

*This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.*

House of Representatives,

20th October, 1911.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Millar.

## WORKERS' COMPENSATION AMENDMENT.

### ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> <li>1. Short Title.</li> <li>2. Definition of "worker" amended.</li> <li>3. Section 4 of principal Act amended.</li> <li>4. Provision as regards wife and children.</li> <li>5. Section 5 of principal Act amended.</li> <li>6. Section 11 of principal Act amended.</li> <li>7. Action for recovery of compensation for accident out of New Zealand may be stayed until plaintiff undertakes not to take proceedings elsewhere.</li> </ol> | <ol style="list-style-type: none"> <li>8. Proceedings taken outside New Zealand available as a defence to action in New Zealand for recovery of compensation.</li> <li>9. Section 15 of principal Act amended.</li> <li>10. Section 18 of principal Act amended.</li> <li>11. Section 22 of principal Act amended.</li> <li>12. Section 27 of principal Act amended.</li> <li>13. Section 62 of principal Act amended.</li> <li>14. First Schedule to principal Act amended.</li> <li>15. Second Schedule to principal Act amended.</li> <li>16. Representation of parties to proceedings.</li> </ol> |
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### A BILL INTITLED

AN ACT to amend the Workers' Compensation Act, 1908.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

5 1. This Act may be cited as the Workers' Compensation Amendment Act, 1911, and shall form part of and be read together with the Workers' Compensation Act, 1908 (hereinafter referred to as the principal Act), and shall come into operation on the first day of 10 March, nineteen hundred and *twelve*.

Short Title.

15 2. Section two of the principal Act is hereby amended by omitting from the definition of "worker" all the words after the words "but does not include," and substituting the words "any person employed otherwise than by way of manual labour whose remuneration exceeds two hundred and *sixty* pounds a year."

Definition of "worker" amended.

3. Section four of the principal Act is hereby amended by repealing paragraph (b) thereof, and substituting therefor the following paragraph:—

Section 4 of principal Act amended.

20 "(b.) If the worker does not leave any total dependants but leaves any partial dependants, the compensation shall be such sum as is reasonable and proportionate to the injury to those dependants, but not exceeding in any case the amount payable under the foregoing provisions."

25 4. (1.) The wife of a deceased worker and his children under the age of sixteen years (whether legitimate or illegitimate) shall be conclusively presumed to have been dependent on the earnings of that worker at the time of the accident which caused his death, but their dependency shall be deemed to be ~~partial only~~ total unless it is proved in fact to be ~~total~~ partial only.

Provision as regards wife and children.

30 (2.) Nothing in this section shall apply to a wife who at the time of the accident which causes her husband's death has deserted him without just cause.

Section 5 of principal Act amended.

5. (1.) Section five of the principal Act is hereby amended by adding the following subsection :—

“(11.) In addition to the compensation payable under this section there shall be payable a sum equal to the reasonable expenses incurred in respect of the medical or surgical attendance (including first aid) on the worker in respect of his injury, but not exceeding one pound.” 5

(2.) The said section five is hereby further amended by inserting, after the word “accident” where it first occurs in subsection six, the words “but not exceeding the sum of two pounds ten shillings per week.” 10

Section 11 of principal Act amended.

6. Section eleven of the principal Act is hereby amended by omitting from subsection five thereof the words “in any harbour thereof within the meaning of the Shipping and Seamen Act, 1908, or within the marginal or other waters,” and substituting the words “within the outer boundary of the territorial waters.” 15

Action for recovery of compensation for accident out of New Zealand may be stayed until plaintiff undertakes not to take proceedings elsewhere.

7. When an action is commenced for the recovery of compensation in respect of an accident happening out of New Zealand the action shall on the application of the defendant be stayed until the plaintiff has given to the defendant a sufficient undertaking not to institute any proceedings for the recovery of compensation or damages from the defendant in any other part of the British dominions in respect of the same accident. 20

Proceedings taken outside New Zealand available as a defence to action in New Zealand for recovery of compensation.

8. In any action for the recovery of compensation, it shall be a good defence that proceedings for the recovery of compensation or damages in respect of the same accident have been instituted by or on behalf of the same person against the same defendant in any part of the British dominions other than New Zealand, or that any claim by or on behalf of the same person against the same defendant for compensation or damages in respect of the same accident under the laws of any part of the British dominions other than New Zealand has been settled by agreement or fully satisfied. 25 30

Section 15 of principal Act amended.

9. Section fifteen of the principal Act is hereby amended by omitting the words “or killed,” and substituting the words “unless the injury results in death or serious and permanent disablement.” 35

Section 18 of principal Act amended.

10. Section eighteen of the principal Act is hereby amended as follows :—

(a.) By repealing subsection three thereof, and substituting the following subsections therefor :—

“(3.) Any such agreement as is mentioned in the last preceding subsection shall, if made in writing and approved by a Magistrate or an Inspector of Factories (but not otherwise), be binding on the parties thereto, and any such agreement entered into by the representative of a deceased worker shall, if so made and approved (but not otherwise), be binding on the dependants of that worker : 40 45

*New.*

Provided that, except in the case of a person under the age of twenty-one years, the approval of a Magistrate or of an Inspector of Factories shall be necessary only in the event of the death of the worker, or of his permanent disablement, whether total or partial. 50

5 " (3A.) A Magistrate or an Inspector of Factories shall not refuse his approval to an agreement under this section if he is satisfied that the terms of the agreement are on the whole as favourable to the worker or to his representatives or dependants as are the provisions of this Act."

10 (b.) By omitting from subsection four thereof the words " as is mentioned in subsection two of this section," and also the words " if it is made in writing and approved by a Magistrate "; and by inserting, after the words " unless the Magistrate," the words " or Inspector approving the same."

15 11. Section twenty-two of the principal Act is hereby amended by inserting the following subsection :— Section 22 of principal Act amended.

20 (1A.) Any money payable under this Act in respect of the expenses of the medical or surgical attendance on an injured worker may be recovered by action in the Magistrate's Court in accordance with this Act at the suit of that worker, or at the suit of any person by whom the said expenses or any of them have been incurred, or at the suit of any person entitled to receive any payment in respect of the said attendance."

25 12. Section twenty-seven of the principal Act is hereby amended by omitting from subsection two thereof the words " by any other person," and substituting therefor the words " other person." Section 27 of principal Act amended.

30 13. Section sixty-two of the principal Act is hereby amended by *Struck out.* Section 62 of principal Act amended.

adding to subsection three the words " caused by any act, neglect, or default other than the negligence of a fellow servant."

*New.*

35 repealing subsection three and substituting the following :—

" (3.) No servant shall be entitled to recover from his employer in an action brought under this Act in respect of the negligence of a fellow servant a larger sum by way of damages for any one cause of action than five hundred pounds.

40 " (4.) Nothing in this section shall affect the measure of damages in an action brought independently of this Act against an employer in respect of the death or injury of a servant."

45 14. The First Schedule to the principal Act is hereby amended by inserting, immediately before the words " any occupation," the words " domestic service in which the employment or engagement is for a period of not less than seven days." First Schedule to principal Act amended.

50 15. The Second Schedule to the principal Act is hereby amended by omitting the words " For the purposes of this Schedule an eye, hand, or foot shall be deemed to be lost if it is rendered permanently and wholly useless," and substituting therefor the words " For the purposes of this Schedule the expression ' loss of ' includes ' permanent loss of the use of.' " Second Schedule to principal Act amended.

*Struck out.*

16. Notwithstanding any rule to the contrary made under the provisions of the principal Act, a party to an action or other proceeding in the Court of Arbitration under that Act may appear in person or by a barrister or solicitor of the Supreme Court. Representation of parties to proceedings.