

## WORKERS' COMPENSATION AMENDMENT BILL

### EXPLANATORY NOTE

THIS Bill amends the Workers' Compensation Act 1956.

*Clause 1* relates to the Short Title.

*Clause 2* re-enacts in an amended form section 16 of the principal Act, which relates to the permanent incapacity of a worker injured while under 21 years of age or while still undergoing training. If in such a case the worker returns to work apparently fit but later, after he has attained 21 years of age or completed his training, suffers a recurrence of the injury or disease which temporarily incapacitates him, his compensation in respect of the later incapacity is based upon the wages he was receiving at the time of the original incapacity and not upon the wages he was receiving at the time of the recurrence.

The new section 16 now includes a provision that in such a case the compensation payable in respect of the subsequent period of incapacity is to be based on the worker's wages at the time of the recurrence.

*Clause 3* extends from one month to two months the period after 1 April in each year within which an employer must deliver to an authorised insurer a statement of wages paid to his workers during the previous year ended 31 March.

*Clause 4:* By section 120A of the principal Act, an employer who in his return of wages paid understates the amount of wages is liable to a penalty of 10 per cent of the premiums payable in respect of the amount by which those wages are understated. The Workers' Compensation Board may in special cases increase this penalty up to an amount not exceeding 50 per cent of the unpaid premiums.

This clause extends that provision, and applies it to cases where employees have not made any return of wages at all.

*Clause 5* repeals section 130 of the principal Act, which provides that compensation and damages payable for injury to a worker in a mine, building, factory, or ship will be an equitable charge on the employer's interest in the mine, building, factory, or ship.

The section is to be repealed as being unnecessary, in view of the fact that insurance of the employer's liability is compulsory and of the provision that the Workers' Compensation Board will automatically indemnify uninsured employers. In the cases where employers are exempted from the compulsory insurance provisions, their financial standing is such that the equitable charge is unnecessary.

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*Hon. Mr Shand*

## WORKERS' COMPENSATION AMENDMENT

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### ANALYSIS

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| 1. Short Title   |   |
| 2. Compensation for incapacity when worker under twenty-one, etc.        | 4. Wages not stated or understated by employer                                  |
| 3. Statements of wages to be delivered by employer to authorised insurer | 5. Repealing provisions as to compensation and damages for injury in mine, etc. |
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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, as follows:

1. **Short Title**—This Act may be cited as the Workers' Compensation Amendment Act 1964, and shall be read together with and deemed part of the Workers' Compensation Act 1956\* (hereinafter referred to as the principal Act).
- 10 2. **Compensation for incapacity when worker under twenty-one, etc.**—The principal Act is hereby amended by repealing section 16, and substituting the following section:  
“16. (1) This section shall apply to the following workers, namely:

\*1957 Reprint, Vol. 16, p. 799  
Amendments: 1958, No. 104; 1959, No. 89; 1960, No. 111; 1962, No. 123; 1963, No. 48

- “(a) A worker under the age of twenty-one years:  
 “(b) An apprentice under the Apprentices Act 1948:  
 “(c) An apprentice or improver under an award or industrial agreement:  
 “(d) A worker employed under a contract of service under 5  
 which he is expressly required to undergo any  
 training, instruction, or examination for the pur-  
 pose of becoming qualified for the occupation to  
 which the contract of service relates.

“(2) Notwithstanding anything to the contrary in section 14 10  
 or section 15 of this Act, when an accident happens to a  
 worker to whom this section applies, and his incapacity,  
 whether total or partial, is permanent, his weekly earnings  
 shall be deemed to be the weekly sum which, if he had not  
 suffered the incapacity, he would probably have been able to 15  
 earn after he had attained the age of twenty-one years, or  
 had completed his apprenticeship, or had ceased to be an  
 improver, or had become qualified as aforesaid, as the case  
 may be, and his loss of earnings (if any) shall be deemed  
 to be the amount by which that sum exceeds the weekly sum 20  
 which he will probably be able to earn after attaining the  
 age of twenty-one years, or on the completion of his appren-  
 ticeship, or on ceasing to be an improver, or on becoming  
 qualified, as aforesaid.

“(3) Notwithstanding anything to the contrary in sec- 25  
 tion 14 or section 15 of this Act, when an accident happens  
 to a worker to whom this section applies, then in respect of  
 any period of temporary incapacity, whether total or partial,  
 occurring after he has attained the age of twenty-one years, or  
 has completed his apprenticeship, or has ceased to be an 30  
 improver, or has become qualified as aforesaid, as the case  
 may be, his weekly earnings shall be deemed to be a full  
 working-week's earnings (exclusive of any payment for over-  
 time) at the ordinary rate of pay for the work in which the  
 worker was employed at the commencement of that period of 35  
 temporary incapacity.”

**3. Statements of wages to be delivered by employer to authorised insurer**—Section 85 of the principal Act is hereby amended by omitting from subsection (3) the words “one month”, and substituting the words “two months”.

**4. Wages not stated or understated by employer**—Section 120A of the principal Act (as inserted by section 22 of the Workers' Compensation Amendment Act 1962) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where any person fails to deliver a statement to an authorised insurer as required by section 85 or section 89 of this Act, or in a statement delivered by him as required by either of those sections understates the amount of wages paid by him during any period, he shall be liable, without conviction, to a penalty of an amount equal to ten per cent of the amount of the premium payable in respect of the amount of the wages not returned or, as the case may be, of the amount by which the wages were understated (the amount of that premium being in this section referred to as the deficient premium):

“Provided that, if the Board considers that having regard to all the circumstances of the case a penalty of an amount equal to ten per cent of the deficient premium would be inadequate, it may fix a penalty of a greater amount, not exceeding fifty per cent of the amount of the deficient premium.”

**5. Repealing provisions as to compensation and damages for injury in mine, etc.**—(1) The principal Act is hereby amended by repealing section 130.

(2) Section 97 of the principal Act is hereby amended by omitting from subsection (5) all the words after the words “the claim and the proceedings concerned”.