

SEAMEN'S COMPENSATION

AMENDMENT BILL 1979

COMMITTEE NOTES

1. (1) This Act may be cited as the *Seamen's Compensation Amendment Act (No. 2) 1979*. Short title.
A.C.

5 (2) The *Seamen's Compensation Act 1911** is in this Act referred to as the Principal Act.

CLAUSE 1

SHORT TITLE AND CITATION

This is the usual formal clause.

2. (1) Subject to sub-section (2), this Act shall come into operation Commence-
on the date on which it receives the Royal Assent. ment

(2) Section 4 shall be deemed to have come into operation on 1
10 September 1979.

CLAUSE 2COMMENCEMENT

Clause 2 provides for the Act to come into operation on the date of Royal Assent, with the proviso that increased benefits (as outlined in the Schedule) will be paid as from 1 September 1979.

Schedule 1

3. (1) Schedule 1 to the Principal Act is amended—

(a) by adding at the end of paragraph (4) " other than a payment, allowance or benefit received by the seaman in accordance with the terms of any award, order or determination of an industrial authority, any industrial agreement, or any law (other than this Act), requiring the employer to supplement any such weekly payment of compensation "; and

(b) by omitting from sub-paragraph (i) of paragraph (b) of the definition of " child " in paragraph (22) " 21 " and substituting " 25 ".

(2) Where, by reason of the death or incapacity of a seaman occurring before the commencement of this section, weekly payments in respect of a child would have been payable immediately before that commencement if the amendment of the Principal Act made by paragraph (1) (b) had been in force at the time of the death or incapacity, weekly payments in respect of that child are payable in accordance with that Act as so amended, but any payments made by virtue of this sub-section shall not relate to a period occurring before the commencement of this section.

CLAUSE 3SCHEDULE 1

Sub-clause 3(1)(a) amends paragraph (4) of Schedule 1 of the Principal Act.

Currently, amounts paid by an employer to his employee, during the latter's incapacity, are deducted from weekly compensation payments. The proposed amendment clarifies that such deductions will not be made where the employer's payments are necessitated by industrial agreements or other laws requiring him to provide make-up pay.

Sub-clause 3(1)(b) extends the upper disqualifying limit for full-time students from twenty-one to twenty-five years of age, within the definition of 'child' in Schedule 1. This standardises the definition of a student child under Commonwealth compensation legislation with that applicable under the Social Services Act.

Sub-clause 3(2) provides transitional arrangements where a student child becomes eligible for compensation by virtue of paragraph 3(1)(b) but the death or incapacity which created the entitlement occurred before the commencement of this section.

Amendments relating to amounts of compensation

4. (1) The Principal Act is amended as set out in the Schedule.

(2) Where, immediately before the commencement of this section, a person was receiving, or was entitled to receive, weekly payments in accordance with the Principal Act, he is, after that commencement, entitled to receive weekly payments in accordance with the Principal Act as amended by this section.

(3) Where, immediately before the commencement of this section, weekly payments in accordance with the Principal Act would have been payable to a seaman in respect of an injury or disease but for the fact that he was not then incapacitated for work or but for the operation of clause (2) (b) (ii) or paragraph (4) or (4A) of Schedule 1 to that Act, and, after that commencement, he becomes incapacitated for work as a result of the injury or disease or that clause or that paragraph ceases to have effect in relation to him, weekly payments in respect of that injury or disease shall be in accordance with the Principal Act as amended by this section.

(4) Where, after the commencement of this section, death results from an injury or disease in respect of which compensation was payable before that commencement under the Principal Act, compensation shall be paid in respect of that death in accordance with the Principal Act as amended by this section.

(5) Where weekly payments that, by virtue of sub-section (2), have become payable in respect of a child in accordance with clause (1) (a) (i) of Schedule 1 to the Principal Act as amended by this section cease to be so payable, any additional amount of compensation payable in respect of that child shall be payable in accordance with that Act as so amended.

(6) Where, immediately before the commencement of this section a seaman was receiving, was entitled to receive or, but for the operation of clause (2) (b) (ii) or paragraph (4) or (4A) of Schedule 1 to the Principal Act, would have been entitled to receive, weekly payments in accordance with that Schedule in respect of an injury or injuries or a disease, the provisions of section 50 of the Principal Act as amended by this section apply in relation to the injury, injuries or disease.

SCHEDULE

Section 4

AMENDMENTS RELATING TO AMOUNTS OF COMPENSATION

Provision	Amendment
Sub-section 5a (1) ..	Omit " \$25,000 ", substitute " \$28,000 or such higher amount as is prescribed "
Sub-section 5a (1A) ..	Omit " specified in the last preceding sub-section ", substitute " specified in sub-section (1) or, if an amount is prescribed for the purposes of that sub-section, of the amount so prescribed "
Sub-section 5b (1) ..	Omit " \$25,000 ", substitute " \$28,000 or such higher amount as is prescribed "
In Schedule 1—	
Clause (1) (a) (i) ..	(a) Omit " \$25,000 ", substitute " \$28,000 or such higher amount as is prescribed "; (b) Omit " \$10 ", substitute " \$11.25 or such higher amount as is prescribed "
Clause (1) (a) (iii) ..	Omit " \$650 ", substitute " \$730 or such higher amount as is prescribed "
Sub-paragraph (1) (b) ..	Omit " the sum of \$90 and, in addition, the sum of -- ", substitute " \$90 or such higher amount as is prescribed, and, in addition -- "
Clause (1) (b) (i) ..	Omit " \$21 ", substitute " \$23.60, or such higher amount as is prescribed "
Clause (1) (b) (ii) ..	Omit " \$10 ", substitute " \$11.25, or such higher amount as is prescribed "
Clause (1) (c) (i) ..	Omit the clause, substitute the following clause: " (i) of— (A) the amount (if any) by which the weekly amount that he is earning, or is able to earn in some suitable employment or business, after the injury is less than his weekly pay at the date of the injury; or (B) \$90 or such higher amount as is prescribed, whichever is the less; or "
Paragraph (10A) ..	(a) Omit " \$1,000 " (first occurring), substitute " \$1,125 or such higher amount as is prescribed "; (b) Omit " \$1,000 " (last occurring), substitute " \$1,125 or, if an amount is prescribed for the purposes of this paragraph, between that aggregate amount and the amount so prescribed "
In Schedule 3—	
Heading to Part I	Omit " SPECIFIED ", substitute " REFERRED TO "
Heading to Part II	Omit " SPECIFIED ", substitute " REFERRED TO "

CLAUSE 4AMENDMENTS RELATING TO AMOUNTS OF COMPENSATION

Clause 4 provides for the Principal Act to be amended as set out in the Schedule, and for the amendments to operate in the case of certain pre-existing injury.

The amendments provide for increased rates of benefit as follows:

- . Sub-section 5B(1): lump-sum compensation payable for injuries specified in Part 1 of Schedule 3, when the injury results in incapacity other than total and permanent incapacity for work, is increased from \$25,000 to \$28,000.
- . Sub-section 5B(1AA): lump-sum compensation payable for injuries specified in Part II of Schedule 3 is increased to the appropriate percentages, as specified in Part II, of \$28,000 instead of \$25,000.
- . Sub-section 5D(1): the maximum amount of compensation payable in respect of injury or injuries caused by any one accident, where those injuries did not result in death or total and permanent incapacity for work is increased from \$25,000 to \$28,000.

In Schedule 1

- . Clause 1(a)(i): the basic lump sum payment in respect of death is increased from \$25,000 to \$28,000; the weekly payment for each dependent child of a deceased seaman is increased from \$10 to \$11.25.

- . Clause (1)(a)(iii): the maximum amount payable in respect of funeral expenses is increased from \$650 to \$730.

- . Sub-paragraph (1)(b): the basic weekly payment for total incapacity for work is increased from \$80 to \$90.

- . Clause (1)(b)(i): the weekly payment for a dependent spouse of a totally incapacitated seaman is increased from \$21 to \$23.60.

- . Clause (1)(b)(ii): the weekly payment for each dependent child of a totally incapacitated seaman is increased from \$10 to \$11.25.

NOTE The Schedule includes the term "or such other higher amount as is prescribed" after each of the amounts specified above. This will allow future increases to be implemented by statutory rules.

Transitional arrangements are as follows:-

- . Sub-clause 4(2) establishes that, where a person was entitled to compensation before 1 September 1979, he will be entitled to compensation at the increased rates after this date.

- . Sub-clause 4(3) provides that, where weekly payments, though not payable prior to 1 September 1979, become payable after this date, the payments are to be made at the increased rates.

- . Sub-clause 4(4) provides that where a seaman, suffering an injury or disease before 1 September 1979, dies on or after this date, compensation payable to his dependants shall be at the increased rate.

- . Sub-clause 4(5) provides that, where weekly payments in respect of the deceased's child cease to be payable on or after 1 September 1979, the increased minimum total rate of payment applies.

- . Sub-clause 4(6) provides that the increased maximum compensation for injury or injuries, caused by any one accident, not resulting in death or total and permanent incapacity, shall apply on and from 1 September 1979.