

WORKERS' COMPENSATION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Workers' Compensation Act 1956, and is consequential on the Accident Compensation Bill. Compensation under the earners' scheme provided for in the Accident Compensation Bill is to be in substitution for compensation under the Workers' Compensation Act 1956, and compulsory insurance under that Act will disappear. This Bill makes provision for certain transitional arrangements.

Clause 1 relates to the Short Title and commencement of the Bill. This Bill (like the Accident Compensation Bill) is to come into force on a date to be appointed by Order in Council, and different dates may be so appointed for the purpose of different provisions of the Bill.

Clause 2 provides that, subject to the provisions of the Bill, nothing in the principal Act shall apply in respect of personal injury by accident suffered by any worker, or death resulting therefrom, or any consequence of any accident, where the accident occurs on or after the date on which this clause comes into force. The clause also terminates the liability of employers to insure and deliver statements of wages to an insurer in respect of the employment of workers after that date.

Clause 3 amends section 18 of the principal Act, which relates to hernia, so as to provide that no compensation shall be payable under subsection (1) of that section to any worker in respect of hernia if the strain or other accident which immediately precedes the onset of that hernia occurs on or after the date on which the clause comes into force.

Clause 4 amends section 19 of the principal Act, which relates to occupational diseases, so as to provide that the section shall not apply in any case where the employment, to the nature of which the disease was due, includes any period after the date on which the clause comes into force.

Clause 5 amends section 19A of the principal Act, which relates to industrial deafness, by providing that no compensation shall be payable for industrial deafness under that Act where the employment in an occupation to which is attached a particular hazard of contracting deafness includes any period on or after the date of the commencement of the clause, unless he has made a claim for compensation, or commenced an action for the recovery of compensation, in respect of that deafness before that date.

Clause 6 amends section 81 of the principal Act by inserting in subsection (1) a definition of the term "transitional date". This is defined as meaning the date immediately preceding the date fixed by Order in Council under the Accident Compensation Bill for the commencement of Part III of that Bill.

Clause 7 amends section 88 of the principal Act so as to provide that compulsory insurance under that Act shall end with the said transitional date.

Clause 8 provides for transitional arrangements in connection with insurance premiums during the transitional period that expires with the said transitional date.

Hon. Mr Thomson

WORKERS' COMPENSATION AMENDMENT

ANALYSIS

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2. Limitation of operation of principal Act	6. Transitional date
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A BILL INTITULED

An Act to amend the Workers' Compensation Act 1956

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

10 **1. Short Title and commencement**—(1) This Act may be cited as the Workers' Compensation Amendment Act 1972, and shall be read together with and deemed part of the Workers' Compensation Act 1956* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council, and different dates may be so appointed for the purpose of different provisions of this Act.

15 **2. Limitation of operation of principal Act**—The principal Act is hereby amended by inserting, after section 2, the following section:

*Reprinted 1966, Vol. 4, p. 3323

Amendments: 1967, No. 29; 1968, No. 121. 1970, No. 113; 1971, No. 44

"2A. (1) Subject to the provisions of the Workers' Compensation Amendment Act 1972, nothing in this Act shall apply in respect of personal injury by accident suffered by any worker, or death resulting therefrom, or any consequence of any accident, where the accident occurs on or after the date on which this section comes into force. 5

"(2) Except as provided in the Workers' Compensation Amendment Act 1972,—

"(a) No employer shall be required to insure, under section 82 of this Act and in accordance with the provisions of Part III of this Act; and 10

"(b) No employer shall be required to deliver to any authorised insurer a statement of wages, under section 85 of this Act and in accordance with the provisions of Part III of this Act,— 15
in respect of the employment by him of any worker on or after the date on which this section comes into force."

3. Compensation for hernia—Section 18 of the principal Act, as amended by section 3 of the Workers' Compensation Amendment Act 1960, is hereby amended by adding the following subsection: 20

"(6) Notwithstanding the foregoing provisions of this section, no compensation shall be payable under subsection (1) of this section to any worker in respect of hernia if the strain or other accident which immediately precedes the onset of that hernia occurs on or after the date on which this subsection comes into force." 25

4. Compensation for occupational diseases—(1) Section 19 of the principal Act is hereby amended by inserting in subsection (5), after the word "Act", the words "except the purposes of subsection (1) of section 2A". 30

(2) Section 19 of the principal Act is hereby further amended by adding the following subsection:

"(10) Nothing in this section shall apply in any case where the employment, to the nature of which the disease was due, includes any period on or after the date on which this subsection comes into force." 35

5. Compensation for industrial deafness—Section 19A of the principal Act, as inserted by section 2 of the Workers' Compensation Amendment Act 1970, is hereby amended by adding to subsection (5) the following proviso: 40

“Provided that no worker shall be entitled to any compensation for industrial deafness under this Act where his employment in an occupation to which is attached a particular hazard of contracting deafness includes any period on or after
5 the date on which this proviso comes into force, unless he has made a claim for compensation, or commenced an action for the recovery of compensation, in respect of that deafness before that date.”

10 **6. Transitional date**—Section 81 of the principal Act is hereby amended by inserting in subsection (1), in its appropriate alphabetical order, the following definition:

15 “‘Transitional date’ means the date immediately preceding the date fixed by Order in Council under the Accident Compensation Act 1972 for the commencement of Part III of that Act:”.

7. Termination of insurance—Section 88 of the principal Act is hereby amended by adding to subsection (1) the following paragraph:

“(f) The transitional date.”

20 **8. Transitional provisions**—The principal Act is hereby amended by inserting, after section 95, the following section:

“95A. (1) In this section,—

25 “‘Normal period’, in relation to any insurance under section 86 of this Act, means the period of insurance determined in accordance with subsection (1) of section 88 of this Act that includes—

“(a) The whole of the transitional period in relation to that insurance; and

30 “(b) Any further time for which the period of insurance would have extended if paragraph (f) of that subsection had not been enacted:

35 “‘Transitional period’, in relation to any insurance under section 86 of this Act, means the period of insurance, determined in accordance with subsection (1) of section 88 of this Act, that ends with the transitional date.

“(2) Notwithstanding the foregoing provisions of this Part of this Act, in connection with any transitional period of insurance the following provisions shall apply:

40 “(a) The provisional premium assessed in accordance with subsection (1) of section 91 of this Act in relation to any insurance under section 86 of this Act shall

bear to the premium for the normal period as so assessed the same proportion as the number of days in the transitional period bears to the number of days in the normal period:

- “(b) An authorised insurer may, in respect of any transitional period of insurance, instead of assessing the provisional premium in accordance with the provisions of paragraph (a) of this subsection, assess the provisional premium at an amount agreed upon between the insurer and the employer upon the ground that in their opinion the amount of the provisional premium assessed in accordance with that paragraph would be substantially more or substantially less than an amount that in the circumstances would be fair and reasonable: 5
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- “(c) Every employer to whom the provisions of section 85 of this Act apply and who employs any worker or workers during the transitional period of insurance shall, unless he is required to do so at an earlier date under subsection (6) of that section, within one month after the transitional date, deliver to his insurer a statement in the prescribed form showing the amount of wages paid by him to all such workers during the transitional period of insurance: 20
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- “(d) When the wages paid by an employer during the transitional period of insurance 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 so paid differ from the wages on which the premium was assessed: 30
- “(e) Where any person fails to make a statement as required by paragraph (c) of this subsection showing the amount of wages paid by him during the transitional period of insurance, his insurer may make an estimate of the amount that he considers likely to have been paid during that period and make an adjusted assessment of the premium payable by that person in respect of that period accordingly: 35
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5 “(f) Where an adjusted assessment is made under this
section, the insurer shall credit the employer with
the amount of the provisional premium already
paid in accordance with the provisions of para-
graph (a) or paragraph (b) of this subsection, and
10 if the premium assessed on the adjustment is less
than the amount of the provisional premium
already paid by the employer, the insurer shall
refund the amount of the difference to the em-
ployer; and if the premium assessed on the adjust-
ment is greater than that amount, the amount of
the difference may be recovered by the insurer in
accordance with the provisions of this Act.”