

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, the 20th day of November 1973

ACCIDENT COMPENSATION AMENDMENT (NO. 2) BILL

Proposed Amendments

Hon. Mr WATT, in Committee, to move the following amendments:

Clause 1, subclause (2): To omit from line 11 on page 2 the expression "and 53 to 56", and substitute the expression "53, 54, 55, and 56".

Clause 3, subclause (2): To omit the subclause.

Clause 3, subclause (5): To add the following subsection:

"(11) So far as personal injury by accident suffered by any person or persons having cover under this Act in respect thereof necessitates treatment of the injured person or persons by a dentist, unless the context otherwise requires, any reference in this Act to—

"(a) A medical practitioner includes a dentist:

"(b) A medical certificate includes a certificate by a dentist:

"(c) A medical committee includes a committee that comprises or includes dentists:

"(d) A medical referee includes a dental referee:

"(e) The term 'medical', in relation to any treatment, attention, attendance, assistance, examination, condition, report, evidence, officers, problems, benefits, and matters, includes dental."

Clause 37: To insert in subsection (2) of the new section 102b, after paragraph (c), the following paragraph:

"(ca) All amounts paid by the Commission under section 179A (2) of this Act in respect of compensation and rehabilitation assistance:

Clause 42: To add the following subsection as subsection (2):

(2) Section 110 of the principal Act is hereby further amended by repealing paragraph (a) of subsection (2), and substituting the following paragraph:

"(a) In the case of natural teeth,—

"(i) If the damage resulted from the use of the teeth; or

"(ii) To the extent that the damage was attributed to their deteriorated condition; or".

Clause 43, subclause (1): To omit the substituted subsection (4c), which appears on page 40, and substitute the following subsection:

“(4c) Notwithstanding the provisions of subsection (4) of this section, in any case where an employee suffers personal injury by accident and would be entitled to earnings related compensation under the provisions of this section for any loss of earning capacity as an employee which he would have suffered by reason of the injury for any period if no earnings as an employee (other than earnings for time worked by him for his employer during that period) were paid to him by his employer for that period, and his employer desires or is obliged to pay to him any earnings as an employee for that period in excess of his earnings for time worked by him for that employer (if any) during that period, the Commission may, at its sole discretion and subject to such terms and conditions as it may think fit to impose, reimburse the employer for any portion of the earnings as an employee (in excess of earnings for time worked, if any) so paid for that period which the Commission considers to be appropriate in the circumstances, and to the extent that such reimbursement is made the Commission shall be relieved and discharged from any liability to pay earnings related compensation to the employee for that period:

“Provided that the amount so reimbursed shall not in any circumstances exceed the amount of earnings related compensation that would have been payable for the period if no earnings as an employee had been paid to him for the period.

New clause 51A: To insert, after clause 51, the following new clause:

51A. Particulars of claims—(1) Section 146 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to any regulations made under this Act, in any case where a claim for rehabilitation assistance or compensation is made under this Act, the claim shall be made in a form approved by the Commission; and the claimant, and any other person from whom the Commission may require evidence under subsection (3) of this section, shall supply or cause to be supplied to the agent of the Commission through whom the claim is made such further information relevant to the claim and the entitlement or continued entitlement to rehabilitation assistance or compensation as the Commission may require.”

(2) Section 146 of the principal Act is hereby further amended by inserting in subsection (4), after the word “claimant” where it first appears in that subsection, the words “or other person from whom the Commission may require evidence under subsection (3) of this section”.

Clause 53: To insert in line 42 on page 48, after the expression “section 5”, the expression “, or under section 179A,”.

New clause 55A: To insert, after clause 55, the following new clause:

55A. Ex gratia payments—The principal Act is hereby amended by inserting, after section 179, the following section:

"179A. (1) In any case where a person suffers personal injury by accident, or dies as a result of personal injury so suffered, and—

"(a) The accident happens in New Zealand and the person does not have cover under this Act in respect of the injury; or

"(b) Notwithstanding that the person has cover under this Act in respect of the injury, the Commission is satisfied that there are such special circumstances as to make it reasonable and proper that *ex gratia* provision should be made additional to any compensation or rehabilitation assistance that would otherwise be available,—

"the Commission may, subject to the prior approval of the Minister of Finance, pay and provide, on an *ex gratia* basis, compensation and rehabilitation assistance on such terms and conditions and of such amount and nature as, having regard to all the circumstances of the case, it considers appropriate.

"(2) Any compensation or any amounts in respect of rehabilitation assistance paid under the provisions of this section shall be charged to the Supplementary Compensation Fund.

"(3) Notwithstanding anything to the contrary in this Act, no application for review or appeal under the provisions of Part VII of this Act may be made, nor shall any other remedy be available, in respect of any decision of the Commission under or in relation to this section."

New clause 57A: To insert, after clause 57, the following new clause:

57A. Second Schedule amended—(1) The Second Schedule to the principal Act is hereby amended by omitting the words "Spinal Disability" where they appear as a subheading, and substituting the words "Spinal Disability and Other Disabilities".

(2) The Second Schedule to the principal Act is hereby further amended by adding the following item:

"8. *Total Loss of Natural Permanent Teeth*

"1. Anterior Teeth

Loss of 1, 2, or 3 teeth .....	.....	.....	.....	4
Loss of 4, 5, or 6 teeth .....	.....	.....	.....	5
Loss of 7 to 12 teeth .....	.....	.....	.....	6

"2. Posterior Teeth

Loss of 1 tooth .....	.....	.....	.....	1
Loss of 2 to 5 teeth .....	.....	.....	.....	2
Loss of 6 to 16 teeth .....	.....	.....	.....	4"

EXPLANATORY NOTE

Clause 1: The amendment is consequential on the new *clause 55A* which is not to come into force upon the passing of the Bill.

Clause 3, subclause (2): The effect of the amendment is to omit from the Bill the definition of the term "personal injury by accident".

Clause 3, subclause (5): This adds an additional subsection to section 2 of the principal Act providing that in specified contexts where injury necessitates treatment by a dentist the term "medical" includes dental.

Clause 37: This amendment is consequential on the new *clause 55A*, and provides that *ex gratia* payments to be made under the new section 179A shall be charged to the Supplementary Compensation Fund.

Clause 42: The amendment provides for the rewriting of section 110 (2) (a) of the principal Act so as to clarify the extent of entitlement to compensation for damage to natural teeth where the damage is partly attributable to their deteriorated condition.

Clause 43: The amendment is designed to clarify the authority of the Commission to reimburse an employer who keeps an injured employee on pay after the first week of incapacity.

New clause 51A: The amendment rewrites section 146 (1) of the principal Act so as to give the Commission a discretion to approve forms, and to specify the information it requires to support claims.

Clause 53 is consequential on the new *clause 55A*. It inserts a cross reference to the new section 179A which relates to *ex gratia* payments, and thus excludes any right of review or appeal where the Commission refuses to make an *ex gratia* payment.

New clause 55A: This inserts a new section 179A in the principal Act authorising the Commission to make *ex gratia* payments in cases where the injured person does not have cover, or where the Commission is satisfied that there are such special circumstances as to make it reasonable and proper that *ex gratia* provision should be made additional to any compensation or rehabilitation assistance that would otherwise be available.

New clause 57A: This amends the Second Schedule to the principal Act so as to specify the compensation payable for total loss of any natural permanent teeth.
