

Bill No. 7 of 1960

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No. 130

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WORKMEN'S COMPENSATION (AMENDMENT) BILL, 1960. ARRANGEMENT OF SECTIONS.

Section

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A BILL

Intituled

AN ORDINANCE TO AMEND THE WORKMEN'S COMPENSATION ORDINANCE.

Enacted by the Legislature of British Guiana :—

1. (1) This Ordinance may be cited as the Workmen's Compensation (Amendment) Ordinance, 1960, and shall be construed and read with the Workmen's Compensation Ordinance, hereinafter referred to as the Principal Ordinance, and any Ordinance amending the same.

Short title and commencement
Cap. 111.

(2) This Ordinance shall come into operation on such day as the Governor may, by order published in the Gazette, appoint.

2. Subsection (1) of section 2 of the Principal Ordinance is hereby amended —

Amendment of section 2(1) of Chapter 111.

(a) by the insertion before the definition of the expression "dependant" of the following definition—

"adult" means a person who is of the age of eighteen years or upwards; ;

(b) by the insertion after the definition of the expression "member of a family" of the following definition —

"minor" means a person who is above the age of fourteen and has not attained the age of eighteen years; ; and

(c) by the repeal of paragraph (a) of the proviso to the definition of the expression "workman" and the substitution therefor of the following paragraph —

"(a) any person employed otherwise than by way of manual labour whose remuneration for the period of twelve months immediately preceding the month in which the accident occurred exceeded twenty-seven hundred dollars or such sum as may from time to time be fixed by order made by the Governor in Council; "

3. (1) Subsection (1) of section 8 of the Principal Ordinance is hereby amended —

Amendment of section 8 of Chapter 111.

(a) by the substitution for the words "eighteen" and "thirty-six" in sub-paragraph (i) of paragraph (a) of the words "twenty-seven" and "fifty-four" respectively;

(b) by the substitution for the words "twenty-eight hundred and eighty" and "fifty-seven hundred and sixty" in sub-paragraph (i) of paragraph (b) of the words "forty-three hundred and twenty" and "eighty-six hundred and forty" respectively;

(c) by the substitution for the words "twenty-eight hundred and eighty" and "fifty-seven hundred and sixty" in sub-paragraph (ii) of paragraph (b) of the words "forty-three hundred and twenty" and "eighty-six hundred and forty" respectively;

(d) by the substitution for the word "fifty" in sub-paragraph (i) of paragraph (d) of the word "seventy-five";

(e) by the repeal of sub-paragraph (ii) of paragraph (d) and the substitution therefor of the following sub-paragraph —

“(ii) where the workman’s wages exceed seventy-five dollars per month but do not exceed one hundred and fifteen dollars per month, seventy-five **per centum** of the full wages of a month, with a minimum of seventy-five dollars;”;

- (f) by the insertion after the word “hundred” in sub-paragraph (iii) of paragraph (d) of the words “and fifty” and by the substitution for the words “seventy-five” and “fifty-seven” in the said sub-paragraph of the words “one hundred and fifteen” and “eighty-seven” respectively;
- (g) by the insertion after the word “hundred” in sub-paragraph (iv) of paragraph (d) of the words “and fifty” and by the substitution for the word “sixty-seven” in the said sub-paragraph of the words “one hundred”;
- (h) by the repeal of the proviso to paragraph (d).

(2) Subsection (3) of section 8 of the Principal Ordinance is hereby repealed and the following substituted therefor —

“(3) In fixing the amount of any compensation or benefit, not being a periodic payment or a payment made under section 6 or 38 of this Ordinance, which the workman may have received from the employer after the date of the accident.”

(3) Subsection (4) of section 8 of the Principal Ordinance is hereby amended by the deletion of the words “or is able to earn” and by the addition thereto of the following proviso —

“Provided that if during such period the workman refuses to work in any suitable employment or business which is available at the time of such refusal, his earnings shall, for the purposes of this subsection, be deemed to be equal to the wages payable for such work so long as the incapacity would not prevent him from doing such work and he is not actually earning more than the amount of such wages.”

Amendment of section 11(2) of Chapter 111.

4. Subsection (2) of section 11 of the Principal Ordinance is hereby amended by the insertion after the word “entitled” of the words “and no deduction from such lump sum shall be allowed by reason of his receipt of compensation by way of the periodic payment prior to such conversion”.

Amendment of section 12 of Chapter 111.

5. Section 12 of the Principal Ordinance is hereby amended —

- (a) by the repeal of paragraphs (1) and (2) and the substitution therefor of the following —
 - “(1) where the workman has returned to work during the period of incapacity;
 - (2) where the workman’s earnings during the period of incapacity have been increased;”;

and

- (b) by the deletion of the words “or partially” in paragraph (3) and by the insertion after the word “accident”, in the said paragraph of the words “or, in respect of a workman who has during the period of incapacity refused to work in any suitable employment or business which was available at the time of such refusal, that the incapacity would not prevent him from doing such work,”.

Amendment of section 13(5) of Chapter 111.

6. Subsection (5) of section 13 of the Principal Ordinance is hereby amended by the substitution for the words “thirty-eight dollars and forty cents” of the words “fifty dollars”.

Amendment of section 38 of Chapter 111.

7. Section 38 of the Principal Ordinance is hereby amended by renumbering subsection (2) as subsection (3) and by the insertion after subsection (1) of the following subsection —

“(2) Where an interim order is made under the preceding subsection for the payment of such compensation as is provided by this Ordinance in the case of temporary incapacity and the workman’s incapacity is at any time thereafter ascertained to be permanent, no deduction from the lump sum payable to the workman shall be allowed by reason of his receipt of any such compensation.”

Amendment of section 43 of Chapter 111.

8. Section 43 of the Principal Ordinance is hereby amended —

- (a) by the substitution for the words “a magistrate” in subsection (1) of the words “the Commissioner of Labour”; and

- (b) by the substitution for the words "the magistrate", wherever they occur in subsection (2), of the words "the Commissioner of Labour".

9. The provisions of the Principal Ordinance, and any Ordinance amending the same shall, if applicable thereto, continue to apply in the case of any accident happening prior to the commencement of this Ordinance as if this Ordinance had not been enacted. Savings.

OBJECTS AND REASONS.

This Bill seeks to implement certain recommendations for amendment of the Workmen's Compensation Ordinance made by the Workmen's Compensation Advisory Committee, which was appointed by the Governor in Council, and to effect certain other amendments to the Ordinance which are considered desirable.

2. Section 8 (1) of the Workmen's Compensation Ordinance prescribes different rates of compensation for permanent incapacity arising out of injuries sustained by adults and minors in the course of their employment. Clause 2 of this Bill seeks to define adults as persons who are above the age of eighteen years and minors as persons under that age but above the age of fourteen years.

3. Section 2 (1) of the Ordinance excludes all persons whose remuneration exceeds eighteen hundred dollars a year from the benefit of the rights to compensation conferred upon workmen. In view of the average increase in wages within recent years, and the comparatively high wages which may be earned by manual workers exposed to the possibility of injury in the course of their employment, clause 2 of this Bill seeks to raise the limit from eighteen hundred to twenty-seven hundred dollars; for the sake of certainty and ease of calculation, to fix that limit with reference to remuneration earned during the period of twelve months immediately preceding the month in which the accident occurred; and to entitle manual workers to the benefit of the Ordinance regardless of the amount of remuneration earned by them.

4. Also in view of the average increase in wages within recent years, clause 3 (1) of this Bill seeks to raise all the rates of compensation prescribed by the Ordinance.

5. The proviso to section 8 (1) (d) of the Ordinance provides that, in order to qualify for the receipt of a periodic payment of compensation for temporary incapacity in respect of the first three days of his incapacity, a workman must be incapacitated for at least twelve days. Clause 3 (1) of this Bill also seeks to repeal the proviso to section 8 (1) (d) of the Ordinance, and thereby to entitle a workman to a periodic payment for the entire period of any temporary incapacity in respect of which compensation is payable under the Ordinance, if the incapacity lasts three days, as provided by paragraph (a) of the proviso to section 3 (1) of the Ordinance.

6. Section 8 (3) of the Workmen's Compensation Ordinance provides that any payment, allowance or benefit received by the workman from his employer after the accident shall be taken into account in assessing compensation. The effect of this provision is that where a workman's incapacity is found to be permanent, or where he dies of his injuries the lump sum payment of compensation is reduced by the amount of compensation previously received by way of periodic payment. It is, however, considered that the lump sum should not be so reduced. Where a workman's incapacity is found to be permanent, it is felt that he should be entitled to compensation in relation to his future incapacity to work, regardless of any compensation previously paid to him on the basis that his incapacity was merely temporary or during a period of uncertainty as to the degree of his incapacity. Where a workman dies of his injuries it is felt that his dependants should be entitled to compensation on the basis that they should be in the same position financially as if the workman had died immediately after receiving the injuries. Clauses 3 (2), 4 and 7 of this Bill seek to make provisions accordingly.

7. Section 8 (4) of the Ordinance provides that no periodic payment of compensation shall exceed the difference between the wages of the workman prior to the accident and such wages as he is able to earn

after the accident in a suitable employment. An employer may therefore, as a result of the latter provision, reduce a periodic payment if the workman is only partially recovered, although he may not be able to find suitable employment by reason of his continuing partial incapacity. Clause 3(3) of this Bill seeks to amend section 8(4) so as to provide, in effect, that a periodic payment of compensation may not be reduced on the ground of partial recovery, unless the workman has refused suitable and available employment which his continuing incapacity would not prevent him from accepting. In view of this proposed amendment, clause 5 of the Bill seeks to make consequential amendments to section 12 of the Ordinance.

8. Section 13(5) of the Ordinance empowers the court to deduct an amount not exceeding thirty-eight dollars and forty cents from the compensation payable in respect of the death of a workman and to pay such amount to the person by whom the expenses of the workman's funeral were incurred. In view of the current rates of charges for funerals, clause 6 of this Bill seeks to increase this amount to fifty dollars.

9. Section 43 of the Ordinance provides that if the workman and the employer are unable to agree as to the condition of the workman, the question may be resolved, on application to a magistrate, by reference to a medical referee. It is considered that this procedure would be shortened if the application in that behalf were made to the Commissioner of Labour instead of to a magistrate and clause 8 of this Bill seeks to provide accordingly.

10. Clause 9 of this Bill seeks to limit the application of the above amendments to cases where the accident occurs after the amendments have been effected lest employers or insurers be unfairly prejudiced in their arrangements to discharge liabilities for compensation previously incurred under the Ordinance.

JANET JAGAN,
Minister of Labour, Health and Housing.

(M.P. L. 56/9/T IX).
(Leg. Bill 7/1960).