month in which it is made and continues in force until it is revoked by a subsequent order, but shall not be revoked until it has remained in force for at least twelve months.

“(7) In subsection (5) of this section—

‘adult male employee’ means a male employee who has attained the age of twenty-one years;

‘Metal Trades Award’ means the award known by that name made under the *Conciliation and Arbitration Act 1904-1970* of the Commonwealth or any Act of the Commonwealth amending or passed in substitution for that Act.”.

3 Section five of the Principal Act is amended—

- (a) by inserting after subsection (2) the following subsection:—

“(2A) Where a worker is found to be suffering from hydatids, and is, or has been, engaged in a class

Liability of
employers in
respect of
injuries sus-
tained by
workers.

of employment that involves or involved his handling of dogs, that disease shall be deemed—

- (a) if, when he was so found to be suffering he was engaged in that class of employment, to have arisen out of and in the course of that employment; or
- (b) if, when he was so found to be suffering he was not so engaged, to have arisen out of and in the course of the last employment of that class in which he was engaged before he was so found to be suffering.”;

(b) by inserting after subsection (3) the following subsection:—

“(3AA) Where a person ordinarily engages in work in relation to the port or harbour operations at a port or harbour and in connection with that work persons customarily attend at pre-arranged places for the purpose of being selected and engaged for employment therein, then, in relation to any contract of service by which that person is engaged in that work—

- (a) any such place shall be deemed to be a place of employment; and
- (b) attendance at any such place for the purpose of being so engaged or otherwise in connection with the employment, shall be deemed to be attendance at a place of employment in pursuance of that contract,

and, in the application of this Act to the travelling of a person to or from such a place and his attendance thereat, a contract of service by which, on any occasion, he is engaged for employment at such a place shall be deemed to continue until the next occasion on which he is so engaged.”;

(c) by inserting after paragraph (a) of subsection (3A) the following paragraph:—

“(ab) while the worker, having, on any working day, attended at his place of employment, is temporarily absent therefrom on that day during any recognized break for meals, not being a short break intended for rest, smoking, or the taking of light refreshment.”;

(d) by adding at the end of paragraph (b) of that subsection the word “or”;

(e) by omitting paragraph (c) of that subsection;

(f) by omitting from paragraph (d) of that subsection the words “, in either direction.”;

(g) by inserting after that subsection the following subsection:—

“(3AB) A worker is not entitled, by virtue of paragraph (ab) of subsection (3A) of this section, to compensation under this Act in respect of an injury

sustained by him while he is away from his place of employment if that injury resulted from his voluntarily subjecting himself to an abnormal risk of injury.”; and

(h) by inserting after section (3B) the following subsection:—

“(3C) A reference in subsection (3A) or subsection (3B) of this section to travelling between one place and another shall be construed as a reference to travelling between those places in either direction.”.

Waterside workers transferred between ports.

4 Section five A of the Principal Act is repealed.

Liability of employers for hospital and medical services, &c.

5 Section eight A of the Principal Act is amended by omitting from subsection (2) the words “two thousand five hundred” and substituting therefor the words “four thousand”.

Liability of employers for certain travelling, &c., expenses.

6 Section eight B of the Principal Act is amended—

(a) by omitting from subsection (3) the word “six” and substituting therefor the word “ten”;

(b) by omitting from that subsection the word “thirty” and substituting therefor the word “forty-five”;

(c) by omitting from that subsection the words “two hundred and fifty” and substituting therefor the words “four hundred”; and

(d) by omitting subsection (6) and substituting therefor the following subsection:—

“(6) The costs and expenses payable by an employer pursuant to subsection (5) of this section are payable at a rate not exceeding ten dollars a day, but so that the total amount payable in any one week in respect of any worker does not exceed the sum of forty-five dollars and the sum so payable in the aggregate in respect of any one worker does not, in any case, exceed four hundred dollars.”.

Notice of injury.

7 Section eleven of the Principal Act is amended by inserting after subsection (1) the following subsection:—

“(1A) Subsection (1) of this section does not apply to the condition known as industrial deafness, but no proceedings for the recovery under this Act of compensation in respect of that condition is maintainable unless the claim for compensation is made while the worker is still in the employment of the employer or within three months after the termination of that employment.”.

Settlement of claim.

8 Section thirteen of the Principal Act is amended by omitting from subsection (2) the words “within three months after the date of such agreement” and substituting therefor the words “either before the agreement is registered under subsection (1A) of this section or within three months after it was so registered”.

9 Section sixteen c of the Principal Act is amended by omitting subsection (3) and substituting therefor the following subsection:— Judgment
against
nominal
insurer.

“(3) Where proceedings are taken for the recovery of compensation under this Act and the defendant or his solicitor knows or has reason to believe that such circumstances exist as would under section sixteen B entitle a claim for that compensation to be made against the nominal insurer, the defendant 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 where the nominal insurer is served with a copy of that notice, or he has reasonable grounds for believing that judgment in the proceedings may be entered against him under subsection (1) of this section, he may apply to the court to be made a party to the proceedings and to take over the conduct of the defence.”.

10 The first schedule to the Principal Act is amended— The first
schedule.

(a) by omitting paragraph (b) of sub-rule (2) of rule 3 and substituting therefor the following paragraph:—

“(b) No weekly payment under paragraph (a) of this sub-rule shall exceed the average weekly earnings of the worker;”;

(b) by adding at the end of paragraph (a) of sub-rule (2) of rule 4 the words—

“, but any amounts paid to the worker at the discretion of the employer by way of bonus, gratuity, or other similar payment shall be excluded”;

(c) by omitting from paragraph (b) of sub-rule (2) of rule 5 the word “and” (occurring at the end thereof);

(d) by inserting after that paragraph the following paragraph and word:—

“(ba) Where compensation has been paid under this rule to a worker in respect of an injury and that injury increases in extent there shall be deducted from any compensation payable under this rule in respect of the injury as so increased the compensation previously so paid in respect of that injury; and”;

(e) by inserting at the end of that schedule the following rule:—

“7—(1) No compensation is payable under rule 5 in respect of the condition known as industrial deafness, but the compensation payable under this Act in respect of that condition shall be an amount equivalent to—

(a) if both ears are affected, the appropriate percentage of the amount payable under item 16 in the table contained in sub-rule (1) of rule 5; or

(b) if only one ear is affected, the appropriate percentage of the amount payable under item 17 in that table.

“(2) For the purposes of sub-rule (1) of this rule, ‘the appropriate percentage’ is the amount by which the percentage diminution of hearing of the worker in the ear, or ears, affected is greater than—

(a) in a case where the claim for the compensation is made after the thirty-first day of December 1974 in relation to employment that was continuing at that date or commencing thereafter a

percentage of 15 or, where sub-rule (4) of this rule applies, that percentage reduced by the percentage referred to in that sub-rule; and

- (b) in any other case, a percentage of 20, or, where sub-rule (4) of this rule applies, that percentage reduced by the percentage referred to in that sub-rule.

“(3) For the purposes of sub-rule (2) of this rule, the diminution of the hearing of a worker shall be regarded as the extent to which his hearing is defective as compared with the normal hearing, excluding such percentage of the defectiveness as is to be disregarded under sub-rule (4) of this rule.

“(4) There is to be disregarded for the purposes of sub-rule (3) of this rule such percentage of the defectiveness of the hearing of the worker as is shown—

- (a) to have arisen otherwise than from the condition known as industrial deafness; or
 (b) to have been contracted outside this State; or
 (c) to be a condition in respect of which compensation has been awarded or paid under this Act or under a law of another State or of a Territory of the Commonwealth (being a law relating to the payment of compensation to workers in respect of injuries suffered or diseases contracted in the course of their employment).

“(5) Paragraph (ba) of sub-rule (2) of rule 5 applies to the condition known as industrial deafness as if it were an injury, and sub-rules (5) and (6) of that rule apply for the purposes of this rule as they apply for the purposes of sub-rule (1) of that rule.

“(6) The regulations may prescribe the manner in which any determination or assessment required under this rule to be made in relation to the hearing of a worker is to be so made, and that manner may be so prescribed wholly or partly by reference to any scale, recommendation, or other matter laid down or formulated by any authority or body exercising functions in the Commonwealth in relation to the measurement of hearing.”.

The second schedule.

11 The second schedule to the Principal Act is amended by adding at the end thereof the following items:—

“Hydatids.

“The condition known as industrial deafness”.

Consequential amendments to the first schedule.

12 The first schedule to the Principal Act is amended by omitting the words “basic wage for Hobart” (wherever occurring) and substituting therefor, in each case, the words “basic rate”.