

## WORKERS' COMPENSATION.

### No. 58 of 1972.

#### AN ACT to amend the *Workers' Compensation Act* 1927. [21 December 1972.]

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,  
citation, and  
commence-  
ment.

**1**—(1) This Act may be cited as the *Workers' Compensation Act* 1972.

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

(3) This Act shall commence on a date to be fixed by proclamation.

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

**2** Section eight A of the Principal Act is amended by omitting subsection (2) thereof.

The first  
schedule.

**3** The first schedule to the Principal Act is amended—

(a) by omitting sub-rule (1) of rule 3 and substituting therefor the following sub-rules:—

“(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 at the relevant compensation rate reduced, in the case of a period of partial incapacity, by the weekly amounts that the worker is earning or able to earn in some suitable employment or business during that period.

“(1A) Subject to sub-rule (1B) of this rule the relevant compensation rate in respect of a period of incapacity of a worker is—

(a) the average weekly earnings of the worker over the period of twelve months ending at the commencement of the period of incapacity; or

(b) the ordinary time rate of pay of the worker (as expressed by reference to a week) for the work in which he was engaged immediately before the period of incapacity,

whichever is the greater.

"(1B) If during a period of incapacity of a worker the ordinary time rate of pay (as expressed by reference to a week) for any work on which he was engaged immediately before the commencement of that period increases or decreases the relevant compensation rate shall correspondingly be increased or decreased by the like amount.";

- (b) by omitting from sub-rule (2) of rule 3 the words before paragraph (a) thereof, and paragraphs (a), (b), and (c), thereof, and substituting therefor the following words:—

"The foregoing provisions of this rule have effect subject to the following provisions of this sub-rule, that is to say:—";

- (c) by omitting from paragraph (d) of that sub-rule the words "paragraph (a) or paragraph (c) of this sub-rule" and substituting therefor the words "this rule";
- (d) by omitting sub-rules (2A), (3), and (4) of rule 3;
- (e) by omitting from sub-rule (6) of rule 3 the words "either or both of paragraphs (a) and (c) of sub-rule (2) of";
- (f) by omitting paragraph (b) of sub-rule (2) of rule 4 and substituting therefor the following paragraph:—

"(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 his employment, it is impracticable to compute the average weekly earnings of the worker under that employer during any relevant period under that employer, those average weekly earnings shall, for the purposes of this schedule, be taken to be the average weekly earnings during that period 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 in the same district";

- (g) by adding at the end of paragraph (c) of sub-rule (2) of rule 4 the following words:—

"Provided that where one of the contracts is a full time contract of service the average weekly earnings shall be computed by reference only to the full time contract of service"; and

- (h) by omitting from paragraph (d) of that sub-rule the words "any cost of living adjustments" and substituting therefor the words "a decision affecting the persons engaged in his grade of employment generally".

**4** Section three of this Act applies in respect of an incapacity notwithstanding that it arose from a matter that occurred before the commencement of this Act, but does not apply to any period of incapacity, or to any part of a period of incapacity, before that commencement. Application of Act.