

WORKERS' COMPENSATION AMENDMENT BILL

EXPLANATORY NOTE

THE purpose of *Part I* of this Bill is to restore the right of insurance companies to undertake employers' liability insurance, which has since 1st April, 1949, been virtually a monopoly of the State Fire and Accident Insurance Office.

The Bill provides that it is to be compulsory for every employer, unless specially exempted, to insure with an insurance company of his own choice, which may be either a private company, a mutual or co-operative association, or the State Fire and Accident Insurance Office. Employers who fail to insure are to be indemnified by a Workers' Compensation Board out of an account to be built up by levies from insurance companies and exempted employers.

Part II contains miscellaneous amendments of the principal Act.

PART I.—EMPLOYERS' LIABILITY INSURANCE

Clause 2 provides that this Part is to come into force on 1st April, 1951, and is to apply to accidents happening on or after that date.

Clause 5 provides that, like Part I of the Workers' Compensation Amendment Act, 1947, this Part is to apply to all New Zealand employers and workers, including those in New Zealand ships and aircraft, but subject to any exemptions granted under *clause 6* and to the limitations imposed by *clause 7* in relation to employees of the Crown, and also subject to the existing exemption of teachers and to the power to exempt workers whose employers are indemnified out of the New Zealand Racing Conference's General Trust Fund.

Clause 6 provides that the Secretary of Labour may exempt from the liability to insure—

- (a) Employers with adequate financial resources to carry their own insurance; and
- (b) Commonwealth shipping companies indemnified by United Kingdom mutual protecting clubs.

Exemption may be complete or partial, and may be varied or revoked by the Secretary of Labour. Appeals may be made to the Compensation Court from any decisions of the Secretary of Labour under *clause 6*.

Contract of Insurance

Clause 8 provides that every employer must deliver to an authorized insurer each April a wage statement (as now required to be delivered to the State Fire and Accident Insurance Office) showing the wages paid during the past year and an estimate of the wages for the ensuing year. *Subclause (7)* provides that every authorized insurer commits an offence if he refuses or fails to accept delivery of any such statement.

Clause 9 provides that a contract of insurance will be complete upon the delivery of the statement, when the insurance company will be bound to indemnify the employer against all claims for compensation under the principal Act and all other claims in respect of accidents to his workers, including claims at common law.

Clause 10 provides that the insurance is to extend for the period covered by the estimate of wages contained in the statement delivered to the insurance company, and is to continue from year to year, unless the employer transfers the insurance to another authorized insurer or ceases to be an employer, or the insurance company ceases to be an authorized insurer.

Clause 11 provides that an employer who ceases to be insured by any insurance company at the end of any year must deliver to that company a statement of the wages paid by him during that year. This clause will apply to employers who cease on 31st March, 1951, to be insured by the State Fire and Accident Insurance Office.

Premiums

Clause 12 provides for the fixing of maximum rates of premiums by regulations.

Clause 13 provides that the authorized insurer will assess the premium payable by the employer as soon as practicable after the delivery of the wage statement, basing the premium on the estimate of wages contained in the statement.

Clause 14 provides for the adjustment of the premium when the wages paid during the period of insurance have been ascertained.

Clause 15 provides that the employer must pay the premium within one month after assessment. The insurer may charge a penalty not exceeding five per cent for late payment. On payment of the premium a certificate of insurance is to be issued. *Subclause (4)* prohibits employers from charging any part of the premium to their workers.

Clause 16 provides that if the employment of any workers becomes more hazardous the employer must notify the insurer, who may increase the premium, but not so as to exceed the maximum rate.

Notification of Accidents

Clause 17 provides that an employer must give notice to his insurer of every accident and claim for compensation. *Subclause (2)* provides that notice of accidents must also be given by all employers (including exempted employers) to an Inspector of Factories, unless they are reported under some other Act.

Settlement of Claims

Clause 18 provides that the insurer of any employer may undertake the settlement of claims and the conduct of all legal proceedings, and that the employer must not settle a claim or admit liability without the consent in writing of the insurer.

Persons Who are Not Workers

Clause 19 provides for the voluntary insurance of workers who are members of the employer's family, or are not required to be covered by insurance, or are employed without wages or at reduced wages.

Indemnity of Uninsured Employers

Clause 20 provides that an employer who makes default in insuring within the time provided by the Bill will be indemnified by the Workers' Compensation Board. He will not pay any premium to the Board, but will be required to insure with an authorized insurer and pay premiums for the whole of the current year. The Board will pay compensation in respect of accidents happening before the employer insures, but if the employer fails to insure within fourteen days or such further time as the Board may allow he will be liable to repay the compensation and all costs and expenses to the Board.

Clause 21 provides that the State Fire and Accident Insurance Office is to act as the agent of the Board in settling claims for which the Board is liable.

Authorized Insurers

Clause 22 provides that any accident insurance company that has made the necessary deposit under the Insurance Companies' Deposits Act, 1921-22, and its amendments may become an authorized insurer by giving notice to the Secretary of Labour. Notices may be revoked, and the Secretary of Labour is to gazette the names of the companies that become authorized insurers and cease to be such.

Clause 23 provides that the Compensation Court may prohibit an insurance company from carrying on business under *Part I* if the company is unable to meet its liabilities, or has failed to comply with any material provision of the Act, or is persistently acting in breach of the Act.

Workers' Compensation Board

Clause 24 establishes the Workers' Compensation Board, which will consist of the State Fire Insurance General Manager and one other Government representative, two representatives of the Council of Fire and Accident Insurance Underwriters' Associations of New Zealand, one employers' representative, and one workers' representative. The members, other than the General Manager, are to be appointed by the Governor-General for terms of three years.

Clause 25 provides that the Chairman of the Board is to be appointed by the Governor-General.

Clause 28 sets out the functions of the Board, which include recommending the maximum rates of premiums and rates of commission for insurance agents, administering the Workers' Compensation Account, and undertaking and assisting accident prevention, research into the causes, incidence, and prevention of accidents, and the care and assistance of injured workers.

Clause 29 authorizes the Board to appoint officers.

Clause 31 enables the Board to borrow money with the consent of the Minister of Finance.

Clause 32 exempts the Board from land and income tax and the social security charge.

Levies Payable by Authorized Insurers and Exempted Employers

Clause 33 provides that the Board may impose levies on authorized insurers and exempted employers to provide for the liabilities and expenses of the Board.

Workers' Compensation Account

Clause 34 establishes the Workers' Compensation Account, to be operated on by the Board.

Clause 35 provides for the audit of the Board's accounts by the Audit Office.

General

Clause 36 requires employers to keep records of wages paid and time worked, and *clause 37* provides for the production of books and the furnishing of information to insurers or the Board.

Clause 38 provides for the punishment of offences against the Act.

Clause 39 provides for a fine and a penal charge up to treble the deficient premium in cases of evasion of the payment of premiums.

Clause 40 provides for the making of regulations.

Clause 41 repeals the provisions of Part I of the Workers' Compensation Amendment Act, 1947, that provided for compulsory insurance with the State Fire and Accident Insurance Office.

PART II.—MISCELLANEOUS AMENDMENTS

Clause 43 increases from £6 to £6 10s. the maximum amount of weekly payments of compensation to be made after the date of the passing of the Act, both in respect of accidents happening before that date and in respect of future accidents.

Clause 44 restores the limit of six years for weekly payments of compensation for loss of earning power from non-schedule injuries.

Clause 45 provides that an injured worker is to receive additional compensation at the rate of 30s. a week for any period during which he requires constant personal attendance and is not being maintained free of charge in a hospital.

Clause 46: The purpose of this clause is to remove the anomaly whereby the estate of a deceased worker still has the right, in an action for damages in respect of an accident, to include a claim for damages for the deceased worker's pain and suffering, and for any bodily or mental harm suffered by him, and for the curtailment of his expectation of life. The right to claim damages under these headings in respect of a deceased person was abolished by section 17 of the Statutes Amendment Act, 1937, in all cases where the cause of action survives to the estate of the deceased under Part I of the Law Reform Act, 1936. Part I and section 17 were thought to be of general application, but it has been found that, by reason of the failure to amend section 55 of the principal Act, causes of action in respect of accidents to workers survive under that section and not under Part I of the Law Reform Act, 1936, and are accordingly not subject to section 17 of the Statutes Amendment Act, 1937. The effect of *clause 46* is that all such causes of action in respect of accidents occurring to workers after the passing of the Act will survive under Part I of the Law Reform Act, 1936, and not under section 55 of the principal Act, and will accordingly be subject to the general law.

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,

23rd November, 1950

Hon. Mr. Sullivan

WORKERS' COMPENSATION AMENDMENT

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A BILL INTITULED

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:—

Short Title. 1. This Act may be cited as the Workers' Compensation Amendment Act, 1950, and shall be read together with and deemed part of the Workers' Compensation Act, 1922 (hereinafter referred to as the principal Act).

See Reprint of Statutes, Vol. V, p. 597

PART I

EMPLOYERS' LIABILITY INSURANCE

Commencement of this Part. 2. (1) This Part of this Act shall come into force on the first day of April, nineteen hundred and fifty-one.

(2) Nothing in this Part of this Act shall apply with respect to claims for compensation or other rights or liabilities in respect of accidents happening before the commencement of this Part of this Act.

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

“ Accident ” or “ personal injury by accident ” includes the contracting of any disease to which section ten of the principal Act applies:

“ Authorized insurer ” means an insurance company for the time being authorized to undertake insurance business under this Part of this Act; and includes the General Manager:

“ Board ” means the Workers' Compensation Board established under this Part of this Act; and includes any person acting on behalf of and with the express or implied authority of the Board:

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“ Commonwealth shipping company ” means a shipping company incorporated in New Zealand or in a country mentioned in subsection three of section three of the British Nationality and New Zealand Citizenship Act, 1948:

10

1948, No. 15

“ Employer ” means an employer to whom this Part of this Act applies:

“ Exempted employer ” means an employer to whom a certificate of exemption under section six of this Act has been granted; and includes the trustees of the General Trust Fund established under the New Zealand Rules of Racing:

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“ General Manager ” means the State Fire Insurance General Manager constituted under the State Fire Insurance Act, 1908:

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

“ Insurance company ” means a person or body of persons, whether incorporated or not, carrying on in New Zealand the business of accident insurance:

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“ Insurer ”, in relation to any employer, means the authorized insurer that is for the time being his insurer under this Part of this Act or, where the Board is his insurer, means the Board; and includes any person acting on behalf of and with the express or implied authority of his insurer:

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“ Wages ” includes all salaries, wages, emoluments, holiday pay, and benefits of whatsoever kind received by a worker from his employer:

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“ Worker ” means a worker with respect to whom this Part of this Act applies:

“ Workers' Compensation Account ” means the Workers' Compensation Account kept under this Part of this Act.

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(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 a contract to him shall be deemed to be his employer.

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(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 outside 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. 5

(4) For the purposes of this Part of this Act 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. 10

COMPULSORY INSURANCE

Employers
required to
insure.

4. (1) Subject to any complete or partial exemption granted under section *five* or section *six* of this Act, every person being the employer of any worker or workers in any employment to which the principal Act applies shall, in accordance with this Part of this Act, insure against his liability to pay compensation under the principal Act or damages or contribution as hereinafter provided. 15 20

(2) Every contract of insurance under this Part of this Act shall be made as hereinafter provided with an authorized insurer.

Application of This Part

Employers and
workers to
whom this
Part applies.

5. (1) Except as hereinafter provided, this Part of this Act shall apply to every employer who employs any worker in an employment to which the principal Act applies. 25

(2) Except as hereinafter provided, 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 than in New Zealand, namely:— 30 35

(a) Every seaman employed in a New Zealand ship:

(b) Every airman employed in a New Zealand aircraft:

(c) Every other worker who is ordinarily employed in New Zealand and is for the time being in a New Zealand ship. 40

(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 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 Secretary of Labour, on the application 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 occurring to any of those workers in the course of their employment to be indemnified out of the General Trust Fund to as great an extent as if the employers were insured under this Part of this Act in respect of those workers; and

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

the Secretary of Labour 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 otherwise) as the Secretary of Labour thinks fit, and the Secretary may at any time revoke any such certificate or vary, revoke, or add to any such conditions as he thinks fit.

(5) This Part of this Act shall not apply with respect to workers who are employed as teachers, 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 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 territorial waters of New Zealand.

See Reprint
of Statutes,
Vol. II, p. 1007

Power to
exempt
employers.

6. (1) In any case where the Secretary of Labour is satisfied that any employer has and at all material times will have adequate financial resources to meet the whole or any part of all probable claims for compensation or damages or contribution for the death of or personal injury to any workers employed by that employer caused by any accident occurring to the workers in the course of their employment, the Secretary of Labour may grant a certificate exempting the employer wholly or, as the case may require, partly from the obligation to insure under this Part of this Act in respect of those workers or in respect of such of those workers or such classes thereof as may be specified in the certificate. 5 10

(2) In any case where the Secretary of Labour is satisfied that any employer, being a Commonwealth shipping company, is, as owner, charterer, or agent of any ship entered in a mutual protecting club established and controlled in the United Kingdom, entitled to be indemnified in respect of the whole or any part of all claims for compensation or damages or contribution for the death of or personal injury to any workers employed by or on behalf of the employer, the following provisions shall apply:— 15 20

(a) The Secretary of Labour may grant a certificate exempting the employer from the obligation to insure under this Part of this Act in respect of those workers to the extent to which the employer is indemnified as aforesaid: 25

(b) Where the employer's indemnity extends only to a part of those claims, the Secretary, if he is satisfied that the employer has and at all material times will have adequate financial resources to meet the balance of those claims, may grant a certificate exempting the employer wholly from the obligation to insure under this Part of this Act in respect of those workers. 30 35

(3) Every certificate granted under this section shall come into force or be deemed to have come into force on the first day of April next after the date of the application for the certificate, or on such later date as may be specified in the certificate: 40

Provided that where the application is made during the month of April in any year the Secretary of Labour may direct that the certificate shall be deemed to have come into force on the first day of that month.

5 (4) Any certificate granted under this section may be granted unconditionally or upon or subject to such conditions (whether as to its duration or otherwise) as the Secretary of Labour thinks fit, and the Secretary may at any time revoke any such certificate or vary,
10 revoke, or add to any such conditions as he thinks fit. Every such amendment or revocation shall take effect from such date as may be specified by the Secretary of Labour, being either before or after the date of the amendment or revocation, but not earlier than the first
15 day of April then last past.

(5) Any employer who is aggrieved by any decision of the Secretary of Labour under this section or under the *last preceding* section may appeal from the decision to the Compensation Court. On any such appeal the
20 Court may confirm the decision of the Secretary or direct him to reverse or modify the decision as the Court thinks fit.

(6) While any certificate of exemption granted under this section to any employer in respect of any workers
25 is in force, the employer shall be exempted wholly or, as the case may be, partly from the obligation to insure and pay premiums under this Part of this Act in respect of those workers, and the extent of any contract of insurance to which he may be or be deemed to be a
30 party under this Part of this Act, and the provisions of this Part of this Act in relation to any such contract, shall be deemed to be limited accordingly.

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

(2) Any Order in Council made under this section may provide that this Part of this Act shall apply either
40 without modification or with such modifications as may be specified in the Order in Council.

Application of
this Part to
the Crown.

(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.

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Contract of Insurance

Wage
statements to be
delivered by
employer to
authorized
insurer.

8. (1) This section shall apply to every employer who employs in any employment to which the principal Act applies any worker or workers in respect of whom the employer is not wholly exempted from the obligation to insure under this Part of this Act. 10

(2) Every person who on the first day of April in any calendar year after the year nineteen hundred and fifty is an employer to whom this section applies shall within one month after that date deliver to an authorized insurer a statement in the prescribed form showing— 15

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

(b) An estimate of the wages which he expects to pay to all such workers during the year commencing on the said first day of April: 20

(c) Such other information as may be prescribed by regulations or as the insurer may require from him. 25

(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 an authorized insurer a statement in the form prescribed for the purposes of subsection *two* of this section, except that the estimate referred to in paragraph (b) of that subsection shall refer to the wages he expects to pay to all such workers employed by him from the time he became such an employer until the end of March next thereafter. 30 35

(4) Where an employer carries on business in more than one place or carries on more than one class of business the insurer may require from him a separate statement in respect of each place or class. 40

(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 deliver to his insurer a statement in the prescribed form showing the amount of wages paid by him to all such workers between the last day of March preceding that date and that date.

(6) 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.

(7) Every authorized insurer that refuses or fails to accept delivery of any statement in accordance with this section commits an offence against this Part of this Act.

(8) Notwithstanding anything in the foregoing provisions of this section, any authorized insurer 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.

9. (1) On the delivery to an authorized insurer of a statement made by an employer and containing an estimate of wages in accordance with section *eight* of this Act the insurer shall, subject to the provisions of this Part of this Act, be deemed to have contracted to indemnify the employer in respect of all sums which the employer becomes liable to pay under or by virtue of the principal Act, the Deaths by Accident Compensation Act, 1908, the Coal Mines 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 or for compensation or damages or contribution for the death of or personal injury to any worker caused by an accident occurring, at any time during the period of the insurance, to that worker in the course of his employment by the employer in any employment to which the principal Act applies:

Contract of insurance to be complete on delivery of wage statement.

See Reprint of Statutes, Vol. VI, p. 427; Vol. V, pp. 843, 943
1936, No. 31

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) Subject to the provisions of this Part of this Act, the insurer of any employer under this section 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 to the liability against which he is insured or in relation to any such indemnities or other rights. 5 10

(3) In consideration of the insurance hereinbefore provided for any employer the 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. 15

Insurance to
continue from
year to year,
unless
transferred.

10. (1) The period of any insurance under section *nine* of this Act shall be the period covered by the estimate of wages contained in the statement delivered by the employer to the insurer under section *eight* of this Act: 20

Provided that where any such period ends on the last day of March in any year the period of the insurance shall be deemed to be extended for a year from that day, and thereafter from year to year, until the thirty-first day of March next after the insurer ceases to be an authorized insurer, or until the employer ceases to be an employer to whom section *eight* of this Act applies, or transfers the insurance to another authorized insurer in accordance with this section. 25 30

(2) Any such transfer may be made by the employer—

(a) Delivering to the new insurer a statement of wages under section *eight* of this Act containing an estimate of wages for the period commencing at the time when the transfer is to take effect, and such other information as may be prescribed by regulations or as the new insurer may require; and 35

(b) Notifying the old insurer thereof. 40

(3) Unless otherwise agreed by the employer and the old insurer and the new insurer, every such transfer shall take effect on the first day of April next after the transfer is made as aforesaid.

11. (1) Where an employer ceases on the thirty-first day of March in any year to be insured under this Part of this Act by an authorized insurer, the employer shall within the month following that date deliver to that
5 authorized insurer a statement in the prescribed form showing the amount of wages paid by him during the year ending on that date to all workers in respect of whom he was so insured.

Wage statement to be delivered by employer to insurer at end of period of insurance.

(2) This section shall apply to every employer who
10 on the thirty-first day of March, nineteen hundred and fifty-one, is indemnified by the General Manager under Part I of the Workers' Compensation Amendment Act, 1947, as if that indemnity were an insurance by the General Manager as an authorized insurer under this
15 Part of this Act.

1947, No. 58

Premiums

12. The Governor-General may from time to time, by Order in Council, after considering the recommendations of the Board, make regulations fixing, or
20 providing for the fixing of, maximum rates of premiums to be paid by employers for the purposes of this Part of this Act.

Maximum rates of premiums.

13. (1) Each authorized insurer shall as soon as practicable after receiving any statement under section
25 *eight* of this Act 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.

Assessment of premiums payable by employers.

30 (2) Every such assessment shall be made in the form and manner prescribed by regulations made for the purposes of this Part of this Act, and shall be made so as not to exceed the maximum rates of premiums for the time being prescribed by regulations made for the
35 purposes of this Part of this Act.

(3) An authorized insurer may from time to time and at any time make a new assessment in substitution for an earlier assessment and containing such alterations and additions as he thinks necessary in order to
40 ensure the correctness thereof, notwithstanding that the premiums already assessed may have been paid.

Adjustment of
premiums when
wages paid are
ascertained.

14. (1) When the wages paid by an employer 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. 5

(2) Where any person fails to make a statement as required by section *eight* or section *eleven* of this Act showing the amount of wages paid by him during any period, his insurer may make an estimate of the amount that he considers likely to have been paid and make an adjusted assessment of the premium payable by that person in respect of that period accordingly. 10

(3) If the premium assessed on an adjustment under this section is more than the amount of the premium already paid by the employer in respect of the period concerned, the employer shall pay the amount of the difference to his insurer, and, if the premium assessed on the adjustment is less than the amount of the premium already paid by the employer in respect of that period, the insurer 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. 15 20

(4) After any adjustment has been made under this section the insurer 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. 25 30

Premiums to be
paid by
employers.

15. (1) The amount of any premium to be paid by any employer as assessed by his insurer under this Part of this Act shall be paid by the employer to the insurer within one month after the date of the assessment. 35

(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 to the insurer forthwith, in addition to the premium, an amount equal to five per cent of the premium as a penalty for his default: 40

Provided that the insurer 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.

(3) On payment of the amount of the premium assessed by an insurer, the insurer shall issue a certificate of insurance setting out the period in respect of which the premium has been paid. 45

(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
5 by the employer under this Part of this Act.

16. 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 his
10 insurer and the insurer may, in his discretion, amend the assessment of the premium payable by the employer for the purposes of this Part of this Act in respect of those workers, but so as not to exceed in any case the maximum rate for the time being prescribed.

Employment becoming more hazardous.

15 *Notification of Accidents*

17. (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 his insurer stating—

Notification of accidents, and of claims.

- 20 (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;
(c) Whether the accident arose in the course of the
25 worker's employment; and
(d) Such other particulars as may be prescribed by regulations.

(2) Whenever any accident occurs which causes personal injury to or the death of any worker within
30 the meaning of the principal Act, the employer, whether or not he is insured under this Part of this Act and whether or not he is an exempted employer, shall as soon as practicable give written notice to an Inspector of Factories appointed under the Factories Act, 1946,
35 specifying the nature of the accident, the name and residence of the worker affected thereby, his age, the place (if any) to which he has been removed, and such other particulars as may be prescribed by regulations:

1946, No. 43

40 Provided that it shall be sufficient compliance with this subsection if the accident is notified or reported to the Inspector or any other authority pursuant to any enactment other than this Act.

(3) If any employer receives notice of a claim, or of the intention of any person to make a claim, in respect
45 of injury to or the death of a worker, the employer shall within three days thereafter give to his insurer particulars of the notice or, if it is in writing, the notice or a copy of it.

(4) 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 insurer may reasonably require to enable him to determine whether compensation, damages, or contribution should be paid under the principal Act or under any of the other enactments referred to in section *nine* of this Act or at common law and, if so, how much should be paid. 5

Settlement of Claims 10

Settlement of
claims and
conduct of
proceedings by
insurer.

18. (1) The insurer of any employer 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 for the settlement of any question arising with reference thereto, and may defend or conduct any such proceedings 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. 15 20

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

(3) The employer shall render all reasonable assistance to the insurer to enable the insurer to conduct any such proceedings and defend any claims which the insurer decides to defend. 25

(4) No employer shall, without the consent in writing of his insurer, 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. 30 35

(5) If any employer fails without reasonable cause to comply with the provisions of this section he shall be liable to pay to his insurer any amounts which have been paid, or may become payable, by the insurer in respect of the claim and proceedings concerned, and the insurer 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 insurer were a claim by the worker against the employer. 40 45

Persons Who are Not Workers

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

Insurance in
respect of
persons who are
not workers

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10 (a) That he will in the period covered by the estimate of wages be employing a member of his family named therein at the rate of remuneration therein specified; or

15 (b) That he will in the period covered by the estimate of wages 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 specified; or

20 (c) That he will in the period covered by the estimate of wages 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 specified in the estimate,—
25 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.

30 (2) If the insurer 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 covered by the estimate, and on payment of the premium the following provisions shall apply:—

35 (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
40 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 specified 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 insurer 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: 5
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(c) Subject to the provisions of this Part of this Act (including this section) and any regulations made for the purposes thereof, the insurer 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 Accident Compensation Act, 1908, the Coal Mines 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 or 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: 20
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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 *nine* and section *ten*) shall, as far as they are 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. 40
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See Reprint
of Statutes,
Vol. VI, p. 427;
Vol. V, pp. 843,
943
1936, No. 31

Indemnity of Uninsured Employers

20. (1) Where any employer makes default in insuring against his liability in accordance with this Part of this Act, the following provisions of this section shall apply.

Employers in default deemed to be insured by Workers' Compensation Board.

(2) The employer shall be deemed to be insured by the Workers' Compensation Board as if the Board were an authorized insurer and as if the employer had delivered to the Board a statement containing an estimate of wages in accordance with section eight of this Act:

Provided that no premiums shall be payable by the employer to the Board.

(3) In addition to any other liability, the employer shall be liable to repay to the Board on demand all amounts paid by the Board as the insurer of the employer and any costs and expenses incurred in connection therewith, unless the employer delivers a statement to an authorized insurer in accordance with subsection two or subsection three of section eight of this Act, as the case may require, within fourteen days after being required by the Board to do so, or within such further time as the Board may in any case allow.

(4) On the delivery of a statement as aforesaid the authorized insurer shall become the insurer of the employer in accordance with this Part of this Act as from the commencement of the period covered by the estimate of wages contained in the statement, and the Board shall as from the commencement of that period cease to be the insurer of the employer:

Provided that the Board shall continue to be the insurer of the employer in respect of any accident that occurred before the delivery of the statement.

21. (1) The State Fire Insurance General Manager shall settle all claims for which the Board is liable as the insurer of any employer, and accordingly in every such case the General Manager shall, for the purposes of this subsection, be deemed to be the insurer of the employer under this Part of this Act.

State Fire and Accident Insurance Office to settle claims on behalf of Board.

(2) The Board shall pay to the General Manager all moneys paid by him in settling any claim in accordance with this section and all costs and expenses incurred in connection therewith.

Authorized Insurers

Insurance
companies that
are authorized
insurers.

See Reprint
of Statutes,
Vol. IV, p. 165

22. (1) Every insurance company willing to undertake insurance business under this Part of this Act may at any time give to the Secretary of Labour notice in writing of that fact, if it has made the deposit required to be made by it in respect of that class of business under the Insurance Companies' Deposits Act, 1921-22. 5

(2) Every such notice shall take effect on the first day of April following the date of its delivery to the Secretary of Labour. 10

(3) Every insurance company that has given a notice as aforesaid shall be deemed to be an authorized insurer under this Part of this Act from the time when the notice takes effect until—

(a) A notice of revocation of the notice has taken effect; or 15

(b) The insurance company has been prohibited under section *twenty-three* of this Act or under the Insurance Companies' Deposits Act, 1921-22, from carrying on insurance business under this Part of this Act. 20

(4) A notice given by an insurance company as aforesaid may be at any time revoked by a notice in writing given by the company to the Secretary of Labour. Every notice of revocation shall take effect on the eighth day after the date of its delivery to the Secretary of Labour, or on such later date as may be specified in that behalf in the notice of revocation. 25

(5) On the date on which an insurance company ceases to be an authorized insurer, it shall be relieved from its obligations under this Part of this Act: 30

Provided that nothing in this subsection shall affect any contract of insurance entered into by the company before that date, or deemed in accordance with this Part of this Act to have been so entered into. 35

(6) The Secretary of Labour shall from time to time as occasion requires notify in the *Gazette* the name of every insurance company that, in addition to the General Manager, is an authorized insurer under this Part of this Act, and shall also notify the name of every company that has ceased to be an authorized insurer, and the date on which it ceased to be such. 40

23. (1) If it is at any time alleged in an application by the Secretary of Labour to the Compensation Court that any authorized insurer is unable to meet his liabilities, or has failed to comply with any material provision of this Part of this Act, or is persistently acting in breach of any provision of this Part of this Act, the Compensation Court may give notice to the insurer calling upon him to show cause why he should not be prohibited from carrying on insurance business under this Part of this Act.

Compensation Court may prohibit insurance company from carrying on business.

(2) If the Court is satisfied that it is necessary to do so, after hearing the evidence and representations of the applicant and the evidence and representations (if any) of the insurer, the Court may make an order prohibiting the insurer from carrying on insurance business under this Part of this Act.

WORKERS' COMPENSATION BOARD

24. (1) There is hereby established for the purposes of this Part of this Act a Board, to be known as the Workers' Compensation Board.

Establishment of Workers' Compensation Board.

(2) The Board shall consist of six members to be appointed by the Governor-General on the recommendation of the Minister, of whom—

(a) Two members shall be appointed as representing the Government, one of whom shall be the General Manager:

(b) Two members shall be appointed on the nomination of the Council of Fire and Accident Underwriters' Associations of New Zealand:

(c) One member shall be appointed as representing employers:

(d) One member shall be appointed as representing workers.

(3) Every member of the Board other than the General Manager shall be appointed for a term of three years, and may from time to time be reappointed, or may be at any time removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Minister.

(4) The Board shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property, of suing and being sued, and of doing and suffering all other acts and things that bodies corporate may lawfully do and suffer.

(5) No person shall be deemed to be employed in the service of His Majesty for the purposes of the Public Service Act, 1912, by reason of his being a member of the Board.

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

(6) Each member of the Board who is not employed in the Government service shall be paid by the Board such remuneration by way of salary, fees, or allowances and such travelling allowances and expenses as may from time to time be approved by the Minister of Finance.

Chairman of
Board.

25. (1) One member of the Board shall be appointed by the Governor-General on the recommendation of the Minister as the Chairman of the Board.

(2) The Chairman shall preside at all meetings of the Board at which he is present.

(3) If at any meeting of the Board the Chairman is not present, the members present shall appoint one of their number to be the Chairman at that meeting.

(4) At any meeting of the Board the Chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

Meetings of
Board.

26. (1) Meetings of the Board shall be held at such times and places as the Board or the Chairman may from time to time appoint.

(2) At any meeting of the Board four members shall form a quorum.

(3) Subject to the provisions of this Part of this Act and of any regulations made for the purposes thereof, the Board may regulate its procedure in such manner as it thinks fit.

Representation
of absent
members.

27. (1) In the absence from any meeting of the Board of any member of the Board who is employed in the Government service any person so employed and having authority to act in his place during his absence may attend the meeting in his stead.

(2) Except as provided in the foregoing provisions of this section, the Minister may from time to time appoint any person to act for any member of the Board at any meeting in the event of his absence therefrom.

(3) While any person is attending any meeting of the Board pursuant to this section he shall be deemed for all purposes to be a member of the Board, and the fact that any person so attends shall be sufficient evidence of his authority to do so.

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28. (1) The Board shall have such functions and powers in relation to the execution and administration of this Part of this Act as are conferred upon it by this Part of this Act or by any regulations made for the purposes thereof, and shall have all such other powers, not inconsistent with this Part of this Act, as are reasonably necessary for the effective performance of its functions.

Functions of Board.

(2) Without limiting the generality of the foregoing provisions, it is hereby declared that the functions of the Board shall include:—

- 15 (a) Making recommendations to the Minister as to the maximum rates of premiums to be paid by employers for the purposes of this Part of this Act and as to scales and classifications in relation thereto; and for that purpose collecting, compiling, and considering all relevant statistics and information:
- 20 (b) Making recommendations to the Minister as to the rates of commission to be paid to agents by authorized insurers in relation to their business under this Part of this Act:
- 25 (c) Administering the Workers' Compensation Account and executing the provisions of this Part of this Act relating to the Account:
- 30 (d) Conducting 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 making arrangements with any person having appropriate facilities for the conduct of any such research; and co-operating with any Government Departments and other bodies and persons for those purposes, whether by making contributions towards their expenses or otherwise:
- 35 (e) Generally preventing accidents to workers by such means as the Board thinks fit, and co-operating with any Government Departments and other bodies and persons for that purpose, whether by making contributions towards their expenses or otherwise:
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- (f) Making 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; and establishing and conducting any such courses and providing any such facilities; and co-operating with any Government Departments and other bodies or persons for those purposes, whether by making contributions towards their expenses or otherwise: 5
- (g) Generally securing the care, supervision, and assistance of injured workers, and co-operating with any Government Departments and other bodies or persons for that purpose, whether by making contributions towards their expenses or otherwise. 15
- 29.** (1) The Board may from time to time appoint such officers and servants as it deems necessary for the efficient carrying out of its functions. 20
Officers of Board.
- (2) The Board may make payments to or subsidize the National Provident Fund or any fund or scheme established with the approval of the Governor-General in Council for the purpose of providing superannuation or retiring allowances for its officers and servants. 25
- 30.** (1) Any contract which if made between private persons must be by deed shall, when made by the Board, be in writing under the common seal of the Board. 30
Contracts of Board.
- (2) Any contract which if made between private persons must be in writing signed by the persons to be charged therewith may, when made by the Board, be in writing signed by any person acting on behalf of and under the express or implied authority of the Board. 35
- (3) Any contract which if made between private persons may be made orally may, when made by the Board, be made orally by any person acting on behalf of and under the express or implied authority of the Board.
- (4) The common seal of the Board shall not be affixed to any document except pursuant to a resolution of the Board, and the execution of any document so sealed shall be attested by two members of the Board. 40

31. With the precedent consent of the Minister of Finance, the Board may from time to time borrow money (whether by way of overdraft or otherwise) and mortgage or charge any of its property or rights.

Borrowing powers.

5 32. The Board shall be exempt from land tax and income tax, and from the social security charge.

Exemption from taxation.

Levies Payable by Authorized Insurers and Exempted Employers

10 33. (1) For the purpose of providing for the liabilities and expenses of the Board under this Part of this Act, the Board may from time to time, by resolution, impose on authorized insurers and exempted employers, or on any class or classes thereof, levies of such amounts or at such rates as the Board thinks fit.

Levies to cover liabilities and expenses of Board.

15 (2) The amount of any such levy imposed on any person shall be payable in such manner as may be determined by the Board, and shall be recoverable as a debt due to the Board.

Workers' Compensation Account

20 34. (1) For the purposes of this Part of this Act there shall be established at such bank as the Board directs an account to be known as the Workers' Compensation Account.

Workers' Compensation Account.

25 (2) There shall from time to time be paid into the Account all moneys payable to or belonging to the Board.

30 (3) There shall from time to time be paid out of the Account all moneys payable by the Board, and all costs, charges, and expenses whatsoever incurred by the Board, in the performance of its functions and the exercise of its powers and authorities.

35 (4) The Account shall be operated on by cheque signed by or on behalf of the Board. For the purposes of this subsection the Board may from time to time authorize any member, officer, or agent of the Board to sign cheques on behalf of the Board.

(5) Any moneys of the Board which are available for investment may be invested in any manner in which trustees are for the time being authorized to invest trust moneys.

40 35. The accounts of the Board shall be audited by the Audit Office, which for that purpose shall have all such powers as it has under the Public Revenues Act, 1926, in respect of public moneys and public stores and the audit of local authorities' accounts.

Audit of accounts.

See Reprint of Statutes, Vol. VII, p. 10

GENERAL

Employers to
keep records.

36. 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.

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Production of
books, &c.

37. Every person shall from time to time, as required by his insurer or by the Board, 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.

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Offences.

38. (1) Every person commits an offence against this Part of this Act 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 his insurer or by the Board; or

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

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(c) Wilfully or negligently makes any false return, or gives any false information, or misleads or attempts to mislead his insurer or the Board, 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 insured under this Part of this Act; or

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(d) Refuses or fails without lawful justification to attend and give evidence as and when required by his insurer or by the Board or to answer truly and fully any question put to him or to produce any book or document required of him; or

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(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

(f) Commits any offence against any regulation made for the purposes of this Part of this Act; or

(g) Aids, abets, or incites any other person to commit any offence against this Part of this Act or against any regulations made for the purposes thereof.

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(2) Every person who commits an offence against this Part of this Act shall be liable on summary conviction to a fine not exceeding one hundred pounds.

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

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

15 39. (i) 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, 20 the liability for any sum properly payable by him as premium or otherwise to his insurer (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 25 with an additional sum (in this section referred to as the penal charge) not exceeding treble the amount of the deficient premium.

Penalties for evasion.

(2) The penal charge shall for all purposes be deemed to be of the same nature as the deficient premium 30 and shall be recoverable accordingly, and shall be assessed by the employer's insurer in the same manner, as far as may be, as the deficient premium but separately therefrom:

35 Provided that, where the Board was the insurer of the employer during the whole or any part of the period in respect of which the deficient premium was payable, the penal charge shall be assessed by and payable to the Board.

40 (3) The assessment of any penal charge may from time to time be amended and a new assessment in place thereof made by the insurer or by the Board, as the case may be.

(2) This section shall apply with respect to compensation payable after the date of the passing of this Act for any period after that date in respect of accidents happening before or on or after that date.

(3) Section four of the Workers' Compensation Amendment Act, 1949, is hereby consequentially amended by repealing paragraphs (a) and (b). 5

Restoring limit of six years for weekly payments for loss of earning power.

44. Weekly payments of compensation under subsection six of section five of the principal Act shall in no case extend over a longer aggregate period than six 10 years.

Additional compensation where worker requires personal attendance.

45. (1) In any case where, as the result of an accident for which compensation is payable under the principal Act, a worker suffers an incapacity of such a nature that he must have the constant personal attendance of another person, the worker shall be entitled to receive from his employer, in addition to the compensation and other moneys (if any) payable under the principal Act, additional compensation at the rate of thirty shillings a week for the period during which that personal attendance is necessary, but not including any period during which the worker is maintained in any hospital or other institution without charge to himself or to any other person. 15 20

(2) The additional compensation payable to any worker under this section in respect of any accident shall not be taken into account in computing the maximum amount of compensation that may be paid in respect of that accident, but no additional compensation shall be payable under this section after the expiration of the maximum period for the payment of weekly payments of compensation in respect of that accident. 25 30

Causes of action for damages to survive under Part I of Law Reform Act, 1936, No. 31

46. (1) Part I of the Law Reform Act, 1936, shall apply to causes of action for damages in respect of accidents occurring to workers after the passing of this Act. 35

(2) Section fifty-five of the principal Act is hereby consequentially amended by omitting the words "or to recover damages independently of this Act", and also by omitting the words "or damages". 40