

No. 11 of 1973

AN ORDINANCE

To amend the *Workmen's Compensation Ordinance 1951-1972*.

THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1972*.

Dated this second day of April, 1973.

PAUL HASLUCK
Governor-General.

By His Excellency's Command,

KEP ENDERBY
Minister of State for the Capital Territory.

WORKMEN'S COMPENSATION ORDINANCE 1973

1. (1) This Ordinance may be cited as the *Workmen's Compensation Ordinance 1973*.*

Short title
and citation.

(2) The *Workmen's Compensation Ordinance 1951-1972*† is in this Ordinance referred to as the Principal Ordinance.

(3) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Workmen's Compensation Ordinance 1951-1973*.

2. Section 6 of the Principal Ordinance is amended by inserting after the definition of "outworker" the following definition:—

Interpre-
tation.

" 'overtime' includes—

- (a) any duty on shifts or on Saturdays, Sundays or other holidays; and
- (b) excess travelling time;"

3. Section 26 of the Principal Ordinance is amended—

Appeals.

- (a) by omitting from sub-section (1) all the words from and including the words " , on a question of law " to the end of the sub-section and substituting the words "to the Supreme Court"; and

* Notified in the *Commonwealth Gazette* on 5 April 1973.

† Ordinance No. 2, 1951, as amended by No. 4, 1952; No. 12, 1954; No. 1, 1956; Nos. 12, 20 and 21, 1959; No. 8, 1961; No. 10, 1962; No. 6, 1965; No. 44, 1967; No. 19, 1968; Nos. 7, 13 and 18, 1969; No. 26, 1970; No. 15, 1971; and Nos. 35 and 38, 1972.

- (b) by omitting sub-sections (1A) and (2) and substituting the following sub-section:—

“(2) The provisions of Division 2 of Part XI of the *Court of Petty Sessions Ordinance 1930-1972* apply to and in relation to an appeal under sub-section (1) as they apply to and in relation to an appeal from an order of the kind referred to in paragraph (h) of section 208 of that Ordinance and, in the application of those provisions to and in relation to an appeal from a decision given, or an order or award made, by a Committee, the decision, order or award of the Committee shall be deemed to be a decision, order or award of the Court.”.

First
Schedule.

4. The First Schedule to the Principal Ordinance is amended—

- (a) by omitting clause (iii) of sub-paragraph (a) of paragraph 1 and substituting the following clause:—

“(iii) such sum, not exceeding Three hundred dollars, on account of the expenses of the workman's funeral as is reasonable;”;

- (b) by omitting from sub-clause (2) of clause (i) of sub-paragraph (b) of that paragraph the word “and”;

- (c) by adding at the end of sub-paragraph (b) of that paragraph the following sub-paragraph:—

“(iii) where the prescribed amount applicable to the workman in respect of a week, being one of the first twenty-six weeks of the period, or of the aggregate of the periods, of the incapacity, exceeds an amount calculated by adding to the sum of Forty-three dollars the amount or amounts (if any) payable to the workman under sub-paragraphs (i) and (ii)—the amount of the excess; and ”; and

- (d) by inserting after paragraph 1 the following paragraphs:—

“ 1A. For the purposes of sub-paragraph (b) of paragraph 1, the prescribed amount applicable to a workman in respect of a week is—

- (a) in the case of a workman who is, during that week, employed under conditions of employment providing for sick leave payments—an amount equal to the sick leave payment that he would receive in respect of that week if, during that week, he were entitled to, and were granted, sick leave on full pay by reason of an illness that is not attributable to an injury in relation to which this Ordinance applies; or
- (b) in any other case—an amount equal to the amount of the earnings that would, but for the injury, be payable to the workman in respect of that week.

“ 1B. For the purposes of paragraph 1A—

- (a) a workman who would be, or would have been, employed but for his incapacity shall be taken to be employed or to have been employed, as the case may be;
- (b) a reference to a sick leave payment is a reference to a payment by way of salary, wages or pay in respect of a period during which the workman concerned is absent from his employment by reason of illness; and
- (c) a reference to earnings, in relation to a workman—
 - (i) includes a reference to the earnings that would be, or would have been, payable to the workman but for his incapacity; and
 - (ii) does not include a reference to a payment in respect of overtime or a reference to an allowance that is intermittent or is payable in respect of special expenses incurred or likely to be incurred by the workman in respect of his employment.”.

5. The amendments made by sections 2 and 4 apply only to and in relation to a person who becomes entitled to compensation for total incapacity that results from an injury that occurred, or a disease that was contracted, on or after the date of commencement of this Ordinance.

Application
of sections 2
and 4.

6. (1) A policy of insurance against liability under the Principal Ordinance, in force immediately before the commencement of this Ordinance, has effect during the unexpired balance of the currency of the policy as if it applied to liability under the Principal Ordinance as amended by this Ordinance.

Existing
policies of
insurance.

(2) An employer to whom such a policy has been issued is liable to pay to the insurer, in respect of the additional liability which he may incur as a result of the amendments to the Principal Ordinance effected by this Ordinance, additional premium for the period of the unexpired balance of the currency of the policy, being additional premium equal to the difference between the premium for that period at the rate of premium payable under the policy and the premium for that period at the rate that would have been payable if the policy had been issued, for the purposes of the Principal Ordinance as amended by this Ordinance, upon the date of commencement of this Ordinance.

(3) Where an insurer under a policy of insurance effected before the commencement of this Ordinance would have been liable, if this Ordinance had not been made, to indemnify a person against his liability under the Principal Ordinance arising out of an injury sustained or a disease contracted before the commencement of this Ordinance, the insurer is liable to indemnify the person against liability under the Principal Ordinance, as amended by this Ordinance, arising out of the injury or the contracting of the disease.