

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,
21st November, 1947.*

Hon. Mr. McLagan

WORKERS' COMPENSATION AMENDMENT

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A BILL INTITULLED

Title.	AN ACT to amend the Workers' Compensation Act, 1922. BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	5
Short Title.	1. (1) This Act may be cited as the Workers' Compensation Amendment Act, 1947, and shall be read together with and deemed part of the Workers' Compensation Act, 1922 (hereinafter referred to as the principal Act).	10
See Reprint of Statutes, Vol. V, p. 597		
Commencement.	(2) Part II of this Act, other than section <i>forty-four</i> hereof, shall come into force on the <i>first</i> day of <i>April</i> , nineteen hundred and <i>forty-eight</i> . Save as aforesaid and as otherwise expressly provided herein, this Act shall come into force on the passing thereof.	15
Application of Parts I and II of Act.	2. Nothing in Part I or in section <i>forty-four</i> of this Act shall apply with respect to claims for compensation or other rights or liabilities in respect of accidents happening before the <i>first</i> day of <i>April</i> , nineteen hundred and <i>forty-nine</i> , and nothing in Part II of this Act shall apply with respect to claims for compensation or other rights or liabilities in respect of accidents happening before the <i>first</i> day of <i>April</i> , nineteen hundred and <i>forty-eight</i> .	20

PART I

EMPLOYERS' INDEMNITY

3. (1) In this Part of this Act, unless the context otherwise requires,— Interpretation.

5 "Accident" or "personal injury by accident" includes the contracting of any disease to which section ten of the principal Act applies:
"Employer" means an employer to whom this Part of this Act applies:

10 "Employers' Liability Insurance Account" means the Employers' Liability Insurance Account kept pursuant to section *seven* of this Act:

15 "General Manager" means the State Fire Insurance General Manager constituted under the State Fire Insurance Act, 1908, and includes any person authorized to exercise any powers or perform any functions or duties of the General Manager:

See Reprint of Statutes, Vol. IV, p. 37

20 "Local authority" means a local authority within the meaning of the Local Government Loans Board Act, 1926, whether by virtue of section two of that Act, or of any Order in Council thereunder, or by virtue of any other Act:

Ibid., Vol. V, p. 415

25 "Minister" means the Minister of Finance:
"State Fire Insurance Office" means the State Fire Insurance Office established under the State Fire Insurance Act, 1908:

30 "Wages" includes all salaries, wages, emoluments, and benefits of whatsoever kind received by a worker from his employer:

"Worker" means a worker with respect to whom this Part of this Act applies.

35 (2) For the purposes of this Part of this Act every contractor to whom section sixty-three of the principal Act applies shall be deemed to be a worker within the meaning of the principal Act and the person who has let the contract to him shall be deemed to be his
40 employer.

(3) Every person who in New Zealand acts as agent of or carries on business for or on behalf of any other person who is absent from New Zealand or who has

his principal place of business out of New Zealand shall for the purposes of this Part of this Act be deemed to be the employer of every worker employed in New Zealand by that other person.

Employers
and workers
with respect
to whom
this Part of
Act applies.

4. (1) Except as provided in the *next succeeding* 5
section and in section *thirty-three* hereof, this Part of
this Act shall apply to every employer who employs
any worker in an employment to which the principal
Act applies.

(2) Except as hereinafter provided in this section 10
and in section *thirty-three* hereof, this Part of this Act
shall apply with respect to every worker within the
meaning of the principal Act employed in New Zealand
and also with respect to the following workers within
the meaning of the principal Act employed elsewhere 15
than in New Zealand, namely:—

- (a) Every seaman employed on a New Zealand ship;
- (b) Every airman employed on a New Zealand
aircraft; and

- (c) Every other worker who is ordinarily employed 20
in New Zealand and who is for the time being
on a New Zealand ship.

(3) This Part of this Act shall not apply with
respect to any worker within the meaning of the
principal Act ordinarily employed outside New Zealand 25
by an employer who carries on business chiefly
outside New Zealand but temporarily employed by that
employer in New Zealand for a period not exceeding
six months at any one time.

(4) If the Compensation Court, on the application 30
of the trustees of the General Trust Fund established
under the New Zealand Rules of Racing, is satisfied—

- (a) That employers of any particular class of
workers are entitled in respect of accidents 35
occurring to any of those workers in the
course of their employment to be indemnified
out of the said General Trust Fund to as
great an extent as would apply under the
indemnity provided under section *eleven* of
this Act; and 40

(b) That the said General Trust Fund has adequate financial resources to meet all probable claims in respect of every such indemnity,—

5 the Court may grant a certificate exempting those workers from this Part of this Act, and this Part of this Act shall not, while the certificate is in force, apply with respect to those workers. Any such certificate may be granted unconditionally or upon or subject to such conditions (whether as to its duration or other-
10 wise) 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.

(5) This Part of this Act shall not apply with respect to workers who are employed as teachers,
15 probationary assistants, or training-college students by any Education Board, Board of Governors, Board of Managers, or other authority having immediate control of any public school or secondary school within the meaning of the Education Act, 1914, or of any technical
20 school, technical high school, combined school, or teachers' training college established under that Act.

(6) For the purposes of this Part of this Act a worker shall be deemed to be employed in New Zealand if he is employed within the outer boundary of the
25 territorial waters of New Zealand.

5. (1) In any case where the Compensation Court is satisfied that any local authority or any Education Board within the meaning of the Education Act, 1914, has adequate financial resources to meet the whole or
30 any part of all probable claims for compensation or damages or contribution for the death of or personal injury to any workers employed by the local authority or Education Board caused by accident occurring to the workers in the course of their employment, the
35 Court may grant a certificate exempting the local authority or Education Board wholly or, as the case may require, partly from this Part of this Act, and, while the certificate is in force, this Part of this Act shall not apply to that local authority or Education
40 Board or, as the case may be, shall apply only partially to that local authority or Education Board.

Local authorities and certain other employers may be exempted.

(2) In any case where the Compensation Court, on the application of an insurer to which this section applies, is satisfied—

(a) That the insurer gives to its members in respect of accidents occurring in the course of their employment to workers employed by those members an indemnity as great as the indemnity provided under section *eleven* of this Act; and 5

(b) That the insurer has adequate financial resources to meet all probable claims in respect of every such indemnity,— 10

the Court may grant a certificate exempting the members so indemnified from this Part of this Act, and, while the certificate is in force and so long as the insurer complies with the provisions of this section, this Part of this Act shall not apply to those members. 15

(3) Any certificate granted by the Court under the foregoing provisions of this section 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. Without prejudice to the generality of the foregoing provisions of this subsection, the Court, in granting every certificate of exemption for the purposes of the *last preceding* subsection shall impose a condition to the effect that the certificate shall cease to have any force or effect if the insurer extends its field of operations in respect of employer's liability insurance beyond that in which it was conducting its business on the first day of October, nineteen hundred and forty-seven. 20 25 30

(4) Each insurer to which this section applies and to which any certificate of the Court in force under the foregoing provisions of this section applies shall in the month of April in each year, commencing in the year nineteen hundred and forty-nine, deliver to the General Manager a list of the members who on the first day of that month are indemnified by it in respect of accidents occurring in the course of their employment to workers employed by those members. If, after the 35 40

first day of April in any year in which a list has been so delivered any member of the insurer whose name is not included in the list becomes entitled to an indemnity as aforesaid, a supplementary list containing the name of that member shall be delivered within thirty days thereafter to the General Manager. Every list delivered to the General Manager under this subsection shall contain such particulars as may be prescribed or as the General Manager may require.

5
10 (5) When any list has been delivered under the provisions of the *last preceding* subsection, the insurer shall (whether or not any insurance premiums have been paid and whether or not there is anything which but for this provision would entitle the insurer to
15 indemnify and keep indemnified every person named in the list against his liability in respect of all claims for compensation or damages or contribution for the death of or personal injury to any worker employed
20 by that person caused by accident occurring to the worker in the course of his employment in the period commencing on the first day of April, or, as the case may be, on the subsequent day when the member became entitled to the indemnity, and ending on the
25 last day of March next following.

(6) The insurers to which this section applies are as follows:—

- 30 The New Zealand Counties' Co-operative Insurance Company, Limited:
- The Otago Farmers' Union Mutual Fire Insurance Association:
- The Taranaki Farmers' Mutual Fire Insurance Association:
- 35 The Wellington Farmers' Union Mutual Fire Insurance Association:
- The Sawmillers' Mutual Accident Insurance Company:
- The Southland Sawmillers' Mutual Accident Insurance Company:
- 40 The West Coast (S.I.) Sawmillers' Mutual Accident Insurance Company:
- The N.Z. Master Bakers' Mutual Indemnity Association.

This Part of Act to be administered in Government Accident Insurance Office.

6. (1) This Part of this Act shall be administered in the Branch of the State Fire Insurance Office known as the Government Accident Insurance Office.

(2) The General Manager may from time to time, by writing under his hand, delegate to any other officer of the State Fire Insurance Office any of the powers conferred on the General Manager by this Part of this Act. 5

(3) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the General Manager. 10

(4) The fact that the Deputy General Manager or any other officer of the State Fire Insurance Office exercises any power conferred on the General Manager under this Part of this Act shall, in the absence of proof to the contrary, be sufficient evidence of his authority so to do. 15

Employers' Liability Insurance Account. See Reprint of Statutes, Vol. IV, p. 14

7. (1) The General Manager shall keep, within the Government Accident Insurance Account kept pursuant to section eleven of the Government Accident Insurance Act, 1908, an account to be called the Employers' Liability Insurance Account. 20

(2) There shall from time to time be credited to the Employers' Liability Insurance Account—

(a) All premiums and other moneys received by the General Manager pursuant to or for the purposes of this Part of this Act: 25

(b) All fines and penalties recovered under the provisions of this Part of this Act or any regulations made for the purposes thereof and all fines recovered in respect of any offences against those provisions: 30

(c) All other moneys that may be lawfully payable into the Account.

(3) All moneys payable into the Employers' Liability Insurance Account by any person, and all debts and other moneys for the time being owing to the General Manager by any person pursuant to or for the purposes of this Part of this Act, whether on account of premiums or otherwise, and whether they are accrued due or not, are hereby declared to be the property of the Crown and recoverable accordingly by the General Manager as from debtors of the Crown. 35 40

8. (1) There shall from time to time be paid out of the Employers' Liability Insurance Account, and (except where otherwise specially provided) without further appropriation than this section,—

Moneys payable out of Account.

- 5 (a) All claims admitted, sustained, or compromised in respect of which employers or others are indemnified under this Part of this Act (including any amounts payable to the claimant for costs or other expenses):
- 10 (b) All expenditure incurred by the General Manager in connection with claims for any sums in respect of which employers or others are indemnified under this Part of this Act, whether or not the claims are admitted,
- 15 (c) sustained, or compromised:
- (c) All refunds of premiums or any part thereof made by the General Manager:
- (d) All premiums and other expenditure in connection with the reinsurance of any liability of
- 20 (e) the General Manager:
- (e) All moneys required to repay any advances made under either of the *next two succeeding* sections, or to pay any interest payable in respect of moneys advanced under either of
- 25 those sections:
- (f) All moneys required by the principal Act, as amended by this Act, to be paid out of the Account.

(2) There shall also from time to time be paid out of the Employers' Liability Insurance Account, in accordance with the appropriation of Parliament, all salaries and allowances and other expenditure incurred in the administration of this Part of this Act, and not provided for under the *last preceding* subsection.

35 9. (1) If the moneys for the time being in the Employers' Liability Insurance Account are not sufficient to meet the lawful claims thereon, the Minister may, without further appropriation than this section, but subject to the *next succeeding* subsection, advance

40 to the Account from the Consolidated Fund such sums as may be necessary to meet the deficiency. Interest

Any deficiency may be made good out of Consolidated Fund or by borrowing.

shall be paid on any sums so advanced at such rate as the Minister determines, and any sums so advanced shall be repaid to the Consolidated Fund as and when the Minister requires.

(2) If in the opinion of the Minister the whole or 5
any part of the deficiency cannot conveniently be met from the Consolidated Fund, there may from time to time, without further authority than this section, be transferred from the National Development Loans Account to the Employers' Liability Insurance Account 10
such sums of money as may in his opinion be necessary to meet the deficiency or that part of it, or to repay to the Consolidated Fund the whole or any part of any advances made under the *last preceding* subsection.

Temporary
advance from
other State
Fire Office
Accounts.

10. For the purpose of providing for the require- 15
ments of the Employers' Liability Insurance Account until the *thirty-first* day of *March*, nineteen hundred and *fifty-one*, the General Manager, with the consent of the Minister may, notwithstanding anything in any other Act, from time to time advance such amounts as 20
may in his opinion be necessary, not exceeding one hundred thousand pounds, from the State Fire Insurance Account or the Government Accident Insurance Account to the Employers' Liability Insurance Account by way of temporary loan to be repaid 25
not later than that date and on such terms as to the payment of interest thereon as the State Fire Insurance Board constituted under the State Fire Insurance Act, 1908, shall determine.

See Reprint
of Statutes,
Vol. IV, p. 37

Indemnity
against
employers'
liability.

11. (1) Subject to the provisions of this Part of 30
this Act and of any regulations made for the purposes thereof, the General Manager shall indemnify every employer who employs any worker or workers in any employment to which the principal Act applies in respect of all sums which the employer becomes liable 35
to pay under or by virtue of the principal Act, the Deaths by Accidents Compensation Act, 1908, the Coalmines Act, 1925, the Mining Act, 1926, or Part I, Part II, Part V, or Part VI of the Law Reform Act, 1936, or at common law as and for compensation or 40
damages or contribution for the death of or personal

Ibid.,
Vol. VI, p. 427
Ibid., Vol. V,
pp. 843, 943
1936, No. 31

injury to any such worker as aforesaid caused by accident occurring on or after the *first* day of *April*, nineteen hundred and *forty-nine*, to that worker in the course of his employment by the employer in any
5 employment to which the principal Act applies:

Provided that the indemnity shall not extend to any case where the liability of the employer is not enforceable by action in any Court in New Zealand.

(2) For the purposes of the principal Act and of
10 Part III of the Law Reform Act, 1936, the General Manager shall be deemed to be the insurer of each employer under a policy of insurance indemnifying the employer against his liability to pay any compensation or damages or contribution as aforesaid, and the
15 General Manager shall be entitled to the benefit of all indemnities and other rights given to the employer by any enactment mentioned in this section, or otherwise, and to use the name of the employer in any action or proceeding in relation thereto.

(3) In consideration of the indemnity hereinbefore
20 provided every employer shall pay premiums as hereinafter provided and shall otherwise comply with the provisions of this Part of this Act and of any regulations made for the purposes thereof.

(4) A principal who pursuant to section thirteen
25 of the principal Act may become liable jointly and severally with a contractor to pay compensation to any worker shall be liable to pay premiums in respect of that worker to the same extent as if that worker were
30 actually employed by him:

Provided that the contractor shall be primarily liable to pay the premium and if he has paid the premium the principal shall be under no further liability in respect thereof:

35 Provided also that if the principal pays the premium he shall be entitled to recover the amount thereof from the contractor or to deduct it from any moneys due by him to the contractor.

(5) It is hereby declared that for the purposes of
40 the indemnity under subsection *one* of this section all moneys payable by an employer under the principal

Act, whether by way of compensation or for medical expenses, travelling-expenses, cost of artificial limbs, or otherwise howsoever, shall be deemed to be compensation payable under the principal Act.

Rates of
premiums.

12. (1) The Governor-General may from time to time, by Order in Council, make regulations fixing, or providing for the fixing of, the rates of premiums and minimum premiums to be paid by employers for the purposes of this Act. 5

(2) Where in the opinion of the General Manager the business of an employer is designed, equipped, organized, or conducted in such a manner that the number or cost of accidents to workers in consequence thereof is likely to be considerably less than is usual in other businesses of that class, the General Manager may, in his discretion, grant a rebate in assessing the premium payable by that employer for any period. 10 15

(3) Where in the opinion of the General Manager the business of an employer is designed, equipped, organized, or conducted in such a manner that the number or cost of accidents to workers in consequence thereof is likely to be considerably more than is usual in other businesses of that class, the General Manager may, in his discretion, make an extra charge in assessing the premium payable by that employer for any period. 20 25

(4) If, during any period, the accident experience of an employer is, in the opinion of the General Manager, more favourable than the average accident experience of employers in his class of business, the General Manager may, in his discretion, grant a special rebate to that employer to be set off against the premium payable by him in respect of any subsequent period. 30

(5) If, during any period, the accident experience of an employer is, in the opinion of the General Manager, less favourable than the average accident experience of employers in his class of business, the General Manager may, in his discretion, make an extra charge in assessing the premium payable by that employer in respect of any subsequent period. 35 40

Wage statements to be delivered by employers.

13. (1) This section shall apply to every employer who employs any worker or workers in any employment to which the principal Act applies.

5 (2) Every person who on the first day of April in any calendar year after the year nineteen hundred and forty-eight is an employer to whom this section applies shall within one month after that date deliver to the General Manager a statement in the prescribed form showing—

10 (a) The amount of wages paid during the year ending on the thirty-first day of March then last past to workers employed by him:

15 (b) An estimate of the wages which he expects to pay during the year commencing on the said first day of April:

(c) Such other information as may be prescribed or as the General Manager may require from him.

20 (3) Where a person who is not an employer to whom this section applies on the first day of April in any year becomes such an employer before the first day of April in the next succeeding year he shall within fourteen days after becoming such an employer deliver to the General Manager a statement in the form
25 prescribed for the purposes of the last preceding subsection except that the estimate referred to in paragraph (b) of that subsection shall refer to the wages he expects to pay to workers employed by him from the time he became such an employer until the last day of March
30 next thereafter.

(4) Where an employer carries on business in more than one place or carries on more than one class of business the General Manager may require from him a separate statement in respect of each place or class.

35 (5) Every employer who between the first day of April in any year and the first day of April in the next succeeding year ceases to be an employer to whom this section applies shall within fourteen days after the date on which he ceased to be such an employer
40 deliver to the General Manager a statement in the prescribed form showing the amount of wages paid by him between the last day of March preceding that date and that date.

(6) Any principal who pursuant to section thirteen of the principal Act may become liable jointly and severally with a contractor to pay compensation to any worker shall be liable to make a statement pursuant to the foregoing provisions of this section with reference to that worker unless he is able to satisfy himself by inspecting a certificate of insurance issued by the General Manager that the contractor has paid the premium in respect of the worker for the year current at the date of the contract by virtue whereof he may become liable as aforesaid. If he is unable to satisfy himself as aforesaid, he shall notify the General Manager of the circumstances within three days after the commencement of the work under the contract. The notification shall contain such particulars as may be prescribed by regulations made for the purposes of this Part of this Act. On giving such a notification to the General Manager, the principal shall be relieved from liability to make the statement pursuant to the foregoing provisions of this section.

(7) Where two or more persons are for the purposes of the principal Act the employers of the same worker or workers in any employment to which the principal Act applies, it shall be a sufficient compliance with the provisions of this section if one of them makes a statement on behalf of himself and the other or others or if they make a joint statement.

(8) Notwithstanding anything in the foregoing provisions of this section, the General Manager may in his discretion agree with any employer to accept from that employer statements in respect of wages for periods other than those prescribed in the foregoing provisions of this section.

Assessment of
premiums
payable by
employers.

14. (1) The General Manager shall as soon as practicable after receiving each statement under subsection *two* or subsection *three* of the *last preceding* section assess the amount payable by way of premium by the employer for the indemnity to which he is entitled under this Part of this Act for the period covered by the estimate of wages contained in the statement.

(2) If in any statement the estimate of wages which the employer expects to pay is, in the opinion of the General Manager, too low the General Manager may himself estimate the wages for the purposes of the
5 assessment.

(3) If the General Manager has reason to suppose that any person has failed to deliver a statement as required by the *last preceding* section in respect of any period, the General Manager may make an assessment
10 of the premium which in his opinion that person should pay for that period based on such amount of wages as the General Manager believes to be adequate to cover the probable wage expenditure of that person.

(4) Assessments shall be made in the form and
15 manner prescribed by regulations, and in default of such regulations or so far as they do not extend, then as the General Manager thinks fit.

(5) The General Manager may from time to time and at any time make a new assessment in substitution
20 for an earlier assessment and containing such alterations and additions as he thinks necessary in order to ensure the correctness thereof, notwithstanding that the premium already assessed may have been paid.

15. (1) When the wages paid by an employer
25 during any period have been ascertained, the assessment of the premium payable by him in respect of that period shall be adjusted, and an adjusted assessment shall be made accordingly, if the wages paid differ from the wages on which the premium was assessed.

Adjustment of premiums when wages paid are actually ascertained.

30 (2) Where any person fails to make a statement as required by section *thirteen* of this Act showing the amount of wages paid by him during any period, the General Manager may make an estimate of the amount which he considers likely to have been paid and make
35 an adjusted assessment of premium payable by that person in respect of that period accordingly.

(3) If the premium assessed on an adjustment under this section is more than the amount of premium already paid by the employer in respect of the period,
40 the employer shall pay the amount of the difference to the General Manager, and if the premium assessed on the adjustment is less than the amount of premium already paid by the employer in respect of the period,

the General Manager shall refund the amount of the difference to the employer or credit him therewith in respect of any premium payable in respect of any subsequent period.

(4) After any adjustment has been made under this section the General Manager may make an assessment of further premium to be paid by the employer in any case where the wages taken into account for the period in respect of which the adjustment has been made are less than the amount of wages subsequently found to be payable in respect of that period. 5 10

Premiums to be paid by employers.

16. (1) The amount of any premium assessed by the General Manager under either of the *last two preceding* sections shall be paid by the employer to the General Manager within one month after the date of the assessment. 15

(2) If the amount of any premium is not paid by an employer at the time when it becomes payable, the employer shall be liable to pay forthwith, in addition to the premium, an amount equal to five per centum of the premium as a penalty for his default: 20

Provided that the General Manager may if he thinks fit reduce or remit in whole or in part any penalty so incurred, and may if he thinks fit refund in whole or in part any penalty so incurred. 25

(3) On payment of the amount of premium assessed by the General Manager, the General Manager shall issue a certificate of insurance setting out the period in respect of which the premium has been paid.

(4) No employer shall directly or indirectly take or receive any money from any worker in his employment, whether by way of deduction from wages or otherwise, in respect of any premiums paid or payable by the employer under this Part of this Act. 30

Validity and effect of assessments.

17. (1) The validity of any assessment shall not be affected by reason that any of the provisions of this Part of this Act have not been complied with. 35

(2) Except in proceedings on objection to an assessment in accordance with the provisions hereinafter contained, no assessment made by the General Manager shall be disputed in any Court or in any proceedings whatsoever either on the ground that the person so 40

assessed is not a person liable to pay premiums or on any other ground; and, except as aforesaid, every such assessment and all the particulars thereof shall be conclusively deemed and taken to be correct, and the liability of the person so assessed shall be determined accordingly.

18. (1) The production of any document under the hand of the General Manager or of the Manager of any branch of the State Fire Insurance Office purporting to be a copy of or extract from any statement or assessment shall in all Courts and in all proceedings be sufficient evidence of the original, and the production of the original shall not be necessary.

Evidence of statements and assessments.

(2) All Courts shall in all proceedings take judicial notice of the signature of the General Manager or of the Manager of any branch of the State Fire Insurance Office either to the original or to any such copy or extract as aforesaid. No proof shall be required of the handwriting or official position of any person purporting to sign any original or copy or extract as aforesaid as the General Manager or as the Manager of any branch of the State Fire Insurance Office.

19. (1) Any person who has been assessed for a premium under the foregoing provisions of this Part of this Act may object to that assessment by delivering to the General Manager a written notice of objection, stating shortly the grounds of his objection, within one month after the date of the assessment.

Objections to assessments.

(2) No notice of objection given after that time shall be of any force or effect unless the General Manager in his discretion accepts the same and gives notice to the objector accordingly.

(3) The General Manager shall consider all objections, and may alter the assessment pursuant thereto, but an objection which is not allowed by the General Manager shall, if the objector so desires, be heard and determined by a Magistrate.

(4) On the hearing and determination of objections the burden of proof shall be on the objector, and the Magistrate may receive such evidence as he thinks fit, whether receivable in accordance with law in other proceedings or not.

(5) In such proceedings the Magistrate may award such costs as he deems just either against the General Manager or against the objector.

(6) On the determination of any such objection the Magistrate may either confirm or cancel the assessment to which objection has been made, or increase or reduce the amount thereof, and the assessment shall be altered by the General Manager, if necessary, so as to conform to that determination. 5

(7) The determination of the Magistrate shall be subject to appeal to the Compensation Court on any question of law or fact. Any such appeal shall be made within the time and in the manner provided by regulations. 10

(8) The obligation to pay and the right to receive any premium shall not be suspended by any objection; but if the objector succeeds the amount (if any) of the premium received by the General Manager in excess of the amount which, according to the decision on the hearing of the objection, was properly payable shall forthwith be repaid by the General Manager to the objector. 15 20

(9) Notwithstanding anything in the foregoing provisions of this section, the decision of the General Manager on any objection which relates to any rebate or failure to grant a rebate under section *twelve* hereof shall be final and conclusive. 25

Insurance in
respect of
persons who
are not
workers.

20. (1) Any person (whether or not he is an employer to whom section *thirteen* of this Act applies) who makes a statement of wages in accordance with subsection *two* or subsection *three* of that section may in the prescribed manner state— 30

(a) That he will in the period to which the estimate of wages relates be employing a member of his family named therein at the rate of remuneration therein referred to; or 35

(b) That he will in the period to which the estimate of wages relates be employing some person named or described therein who is not a worker with respect to whom this Part of this Act applies, or concerning whom there may be a doubt as to whether or not he is such a worker, at the rate of remuneration therein referred to; or 40

(c) That he will in the period to which the estimate of wages relates be receiving the benefit of the services of some person named or described therein who will be performing the services free of charge or at less than the normal rate of remuneration and for whom a normal rate of remuneration is stated in the estimate,—

and, in any such case, he may request that the provisions of this section shall apply with respect to the person so named or described.

(2) If the General Manager is of opinion that the provisions of this section should be applied in respect of the person so named or described, he may assess a premium to be paid by the person making the statement and request for the period to which the estimate relates, and on the payment of that premium the following provisions shall apply:—

(a) The person named or described in the statement and request as aforesaid (hereinafter in this section referred to as the worker) shall during the period for which the premium has been assessed and paid be deemed to be a worker within the meaning of the principal Act with respect to whom this Part of this Act applies employed by the person who made the statement and request as aforesaid (hereinafter in this section referred to as the employer) in an employment to which the principal Act applies at the rate of remuneration stated in the estimate:

(b) Subject to the provisions of this Part of this Act (including this section) and any regulations made for the purposes thereof, the General Manager shall indemnify the employer in respect of all sums which the employer becomes liable to pay under or by virtue of the principal Act (as modified by this section) in respect of the death of or personal injury to the worker caused by accident occurring, during the period for which the premium has been assessed and paid, to the worker and arising out of and in the course of his employment by the employer:

- (c) Subject to the provisions of this Part of this Act (including this section) and any regulations made for the purposes thereof, the General Manager shall if the worker is not a member of the family of the employer indemnify the employer in respect of all sums which the employer becomes liable to pay under or by virtue of the Deaths by Accidents Compensation Act, 1908, the Coalmines Act, 1925, the Mining Act, 1926, or Part I, Part II, Part V, or Part VI of the Law Reform Act, 1936, or at common law as and for damages or contribution for the death of or personal injury to the worker caused by accident occurring, during the period for which the premium has been assessed and paid, to the worker in the course of his employment by the employer:

Provided that the indemnity under this paragraph shall not extend to any case where the liability of the employer is not enforceable by action in any Court in New Zealand:

- (d) The provisions of this Part of this Act (other than subsection *one* of section *eleven* hereof) shall, so far as applicable and with the necessary modifications, apply as if the employer and the worker were an employer and a worker respectively within the meaning of those provisions.

21. If the happening of any event or the existence of any circumstances renders the employment of any workers more hazardous than it was theretofore, the employer shall forthwith give notice thereof to the General Manager and the General Manager may, in his discretion, whether or not he has received a notice as aforesaid, amend the assessment of the premium payable by the employer for the purposes of this Part of this Act in respect of those workers.

22. (1) Whenever any accident occurs which causes personal injury to or the death of any worker, the employer shall as soon as practicable give notice thereof to the General Manager stating—

See Reprint
of Statutes,
Vol. VI, p. 427
Ibid., Vol. V,
pp. 845, 943
1936, No. 31

Employment
becoming
more
hazardous.

Notification
of accidents,
and of claims.

- (a) The time, cause, and nature of the accident;
- (b) The name of the worker affected thereby, particulars of the injury, and the probable duration of any disablement resulting therefrom;
- 5 (c) Whether the accident arose in the course of the worker's employment; and
- (d) Such other particulars as may be prescribed by regulations.

10 (2) If any employer receives notice of a claim, or of the intention of any person to make a claim, in respect of injury to or the death of a worker, the employer shall within three days thereafter give to the General Manager particulars of the notice or a copy thereof if it was in writing.

15 (3) The employer shall from time to time give such further information concerning any such accident or claim as aforesaid and the worker injured or killed thereby as the General Manager may reasonably require to enable him to determine whether compensation,
20 damages, or contribution should be paid under the principal Act or under any of the other enactments referred to in section *eleven* hereof or at common law and, if so, how much should be paid.

25 **23.** (1) The General Manager may undertake the settlement of any claim arising from injury to or the death of a worker, and may take over and have the conduct and control on behalf of the employer of any proceedings taken to enforce any such claim, or
30 for the settlement of any question arising with reference thereto, and may defend or conduct such proceedings as aforesaid in the name of the employer and on his behalf, and shall indemnify the employer against all costs and expenses of and incidental to any such proceedings.

Settlement of claims and conduct of proceedings by General Manager.

35 (2) The employer shall sign all such warrants and authorities as the General Manager may require for the purpose of enabling the General Manager to have the conduct and control of any such proceedings as aforesaid.

40 (3) The employer shall render all reasonable assistance to the General Manager to enable the General Manager to conduct such proceedings as aforesaid and defend any claims which the General Manager determines to defend.

(4) No employer shall, without the consent in writing of the General Manager, make any payment, settlement, or arrangement in respect of any claim arising from injury to or the death of a worker, and no employer shall, without the like consent, make any admission of liability in respect of any such claim or allow any action to be undefended or judgment to go by default, by confession, or by consent. 5

(5) If any employer fails without reasonable cause to comply with the provisions of this section he shall be liable to pay to the Employers' Liability Insurance Account any amounts which have been paid, or may become payable, out of that Account in respect of the claim and proceedings in respect of which the employer has failed as aforesaid to comply with the provisions of this section, and the General Manager for the purpose of obtaining payment of those amounts shall be entitled to enforce the charge conferred by section forty-seven of the principal Act in relation to the compensation as if the claim by the General Manager were a claim by the worker against the employer. 10 15 20

Employers to
keep records.

24. Every employer shall in respect of all his workers keep records of wages paid and time worked, and of such other particulars as may be prescribed by regulations. 25

Production of
books, &c.

25. Every person shall from time to time, as required by the General Manager, furnish in writing any information or produce any books or documents relating to any wages paid, or any statement of wages, or any assessment which may be in the knowledge, possession, or control of that person. 30

Offences.

26. (1) Every person who—

(a) Refuses or fails to furnish or give any statement, return, notice, or information as and when required by this Part of this Act or any regulations made for the purposes thereof, or as and when reasonably required by the General Manager; or 35

(b) Fails to keep records as required by this Part of this Act or any regulations made for the purposes thereof; or 40

- 5 (c) Wilfully or negligently makes any false return, or gives any false information, or misleads or attempts to mislead the General Manager, in relation to any matter or thing affecting his own or any other person's liability to pay premiums under this Part of this Act, or in relation to any matter or thing affecting any claim which is being made or which has been made, whether by himself or by any other person, against an employer and in respect of which the employer is entitled to an indemnity under this Part of this Act; or
- 10 (d) Refuses or fails without lawful justification to attend and give evidence as and when required by the General Manager or to answer truly and fully any question put to him or to produce any book or document required of him; or
- 15 (e) Resists or obstructs any person acting in the discharge of his duties or in the exercise or attempted exercise of his powers under this Part of this Act; or
- 20 (f) Commits any other offence against this Part of this Act or against any regulation made for the purposes thereof; or
- 25 (g) Aids, abets, or incites any other person to commit any offence against this Part of this Act or against any regulation made for the purposes thereof—
- 30 is liable on summary conviction to a fine not exceeding *one hundred pounds*.

(2) Notwithstanding anything in the Justices of the Peace Act, 1927, or in any other Act to the contrary, any information in respect of any offence against this Part of this Act or any regulation made for the purposes thereof may be laid at any time within five years after the offence was committed.

See Reprint of Statutes, Vol. II, p. 351

40 **27.** (1) If any person evades, or attempts to evade or does any act with intent to evade, or makes default in the performance of any duty imposed upon him by this Part of this Act or any regulations made for the purposes of this Part of this Act with intent to evade, the liability for any sum properly payable by him as

Penalties for evasion.

premium or otherwise to the General Manager (which sum is in this section referred to as the deficient premium), he shall be liable on summary conviction to a fine not exceeding *one hundred* pounds, and he shall also be chargeable with an additional sum (in this section referred to as the penal charge) not exceeding treble the amount of the deficient premium. 5

(2) The penal charge shall for all purposes be deemed to be of the same nature as the deficient premium and shall be recoverable accordingly. 10

(3) The penal charge shall be assessed by the General Manager in the same manner, so far as may be, as the deficient premium but separately therefrom.

(4) The assessment of any penal charge may from time to time be amended and a new assessment in place thereof made by the General Manager. 15

(5) An assessment of the penal charge shall be subject to objection on the ground that the person so assessed is not chargeable therewith or on the ground that the amount so assessed is excessive. The provisions of section *nineteen* hereof as to objections shall apply to an objection to an assessment of the penal charge. 20

(6) An assessment of the penal charge may be made and the charge so assessed shall be recoverable at any time, whether before or after the deficient premium has been assessed or has been paid. 25

(7) No assessment of the penal charge shall be made or increased at any time after five years from the end of the period in respect of which the deficient premium was payable. 30

Rights of
employers as
to existing
insurance
policies.

28. Every employer who is insured against his liability under the principal Act may if the policy of insurance is in force after the thirty-first day of March, nineteen hundred and forty-nine, cancel the policy of insurance after that date (whether or not it also indemnifies him in respect of his liability under any of the other enactments referred to in section *eleven* of this Act or at common law) and he shall thereupon be entitled to recover from the insurer a part of the premium paid in respect thereof determined by reference to the wages paid during the period for which the policy of insurance was in force or according to any other basis on which the amount of the premium was ascertained or ascertainable. 35 40 45

29. (1) The General Manager may make arrangements with any person having appropriate facilities for the conduct of research into the causes, incidence, and methods of prevention of accidents, injuries, and diseases in respect of which compensation may become payable under the principal Act, and may make contributions towards the expenses of any persons conducting any such research, or the General Manager may himself conduct any such research.

Accident prevention.

20 (2) Any moneys payable or expenses incurred by the General Manager under this section may be paid out of the Employers' Liability Insurance Account.

30. (1) The General Manager may make arrangements with any person having the appropriate facilities for workers suffering serious permanent physical injury to take advantage of vocational training courses, industrial rehabilitation courses, and facilities in connection with employment or work under special conditions, or the General Manager may himself establish and conduct such courses and provide such facilities as aforesaid.

Occupational training for seriously disabled workers.

20 (2) The General Manager may pay out of the Employers' Liability Insurance Account any moneys payable by him under any arrangements made under this section or the whole or any part of the cost incurred by him in establishing and conducting courses and providing facilities as aforesaid.

31. The General Manager with the consent of the Minister may from time to time, in respect of any liability of the General Manager under this Act, effect reinsurances with any person carrying on business in or out of New Zealand.

Reinsurance.

32. (1) The funds, assets, and liabilities of the General Manager in relation to the administration of this Part of this Act shall at all times be kept separate and distinct from the funds, assets, and liabilities of the General Manager in respect of the other business of the State Fire Insurance Office:

Accounts and annual report.

40 Provided that, for the convenience of accounting, moneys may be temporarily paid into or out of any other account kept by the General Manager, but the General Manager shall from time to time thereafter transfer from one account to the other such sums as may be necessary to make the appropriate adjustments.

(2) Such portion of the net surplus profits arising from the administration of this Part of this Act as the General Manager thinks fit shall be applied in making a reserve fund which, with all accumulations of interest thereon, shall be held and invested by the General Manager, and shall from time to time as the occasion may require be applied for the purposes of this Part of this Act. 5

(3) The General Manager shall, as soon as practicable after the *thirty-first* day of *December* in each year after the year nineteen hundred and *forty-eight* prepare a revenue account relating to the administration of this Part of this Act during the year ending on that date and a balance-sheet made up as at that date, and shall submit the same to the Minister together with a report on the administration of this Part of this Act during the year. 10 15

(4) A copy of the report and accounts shall be laid before Parliament within twenty-eight days after its receipt by the Minister if Parliament is then in session, and, if not, then within twenty-eight days after the commencement of the next ensuing session. 20

33. (1) The Governor-General may from time to time by Order in Council provide that this Part of this Act shall bind the Crown in respect of such classes of persons employed in the service of the Crown as may be referred to in the Order in Council. 25

(2) Any Order in Council made under this section may provide that this Part of this Act shall apply, with or without modification, and may specify any such modification. 30

(3) Except as provided in this section, nothing in this Part of this Act shall bind the Crown as the employer of any workers or shall apply with respect to any claims in respect of any accident to any workers in the service of the Crown. 35

34. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Part of this Act and for the due administration thereof. 40

Application
of this Part
of Act to
Crown.

Regulations.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

- 5 (a) Regulating the business of the State Fire Insurance Office in the administration of this Part of this Act:
- 10 (b) Prescribing forms for the purposes of this Part of this Act, the particulars to be inserted therein, and the method of completing and delivering the same:
- (c) Prescribing modes of giving notices of assessments and of objections thereto:
- 15 (d) Regulating the proceedings prior to and after the hearing and determination of objections by Magistrates:
- (e) Regulating appeals to the Compensation Court:
- (f) Prescribing methods of giving notices and serving other documents for the purposes of this Part of this Act:
- 20 (g) Providing for the records to be kept by employers and prescribing particulars to be inserted therein.

25 35. (1) The enactments mentioned in the Schedule to this Act are hereby amended in the manner indicated in that Schedule. Miscellaneous amendments.

(2) Every certificate of exemption granted under section nine of the Workers' Compensation Amendment Act, 1943, shall cease to have effect on the coming into
30 force of this section. 1943, No. 23

(3) This section shall come into force on the *first* day of *April*, nineteen hundred and *forty-nine*. Commencement.

(4) Notwithstanding the repeal of section sixty-four of the principal Act each scheme of compensation to
35 which that section applies immediately before the *first* day of *April*, nineteen hundred and *forty-nine*, shall continue in force until all claims thereunder arising before that date have been settled and the moneys and securities held for the purposes of the scheme shall be
40 distributed as may be arranged between the employer and the workers or as may be determined by the Court in the event of a difference of opinion. Saving.

Refund of
deposits under
Insurance
Companies'
Deposits Act,
1921-22.
See Reprint
of Statutes,
Vol. IV, p. 168

36. (1) Every company or other person (other than an insurer to which section *five* hereof applies) who has made a deposit with the Public Trustee under the Insurance Companies' Deposits Act, 1921-22, in respect of employers' liability insurance business shall be deemed for the purposes of section eight of that Act to have served a notice in writing on the Public Trustee on the first day of *April*, nineteen hundred and *forty-nine*, signed as required by paragraph (a) of subsection one of that section, stating that the company or other person has ceased to carry on that class of business in New Zealand and proposes to withdraw the deposit. 5
10

(2) The Public Trustee, in his discretion, may allow withdrawal, at any time or times after the first day of *October*, nineteen hundred and *forty-nine*, of any part or parts of any such deposit on being satisfied as required by paragraph (b) of subsection one of the said section eight, and on being satisfied that the balance of the deposit retained by the Public Trustee is sufficient to cover such of the liabilities of the company or other person in New Zealand in respect of employers' liability insurance business as have not been fully liquidated or provided for. 15
20

(3) If any part of any such deposit is not withdrawn before the first day of *April*, nineteen hundred and *fifty*, the whole or, as the case may be, the balance of the deposit retained by the Public Trustee shall thereafter, notwithstanding anything in the Public Trust Office Act, 1908, or any regulations thereunder, bear interest at such rate as the Public Trustee shall from time to time determine being not lower than the lowest rate from time to time payable in respect of moneys invested in the Common Fund under that Act at call: 25
30
35

Provided that in determining such rate the Public Trustee shall have regard to the diligence with which the company or other person is liquidating or providing for the liabilities of the company or other person in New Zealand in respect of employers' liability insurance business, and to such other matters as the Public Trustee shall consider relevant. 40

See Reprint
of Statutes,
Vol. VIII,
p. 922

(4) Notwithstanding anything in subsection two of section eight of the Insurance Companies' Deposits Act, 1921-22, the Public Trustee, in his discretion, may dispense with publishing any notice deemed by subsection 5 one of this section to be given on the first day of *April*, nineteen hundred and *forty-nine*, or his decision with regard to any such proposed withdrawal, or may cause any publishing to relate to all notices and decisions or 10 as he thinks fit among the companies and persons concerned.

(5) The Public Trustee shall be entitled to such reasonable remuneration from any company or person as shall be agreed upon between the Public Trustee and 15 the company or person, or, failing agreement, as shall be fixed by the Minister, for the Public Trustee's work in satisfying himself that all the liabilities of that company or person in New Zealand in respect of employers' liability insurance business are fully 20 liquidated or provided for, and the Public Trustee shall be entitled to deduct such remuneration from the deposit.

(6) The Public Trustee shall not incur any liability to any person by reason merely of any *bona fide* 25 exercise of any discretion conferred on him by this section.

37. (1) Any person who on the date of the passing of this Act is employed by any company or other person carrying on the business of insurance, including 30 employers' liability insurance, shall be eligible for appointment to any position advertised as vacant in the State Fire Insurance Office if in the opinion of the Public Service Commission he is more efficient and more suitable for appointment to the position than any 35 other applicant.

(2) Notwithstanding anything to the contrary in the Public Service Act, 1912, no such appointment shall be subject to appeal by any officer of the Public Service other than an officer who at the time of the appointment 40 was permanently employed in the State Fire Insurance Office and who was an applicant for the position and for whom appointment to the position would involve promotion.

Limited power to appoint certain persons as officers of State Fire Insurance Office.

See Reprint of Statutes, Vol. VII, p. 522

(3) The foregoing provisions of this section shall apply only with respect to the first permanent appointment to the Public Service of the person concerned.

(4) No appointment shall be made under this section after the *thirty-first* day of *March*, nineteen hundred and *fifty*. 5

PART II

AMENDMENTS AS TO COMPENSATION

Increasing
maximum
amount of
compensation
payable in
respect of
death of
worker.
1936, No. 45

38. (1) Section four of the principal Act is hereby amended by repealing paragraph (a) of subsection one (as enacted by section five of the Workers' Compensation Amendment Act, 1936), and substituting the following paragraph:— 10

“(a) If a worker leaves any total dependants, the compensation shall be a sum equal to two hundred and fifty times his weekly earnings, or the sum of seven hundred and fifty pounds, whichever of those sums is the larger, but not exceeding in any case one thousand five hundred pounds:” 15

(2) The said section four is hereby further amended by repealing paragraph (d) of subsection one, and substituting the following paragraph:— 20

“(d) In every case where the amount of any weekly payments made under this Act to the worker in respect of the accident which caused his death and any lump sum paid in lieu thereof taken together with the amount of compensation payable in respect of his death, calculated in accordance with paragraph (a) or paragraph (b) of this subsection, would exceed one thousand seven hundred and fifty pounds, the amount by which the total sum exceeds one thousand seven hundred and fifty pounds shall be deducted from the amount of compensation payable in respect of his death, but except as aforesaid no part of any amount paid to the worker by way of compensation under this Act shall be deducted from the amount of compensation payable in respect of his death.” 25 30 35 40

(3) Section fifty-four of the principal Act is hereby amended by omitting all words after the words "damages or compensation for that injury" and repealing the proviso, and substituting the following words: "In every case where the amount of compensation payable in respect of the death of a worker, calculated in accordance with paragraph (a) or paragraph (b) of subsection one of section four of this Act, taken together with the amount of all moneys paid or payable by way of damages or compensation under any such judgment, settlement, or accord and satisfaction, or otherwise received by the worker from his employer in respect of his injury, would exceed one thousand seven hundred and fifty pounds, the amount by which the total sum exceeds one thousand seven hundred and fifty pounds shall be deducted from the amount of compensation payable in respect of the death of the worker."

(4) Section five of the Workers' Compensation Amendment Act, 1936, is hereby repealed. Repeal.
1936, No. 45

39. (1) Section five of the principal Act is hereby amended by omitting from subsection three the words "five per centum", and substituting the words "three per centum". Amending provisions as to payments in event of incapacity of worker.

(2) The said section five is hereby further amended by repealing subsections five and six (as enacted by section six of the Workers' Compensation Amendment Act, 1936, and amended by section three of the Workers' Compensation Amendment Act, 1943), and substituting the following subsections:— 1936, No. 45
1943, No. 23

"(5) Except as provided in section nine hereof, during any period of total incapacity the weekly payment shall be an amount equal to seventy-five per centum of the worker's weekly earnings at the time of the accident, or two pounds a week (whichever of those sums is the larger), but not exceeding in any case five pounds ten shillings a week.

"(6) Except as provided in section nine hereof, during any period of partial incapacity the weekly payment shall be an amount equal to seventy-five per centum of the difference between the amount of the

worker's weekly earnings at the time of the accident and the weekly amount which the worker 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, but not exceeding in any case five pounds ten shillings a week." 5

(3) The said section five is hereby further amended by repealing subsection seven. 10

(4) The said section five is hereby further amended by repealing subsection eight and substituting the following subsection:—

“(8) The aggregate amount of weekly payments shall in no case exceed one thousand five hundred pounds.” 15

Repeals.
See Reprint
of Statutes,
Vol. V, p. 641
1936, No. 45
1943, No. 23

(5) The Workers' Compensation Amendment Act, 1926, section six of the Workers' Compensation Amendment Act, 1936, and subsection one of section three of the Workers' Compensation Amendment Act, 1943, are hereby repealed. 20

**Provisions as to
ascertainment
of weekly
earnings
amended.**
1936, No. 45

40. (1) Subsection three of section seven of the Workers' Compensation Amendment Act, 1936, is hereby amended by repealing paragraph (c), and substituting the following paragraph:— 25

“(c) The minimum rate of wages fixed for adult workers by the Minimum Wage Act, 1945, and in force at the time of the accident.”

(2) Subsection four of the said section seven is hereby amended by omitting the words “the basic rate of wages fixed for adult workers under the Industrial Conciliation and Arbitration Amendment Act, 1936, and in force at the time of the accident”, and substituting the words “the minimum rate of wages fixed for adult workers by the Minimum Wage Act, 1945, and in force at the time of the accident”. 30

(3) In calculating pursuant to subsection one or subsection three of the said section seven the weekly earnings of any worker no account shall be taken of any sums that are paid to the worker to cover any special expenses entailed on him by the nature of his employment. 35 40

1945, No. 44

41. (1) Notwithstanding anything contained in section five of the principal Act as to the rate of compensation, compensation for the injuries mentioned in the first column of the Second Schedule to the
5 principal Act shall be assessed in the manner indicated in the second column of that Schedule, subject, however, to the provisions of this section and of that Schedule.
- (2) For the purposes of the said Second Schedule the permanent loss of the use of one eye by a worker
10 who is already permanently without the use of the other eye shall be deemed to be the permanent loss of the use of both eyes:
- Provided that any sum previously received by the worker by way of compensation in accordance with the
15 said Second Schedule or this section in respect of that other eye shall be taken into account in estimating the compensation.
- (3) In any case where, as the result of an accident for which compensation is payable under the principal
20 Act, a worker suffers a permanent physical injury which is not mentioned in the said Second Schedule and the injury is estimated by a medical referee appointed under section fifty-eight of the principal Act, or by a registered medical practitioner specially approved by
25 the employer and the worker, as being equal to not less than ten per centum of total incapacity having regard to the percentages allotted to the injuries mentioned in the said Schedule, the worker shall be entitled to receive compensation bearing the same ratio
30 to full compensation as for total incapacity as, in the opinion of the medical referee or registered medical practitioner aforesaid, the injury bears to total incapacity.
- (4) Nothing in the said Second Schedule or in this
35 section shall limit the amount of compensation recoverable for any such injury as is referred to in the said Schedule or in the *last preceding* subsection during any period of total incapacity due to illness resulting from that injury, but any sum so received in excess of two
40 hundred and fifty pounds shall be taken into account in estimating the compensation payable in accordance with the said Schedule or this section.

Compensation
for permanent
physical
injuries.

(5) In the case of the loss of or permanent physical injury to any part of the body there shall be taken into account in estimating the compensation payable in respect thereof in accordance with the said Second Schedule or this section any sum previously received 5
by the worker by way of compensation in accordance with the said Second Schedule or this section in respect of the loss of or any injury to that part of the body or any portion thereof.

(6) The said Second Schedule is hereby amended as 10
follows:—

(a) By omitting the words—

“ The total loss of the right
arm or of the greater
part of the right arm .. 80 per cent. 15

“ The total loss of the left
arm, or of the greater
part of the left arm .. 75 per cent.

“ The total loss of the right
hand, or of five fingers
of the right hand, or of
the lower part of the
right arm 20
70 per cent.

“ The total loss of the same
for the left hand and arm 65 per cent.”: 25

and substituting the words—

“ The total loss of an arm or
of the greater part of an
arm 80 per cent.

“ The total loss of a hand, or
of five fingers of a hand,
or of the lower part of an
arm 70 per cent.”: 30

(b) By omitting the words “ forefinger of the right
hand ” wherever those words occur, and sub- 35
stituting in both places the words “ forefinger
of either hand ”:

(c) By omitting the words—

“ The total loss of the fore-
finger of the left hand .. 15 per cent.”: 40

(d) By omitting the words—

“ If the forefinger of the
left hand 10 per cent.”

(7) Section eight of the principal Act and section thirty-five of the Statutes Amendment Act, 1942, are hereby repealed.

Repeals:
1942, No. 18

5 42. (1) Section ten of the principal Act is hereby amended by omitting from subsection one the words "to which this section applies".

Compensation
for diseases
due to nature
of employment.

(2) The said section ten is hereby further amended by omitting from subsection three the word "average".

10 (3) If any worker contracts any disease in respect of which he would be entitled to a miner's benefit under the Social Security Act, 1938, he shall not be entitled to receive any compensation under the principal Act in respect of that disease for any period for which he receives the miner's benefit or to receive a miner's benefit for any period for which he receives compensation under the principal Act, and no compensation under the principal Act shall be paid in a lump sum in respect of incapacity caused by any such disease as aforesaid.

1938, No. 7

20 (4) In any case where the death of a worker results from any such disease as aforesaid payments of miner's benefit received by the worker shall be deducted from any compensation payable in respect of his death in the same manner and to the same extent as if they were payments of compensation under the principal Act.

(5) Subsection six of the said section ten and paragraph (d) of section sixty-five of the principal Act are hereby repealed, and the Workers' Compensation (Industrial Diseases) Order 1942 is hereby revoked.

Repeals.
Serial number
1942/104

30 43. (1) Notwithstanding anything to the contrary in the principal Act, the principal Act shall apply to any accident which happens to an airman employed on a New Zealand aircraft in any employment to which the principal Act applies, whether the accident happens in New Zealand or elsewhere, or on board the said aircraft or elsewhere.

Act to apply
to accidents
to crew of
New Zealand
aircraft.

(2) For the purposes of the principal Act—

40 "Airman" means any worker employed as pilot, commander, navigator, or member of the crew of an aircraft:

"New Zealand aircraft" means any aircraft within the meaning of the Air Navigation Act, 1931, which is registered in New Zealand under that Act.

See Reprint
of Statutes,
Vol. I, p. 424

1937, No. 8

Member of family not a "worker".

(3) This section shall be read subject to the provisions of section sixteen of the Air Force Act, 1937.

44. (1) If a person who is a worker within the meaning of the principal Act is a member of the family of his employer, he shall be deemed not to be a worker for the purposes of the principal Act except as provided in section *twenty* hereof. 5

(2) For the purposes of the principal Act (including this Act) the expression "member of the family", in relation to any employer, includes any person who is a relative, within the meaning of the principal Act, of the employer, and also includes any person who is a guardian or a ward of the employer. 10

(3) This section shall come into force on the first day of *April*, nineteen hundred and forty-nine. 15

Accidents to workers travelling to or from work.

45. (1) 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, the accident shall be deemed to arise out of and in the course of the employment if— 20

(a) The employer has provided the means of transport primarily for the purpose of carrying workers employed by him; or

(b) The means of transport is not a public passenger transport service and the employer has expressly or impliedly authorized its use for the purpose; or 25

(c) The employer has arranged with the worker, or with any union or association of which the worker is a member, for the transportation of the worker to or from work by that means of transport and has paid or become liable to pay the whole or any portion of the fare or cost of carriage of the worker by that means of transport. 30 35

Repeal. 1943, No. 23

(2) This section is in substitution for section seven of the Workers' Compensation Amendment Act, 1943, and that section is hereby repealed.

Provision of artificial limbs, &c.

46. Where an injury for which compensation is payable is caused to a worker and the provision of any artificial limb, hand, foot, or eye becomes necessary or desirable as a result of the injury, the employer shall be liable to pay, in addition to the compensation 40

and other moneys payable under the principal Act, the cost of the artificial limb, hand, foot, or eye and the cost of keeping the same in repair for a period not exceeding *three* years:

- 5 Provided that the liability of the employer under this section shall not exceed fifty pounds or the first cost of the artificial limb, hand, foot, or eye, whichever is the greater sum.

- 10 **47.** (1) If any accident occurs to a worker in any employment to which the principal Act applies and any injury caused thereby to the worker necessitates his immediate removal to a hospital, or to a medical practitioner for medical attention and then to his residence or to a hospital, or to his residence (medical attendance away from his residence not being required),
 15 the employer shall forthwith at his own expense provide or arrange for the necessary conveyance therefor, and the employer shall also pay all reasonable expenses for meals and lodging incurred by or on
 20 behalf of the worker during the course of such removal.

- (2) The reasonable expenses incurred by the employer in complying with the provisions of this section shall, if the employer is subject to the provisions of Part I of this Act, be repaid by the State Fire
 25 Insurance General Manager out of the Employers' Liability Insurance Account kept pursuant to section *seven* of this Act.

- (3) Any employer who fails to comply with the provisions of this section commits an offence and shall
 30 be liable on summary conviction to a fine not exceeding *one hundred* pounds.

48. Section eight of the Workers' Compensation Amendment Act, 1943, is hereby amended as follows:—

- 35 (a) By omitting from subsection one the words "in the town in which the worker resides or which is nearest to his place of residence", and substituting the words "in the town or other place where the worker resides,":
- (b) By inserting in subsection one, after the words
 40 "and for meals", the words "and lodging":
- (c) By inserting in the proviso to subsection one, after the words "or meals", the words "or lodging":

Conveyance of injured workers.

Provision of transport and lodgings where injured workers require medical treatment in other towns.
 1943, No. 23

- (d) By inserting in subsection three, after the words
“ or meals ”, the words “ or lodging ”.

PART III

MISCELLANEOUS AMENDMENTS

Dependency
to be
determined at
date of death.

49. (1) Section two of the principal Act is hereby 5
amended by repealing the definition of the expression
“ partial dependants ”, and substituting the following
definition:—

“ “ Partial dependants ’, in respect of a deceased
worker, means such of the relatives of the 10
worker as were domiciled or resident in New
Zealand at the time of his death and were
partially dependent upon his earnings at the
time of his death or would have been so
dependent but for the incapacity due to the 15
accident from which his death resulted:”.

(2) The said section two is hereby further amended
by repealing the definition of the expression “ total
dependants ”, and substituting the following 20
definition:—

“ “ Total dependants ’, in respect of a deceased
worker, means such of the relatives of the
worker as were domiciled or resident in New
Zealand at the time of his death and were 25
wholly dependent upon his earnings at the
time of his death or would have been so
dependent but for the incapacity due to the
accident from which his death resulted:”.

(3) Section four of the principal Act is hereby 30
amended by omitting from subsection two thereof the
words “ the accident which caused ” in both places
where those words occur.

Workers
representative
entitled to
view scene
of accident.

50. (1) After the happening of any accident,
whether before or after the passing of this Act, and
before the determination of any proceedings to recover 35
compensation in respect thereof, the secretary or any
other official of any union of workers of which the
injured or deceased worker was a member at the time
of the accident and the solicitor for the worker or, in
the case of the death of the worker, the solicitor for the 40

representative, or, as the case may be, the dependants, of the worker shall be entitled at any reasonable time to view, either separately or together or in the company of experts, and in the absence of the solicitor for the
5 employer, the scene of the accident and any plant or equipment connected with the accident.

(2) Any employer or other person who refuses to allow any secretary or other official or solicitor as aforesaid to view the scene of an accident and any
10 plant or equipment in accordance with the provisions of this section, or who obstructs any secretary or other official or solicitor while he is attempting so to do, commits an offence and shall be liable on summary conviction to a fine not exceeding *fifty* pounds.

15 **51.** Nothing in any other Act shall be deemed to apply so as to limit or reduce the time for commencing action for the recovery of compensation as prescribed by section twenty-seven of the principal Act or to require any prior notice of the proceedings which
20 is not required by the principal Act.

Limitations of actions under other Acts not applicable.

52. It is hereby declared that for the purposes of the principal Act the word "action" includes and shall be deemed always to have included proceedings under the Crown Suits Act, 1908.

Proceedings against the Crown.

See Reprint of Statutes, Vol. II, p. 550

25 **53.** Section fifty-eight of the principal Act is hereby amended as follows:—

Medical referees.

(a) By inserting in subsection two, after the words "medical referee", the words ", or to
30 some other registered medical practitioner nominated by it,":

(b) By adding the following to subsection two:
35 "Any registered medical practitioner to whom any matter is submitted for report as aforesaid shall in relation to that matter be deemed to be a medical referee appointed under this section."



Schedule.
Section 35

SCHEDULE

MISCELLANEOUS AMENDMENTS

Title of Enactment.	Number of Section affected.	Nature and Extent of Amendment.
1922, No. 39— The Workers' Compensation Act, 1922 (Reprint of Statutes, Vol. V, p. 597)	Section 5	By repealing subsection (2).
	Section 18	By omitting from subsection (1), the words "and subject to section sixty-four hereof,".
	Section 37	By repealing subsections (1), (3), and (4).
	Section 64	By repealing section 64.
1933, No. 41— The Finance Act, 1933 (No. 2) ..	Section 56	By repealing section 56.
1943, No. 23— The Workers' Compensation Amendment Act, 1943	Section 9	By repealing section 9.
1944, No. 25— The Statutes Amendment Act, 1944	Sections 70 and 71 ..	By repealing sections 70 and 71.