

*Hon. Mr. Webb*

## WORKERS' COMPENSATION AMENDMENT

### ANALYSIS

Title.	5. Compensation for loss of lens of eye.
1. Short Title and commencement.	6. Compensation for hernia.
2. Application of this Act.	7. Accidents to workers travelling to or from work.
3. Compensation where injured worker is able to perform light work.	8. Transport expenses of injured workers requiring medical treatment in other towns.
4. Compensation where wages are paid to injured worker.	9. Employers to insure against their liability under principal Act.

### A BILL INTITULED

AN ACT to amend the Workers' Compensation Act, 1922. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority

5 of the same, as follows:—

1. (1) This Act may be cited as the Workers' Compensation Amendment Act, 1943, and shall be read together with and deemed part of the Workers' Compensation Act, 1922 (hereinafter referred to as the 10 principal Act). Short Title and commencement. See Reprint of Statutes, Vol. V, p. 597

(2) This Act shall come into force on the first day of November, nineteen hundred and forty-three.

2. Nothing in this Act shall apply with respect to 15 in respect of accidents happening before the commencement of this Act. Application of this Act.

Compensation  
where injured  
worker is able  
to perform  
light work.  
1936, No. 45

**3.** (1) Section five of the principal Act is hereby amended by omitting from subsection six, as set out in section six of the Workers' Compensation Amendment Act, 1936, the words "is earning or is able to earn in some suitable employment or business after the accident", and substituting the words "is earning after the accident in any employment or business, or is able to earn in some suitable employment provided or found for him after the accident by the employer by whom he was employed at the time of the accident".

1938, No. 20

(2) The Compensation Court or a Magistrate shall not grant leave under subsection three of section sixty-two of the Statutes Amendment Act, 1938, to end or diminish the weekly payments of compensation payable to any worker upon the ground that the worker is partially recovered unless—

(a) He is working in some suitable employment or business; or

(b) Some suitable employment has been provided or found for him by his employer and is available for him.

Compensation  
where wages  
are paid to  
injured worker.

**4.** Notwithstanding anything contained in section sixty-one of the principal Act, where an employer, pursuant to any statutory obligation so to do, pays wages to any worker for any period within the period of his incapacity the following provisions shall apply:—

(a) No compensation shall be payable in respect of the period for which the wages are paid:

(b) The period for which the wages are paid shall be deemed to be deducted from the period for which compensation would have been payable if the wages had not been paid:

(c) The amount paid as wages shall not be deducted from or set off against the amount payable as compensation in accordance with the foregoing provisions of this section.

Compensation  
for loss of  
lens of eye.

**5.** (1) The Second Schedule to the principal Act is hereby amended by inserting, after the words "The total loss of the sight of one eye .. 50 per cent.", the words "The total loss of the lens of an eye .. 30 per cent."

(2) The said Second Schedule is hereby further amended by adding the following paragraph:—

“Where a worker suffers the loss of the sight of an eye, any sum previously received by the worker by way of compensation in respect of the loss of the lens of that eye shall be taken into account in estimating the compensation.”

6. (1) For the purposes of the principal Act a worker's incapacity resulting from hernia shall be deemed to be incapacity resulting from injury by accident arising out of and in the course of his employment if the following conditions exist, namely:—

Compensation  
for hernia.

(a) The hernia is—

(i) Clinical hernia of disabling character appearing to have recently occurred for the first time; or

(ii) An aggravation or strangulation of a pre-existent hernia resulting in immediate pain and disablement; and

(b) The onset of the hernia was immediately preceded by a strain or other accident arising out of and in the course of the employment; and

(c) The worker reported his condition to his employer immediately after the occurrence of the strain or other accident, or ceased work at the time of the strain or other accident and reported his condition to his employer within seventy-two hours thereafter.

(2) Where the Compensation Court or a Magistrate is satisfied that it is reasonable so to do, the Court or Magistrate may order that a worker's right to compensation under this section shall cease on a date to be specified in that behalf in the order, being not less than four weeks after the date of the order, unless the worker undergoes a surgical operation for a cure of the hernia.

(3) Where an order is made under the *last preceding* subsection, the following provisions shall apply:—

(a) If the worker does not submit himself to the operation before the date so specified or before such later date as the Compensation Court or a Magistrate may specify in that behalf in any subsequent order, the weekly payments of compensation payable to the worker shall cease on that date or later date, as the case may be:

(b) If the worker submits himself to the operation as aforesaid, the weekly payments of compensation payable to him shall continue for a period of twelve weeks from the date of the operation and shall then cease: 5

Provided that if the worker is not wholly recovered at the end of that period the Compensation Court or a Magistrate may extend his right to receive weekly payments of compensation for such further period or periods as the Court or Magistrate thinks fit. 10

(4) The failure of a worker to make any report to his employer in pursuance of the foregoing provisions of this section shall not deprive the worker of any compensation to which he may be otherwise entitled in respect of hernia if the Court considers that the failure was excusable. 15

Accidents to  
workers  
travelling  
to or from  
work.

7. Without limiting the provisions of section three of the principal Act, it is hereby declared that where an accident causing personal injury to a worker occurs while he is travelling to or from his work by a means of transport other than a public passenger transport service, and the employer has provided the means of transport for that purpose or has expressly or impliedly authorized its use for that purpose, the accident shall be deemed to arise out of and in the course of the employment. 20 25

Transport  
expenses  
of injured  
workers  
requiring  
medical  
treatment in  
other towns.

8. (1) Where a worker is entitled to compensation under the principal Act in respect of any injury and a registered medical practitioner certifies that he is attending the worker or has examined him and that the worker should receive any medical or surgical treatment that is not available in the town in which the worker resides or which is nearest to his place of residence, there shall be payable by the employer, in addition to the compensation and other moneys payable under the principal Act, the reasonable expenses incurred for the transport of the worker to and from the nearest town in which that treatment is available on each occasion on which it is necessary for him to travel to receive that treatment, and for meals necessarily obtained by him away from his place of residence on any such occasion: 30 35 40

Provided that where the employer provides any such transport or meals for the worker no expenses shall be payable to the worker in respect thereof.

5 (2) The transport expenses so payable shall be calculated at the lowest rate at which the worker can be transported to and from that town by any available public passenger transport service.

(3) The expenses payable to the worker under this section or incurred by the employer in providing any  
10 such transport or meals shall not in any case exceed twenty-five pounds.

9. (1) Except as hereinafter provided, every employer of any worker or workers in any employment to which the principal Act applies shall obtain from an  
15 insurance company or person carrying on employer's liability insurance business in New Zealand a policy of insurance or indemnity indemnifying the employer against his liability in relation to workers' compensation under the principal Act, and shall keep such a  
20 policy in force at all times during the continuance of the employment of any such workers.

Employers  
to insure  
against their  
liability under  
principal Act.

(2) Where two or more employers are for the purposes of the principal Act employers of the same worker or workers in any such employment, it shall  
25 be a sufficient compliance with the provisions of this section if they obtain and keep in force a joint policy indemnifying both or all of them against their liability as aforesaid.

(3) Every person who fails to comply in any respect  
30 with any provision of this section commits an offence and shall be liable on summary conviction for any such offence to a fine not exceeding *one hundred* pounds, and to a further fine not exceeding *twenty* pounds for every day during which the offence continues.

35 (4) Nothing in the foregoing provisions of this section shall apply with respect to any of the following employers:—

(a) The Crown:

40 (b) Any employer included in a scheme of compensation, benefit, or insurance for the time being certified under section sixty-four of the principal Act, if all workers employed by him in any employment to which the principal Act applies are included in the scheme:

(c) Any employer to the extent to which he is for the time being exempted from the requirements of this section under the *next succeeding* subsection.

(5) In any case where the Compensation Court is satisfied that any employer has adequate financial resources to meet the whole or any part of all probable claims for compensation under the principal Act, the Court may if it thinks fit grant a certificate exempting the employer wholly or partly from the requirements of this section. Any such certificate may be granted unconditionally or upon or subject to such conditions (whether as to its duration or otherwise) as the Court thinks fit; and the Court may at any time revoke any such certificate or vary, revoke, or add to any such conditions as it thinks fit.