

SEAMEN'S COMPENSATION.

No. 99 of 1959.

An Act to amend the *Seamen's Compensation Act 1911-1954.*

[Assented to 4th December, 1959.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Seamen's Compensation Act 1959.* Short title and citation.

(2.) The *Seamen's Compensation Act 1911-1954** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Seamen's Compensation Act 1911-1959.*

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3. Section five A of the Principal Act is amended by omitting from sub-section (1.) the words "Two hundred pounds" (wherever occurring) and inserting in their stead the words "Three hundred and fifty pounds". Medical benefits.

4. Section five D of the Principal Act is amended by omitting from sub-section (1.) the words "Two thousand three hundred and fifty pounds" and inserting in their stead the words "Three thousand pounds". Maximum compensation.

5.—(1.) Section six of the Principal Act is amended by adding at the end thereof the following sub-section:— Time for taking proceedings.

"(6.) In the application of this section, in accordance with section five C, and sub-section (3.) of section three, of this Act, in

* Act No. 13, 1911, as amended by No. 56, 1938; No. 18, 1947; No. 7, 1949; No. 10, 1953; and No. 16, 1954.

relation to a claim in respect of a seaman who is suffering from a disease or whose death has been caused by a disease—

(a) notice of the accident shall be deemed to have been given in accordance with the provisions of sub-section (1.) of this section if notice of the contracting of the disease was given to the employer—

- (i) in the case of a claim arising out of the death of the seaman caused by the disease—as soon as practicable after his death; or
- (ii) in any other case—as soon as practicable after the seaman first became aware that he was suffering from the disease or, if he died without having become so aware, as soon as practicable after his death;

a claim for compensation shall be deemed to have been made within the period required by sub-section (1.) of this section if the claim was made—

- (i) in the case of a claim arising out of the death of the seaman caused by the disease—within six months after news of the death was received by the claimant; or
- (ii) in any other case—within six months after the seaman first became aware that he was suffering from the disease or, if he died without having become so aware, within six months after his death;

(c) paragraph (a) of the proviso to sub-section (1.) of this section shall not apply;

(d) a notice shall, for the purposes of sub-section (2.) of this section, be deemed to contain the date at which the accident happened if it specifies the date at which, or period during which, the seaman contracted the disease;

(e) a notice referred to in sub-section (2.) of this section shall be deemed to have been duly served if it was served, in accordance with this section, on the employer by whom the seaman was employed in employment to the nature of which the disease was due or, if he was so employed by more than one employer, on the employer by whom he was last so employed; and

- (f) a notice or claim shall be deemed to have been duly served in accordance with the last preceding subsection if it was served on the master of the ship on which the seaman was engaged in employment to the nature of which the disease was due or, if he was so engaged on more than one ship, on the master of the ship on which he was last so engaged.”.

(2.) The application of section six of the Principal Act as amended by this Act extends in relation to proceedings for the recovery of compensation arising out of a disease contracted before the commencement of this Act, except that—

- (a) if notice of the accident was not or is not given within the time allowed by that section, the notice shall nevertheless be deemed to have been so given if it is given as soon as practicable after the commencement of this Act; and
- (b) if a claim for compensation was not or is not made within the time allowed by that section, the claim shall nevertheless be deemed to have been so made if it is made within six months after the commencement of this Act.

6.—(1.) Section eleven of the Principal Act is repealed and the following section inserted in its stead:—

“ 11.—(1.) Where—

- (a) an injured seaman has been discharged from a ship at a port outside Australia or has been left on shore at such a port;
- (b) depositions as to the circumstances and nature of the injury have been taken—
- (i) if the port is in a Commonwealth country or in the Republic of Ireland—before a judge or magistrate; or
- (ii) if the port is in any other country—before a diplomatic or consular representative of Australia or before a diplomatic or consular representative of the United Kingdom; and
- (c) the depositions have been transmitted to the Minister, or a copy of the depositions certified by the person who took the depositions to be a true copy has been transmitted to the Minister,

Depositions
where injured
seaman left
overseas.

the depositions are admissible, and a true copy of the depositions is admissible, in evidence in proceedings for compensation under this Act.

“(2.) A certificate signed by the Minister certifying—

- (a) that depositions duly taken in accordance with this section have been transmitted to the Minister, or that a copy of depositions so taken, being a copy certified by the person who took the depositions to be a true copy, has been transmitted to the Minister; and
- (b) that a document annexed to the certificate is, or is a true copy of, the depositions,

is evidence of the matters stated in the certificate.

“(3.) In this section—

‘Commonwealth country’ has the same meaning as in the *Navigation Act 1912–1958*;

‘diplomatic or consular office’ means any of the following offices:—

- (a) Ambassador;
- (b) Minister;
- (c) Head of a Mission;
- (d) Chargé d’Affaires;
- (e) Counsellor, Secretary or Attaché of an Embassy, Legation or other post;
- (f) Consul-General;
- (g) Consul;
- (h) Vice-Consul;
- (i) Pro-Consul; and
- (j) Consular Agent;

‘diplomatic or consular representative of Australia’ means a person appointed to hold or act in a diplomatic or consular office of the Commonwealth in a country or place outside Australia;

‘diplomatic or consular representative of the United Kingdom’ means a person appointed to hold or act in a diplomatic or consular office of the United Kingdom in a country or place outside the United Kingdom.”.

(2.) Notwithstanding the repeal of section eleven of the Principal Act, depositions taken under that section before the commencement of this Act, or certified copies of such depositions, are admissible in evidence in proceedings for compensation under the Principal Act as amended by this Act.

7. Section thirteen of the Principal Act is amended by omitting from sub-section (1.) the words "Trade and Customs" and inserting in their stead the words "Customs and Excise".

Detention of ship.

8. Section fourteen of the Principal Act is amended by omitting sub-section (2.).

Medical referees.

9. The First Schedule to the Principal Act is amended—

First Schedule.

- (a) by omitting from clause (i) of sub-paragraph (a) of paragraph (1.) the words "Two thousand three hundred and fifty pounds" and inserting in their stead the words "Three thousand pounds";
- (b) by omitting from clause (ii) of sub-paragraph (a) of paragraph (1.) the words "injury to the said dependants" and inserting in their stead the words "loss to the dependants resulting from the cessation of the earnings of the seaman";
- (c) by omitting from sub-paragraph (b) of paragraph (1.) the words "Eight pounds fifteen shillings" and inserting in their stead the words "Ten pounds";
- (d) by omitting from clause (i) of sub-paragraph (b) of paragraph (1.) the words "Two pounds five shillings" and inserting in their stead the words "Two pounds ten shillings";
- (e) by omitting from clause (ii) of sub-paragraph (b) of paragraph (1.) the words "One pound" and inserting in their stead the words "One pound two shillings and sixpence";
- (f) by omitting from clause (i) of sub-paragraph (c) of paragraph (1.) the words "Eight pounds fifteen shillings" and inserting in their stead the words "Ten pounds";
- (g) by omitting from clause (iii) of sub-paragraph (b) of paragraph (2.) the words "Six pounds ten shillings" and "Eight pounds fifteen shillings" and inserting in their stead the words "Seven pounds five shillings" and "Ten pounds", respectively; and
- (h) by inserting in paragraph (5.), after the word "accident", the words "or has made a claim for compensation under this Act for an injury".

Third Schedule. 10. The Third Schedule to the Principal Act is repealed and the following Schedule inserted in its stead:—

THIRD SCHEDULE.

Section 5a.

COMPENSATION FOR SPECIFIED INJURIES.

Nature of Injury.	Amount Payable.	
	£	s. d.
Loss of both eyes	3,000	0 0
Loss of an only useful eye, the other being blind or absent ..	3,000	0 0
Loss of one eye, with serious diminution of the sight of the other ..	2,250	0 0
Loss of one eye	1,200	0 0
Loss of hearing	2,100	0 0
Complete deafness of one ear	600	0 0
Loss of both hands	3,000	0 0
Loss of right arm or greater part of right arm	2,400	0 0
Loss of left arm or greater part of left arm	2,160	0 0
Loss of lower part of right arm, right hand or five fingers of right hand	2,100	0 0
Loss of lower part of left arm, left hand or five fingers of left hand ..	1,890	0 0
Loss of right thumb	900	0 0
Loss of left thumb	810	0 0
Loss of right forefinger	600	0 0
Loss of left forefinger	540	0 0
Loss of right middle finger	480	0 0
Loss of left middle finger	450	0 0
Loss of right ring finger	420	0 0
Loss of left ring finger	390	0 0
Loss of right little finger	390	0 0
Loss of left little finger	360	0 0
Loss of total movement of joint of right thumb	420	0 0
Loss of total movement of joint of left thumb	390	0 0
Loss of distal phalanx or joint of right thumb	480	0 0
Loss of distal phalanx or joint of left thumb	450	0 0
Loss of portion of terminal segment of right thumb involving one-third of its flexor surface without loss of distal phalanx or joint ..	420	0 0
Loss of portion of terminal segment of left thumb involving one-third of its flexor surface without loss of distal phalanx or joint ..	390	0 0
Loss of two phalanges or joints of right forefinger	360	0 0
Loss of two phalanges or joints of left forefinger	330	0 0
Loss of two phalanges or joints of right middle or ring finger ..	330	0 0
Loss of two phalanges or joints of left middle or ring finger ..	300	0 0
Loss of two phalanges or joints of right little finger	300	0 0
Loss of two phalanges or joints of left little finger	270	0 0
Loss of distal phalanx or joint of right forefinger	300	0 0
Loss of distal phalanx or joint of left forefinger	270	0 0
Loss of distal phalanx or joint of other finger of right hand ..	240	0 0
Loss of distal phalanx or joint of other finger of left hand ..	216	0 0
Loss of hand and foot	3,000	0 0
Loss of both feet	3,000	0 0
Loss of leg above knee	2,250	0 0
Loss of leg below knee	1,950	0 0
Loss of foot	1,800	0 0
Loss of great toe	600	0 0
Loss of any other toe	240	0 0
Loss of two phalanges or joints of any other toe	192	0 0
Loss of phalanx or joint of great toe	300	0 0
Loss of phalanx or joint of any other toe	180	0 0

11.—(1.) Where, immediately before the date of commencement of this Act, a person was receiving, or was entitled to receive, weekly payments in accordance with the First Schedule to the Principal Act, he is, from and including that date, entitled to receive weekly payments in accordance with the Principal Act as amended by this Act.

Adjustment of
weekly
payments under
Principal Act.

(2.) Where, before the date of commencement of this Act, a seaman sustained an injury or contracted a disease in respect of which weekly payments in accordance with the First Schedule to the Principal Act would have been payable immediately before that date but for the fact that he was not then incapacitated for work, and on or after that date he becomes incapacitated for work as a result of the injury or disease, weekly payments in respect of that incapacity shall be in accordance with the Principal Act as amended by this Act.

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

(4.) Where, immediately before the date of commencement of this Act, a seaman was receiving, or was entitled to receive, weekly payments in accordance with the First Schedule to the Principal Act in respect of an injury or injuries sustained or a disease contracted before that date, the provisions of section five D of the Principal Act as amended by this Act apply in relation to the injury, injuries or disease.

(5.) Where, before the date of commencement of this Act, a seaman suffered an accident or contracted a disease—

- (a) which, on or after that date, results in an injury specified in the Third Schedule to the Principal Act as amended by this Act; and
- (b) in respect of which compensation would have been payable under section five B of the Principal Act if the injury had resulted before that date,

the amount of compensation payable in respect of the injury is, subject to section five B of the Principal Act as amended by this Act, the amount specified in the second column of the Third Schedule to the Principal Act as amended by this Act opposite the reference to the injury in the first column.