CHAPTER 47.

An Act to provide for the payment of supplementary allowances to workmen entitled to weekly payments by way of compensation under the Workmen's Compensation Act, 1925, and for purposes connected therewith.

[8th August 1940.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Supplementary allowances to workmen entitled to weekly payments. 15 & 16 Geo. 5. c. 84.

1.—(1) Subject as hereinafter provided, where any workman is at any time while this Act is in force entitled to a weekly payment by way of compensation under the Workmen's Compensation Act, 1925 (which Act, as amended by any subsequent enactment, is referred to in this Act as " the principal Act "), he shall, whether the accident giving rise to the compensation happened before or after the commencement of this Act, be entitled, in respect of each week after the commencement of this Act in respect of which he is entitled to the weekly payment, to—

(*a*) a supplementary allowance at a rate not exceeding five shillings a week; and

(*b*) in the case of a male workman who has children under the age of fifteen years, a supplementary allowance in respect of each such child at a

rate not exceeding four shillings a week for the eldest or only child under that age and for the second child under that age, and not exceeding three shillings a week for any additional child under that age.

(2) Where the weekly payment is in respect of total incapacity or equals the amount which would be payable to the workman in the case of total incapacity resulting from the injury, any such allowance shall be the maximum allowance specified in the foregoing subsection, and in any other case shall bear the same proportion to the maximum allowance as the weekly payment bears to the amount of the weekly payment which would be payable to the workman in the case of total incapacity:

Provided that the total amount of the supplementary allowances payable in respect of any weekly payment shall not exceed such sum as would, together with the said weekly payment, amount—

(*a*) in the case of total incapacity, to seven-eighths of the average weekly earnings of the workman before the accident, calculated in like manner as for the purpose of ascertaining the weekly payment; or

(*b*) in the case of partial incapacity, to seven-eighths of the difference between the amount of the said average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in some suitable employment or business after the accident.

Any reference in this subsection to the average weekly earnings of the workman before the accident shall be construed, in a case where the amount of the weekly payment is increased as a result of a review under subsection (2) of section eleven of the principal Act, as a reference to the weekly sum which he would probably have been earning at the date of the review if he had remained uninjured.

(3) The supplementary allowances shall be deemed to be part of the said weekly payment for all purposes except—

(*a*) the calculation of the compensation payable in a case where death results from the injury;

(*b*) the provisions of section fifty-one of the National Health Insurance Act, 1936 (which limits the benefit payable under that Act in cases where compensation is payable under the principal Act); 26 Geo. 5. & 1 Edw. 8. c. 32.

and the allowances shall accordingly be payable by the employer liable to make the weekly payment:

Provided that the provisions relating to the redemption of weekly payments shall have effect subject to the modifications contained in the next following section of this Act.

(4) Any workman who is entitled while this Act is in force to two or more concurrent weekly payments shall be entitled to supplementary allowances in respect of each such weekly payment:

Provided that the aggregate of such allowances shall not exceed the maximum allowances respectively specified in paragraph (*a*) and paragraph (*b*) of subsection (1) of this section and where, but for this provision, the aggregate would exceed those maximum allowances and the weekly payments are not all payable by the same person, the several persons liable to make the weekly payments aforesaid shall only be liable to pay such allowances as bear to the said maximum allowances the same proportions as their respective weekly payments bear to the aggregate of the weekly payments.

(5) In this section the expression "child" means, in relation to a male workman entitled to a weekly payment,—

(*a*) any legitimate or illegitimate child born to him not later than nine months after the accident giving rise to compensation;

(*b*) any stepchild, being a legitimate child whose mother was married to him before the accident; and

(*c*) any child adopted before the accident by him, or by him and his wife jointly, in pursuance of an adoption order made under the Adoption of Children Act, 1926, or the Adoption of Children (Scotland) Act, 1930, or the Adoption of Children Act (Northern Ireland), 1929. 16 & 17 Geo. 5. c. 29. 20 & 21 Geo. 5. c. 37.

Provisions as to redemption.

2.—(1) Such of the provisions of section thirteen of the principal Act as relate to the method of calculating the lump sum for which a weekly payment may be redeemed, where the incapacity is permanent, shall not apply to the redemption of supplementary allowances, and the amount of the lump sum for which any such allowances may be redeemed shall, in default of agreement and subject to the following provisions of this section, in all cases be settled by arbitration under the principal Act.

(2) The representative committee, arbitrator or judge of a county court, to whom the settlement of the amount to be paid for the redemption of any supplementary allowances is referred, shall not proceed with the matter unless the committee, arbitrator or judge, as the case may be, is satisfied that, having regard to the circumstances of the case including the interests of any children in respect of whom allowances are payable, the allowances can properly be redeemed.

(3) The registrar of the county court to whom a memorandum of an agreement for the redemption of any supplementary allowances has been sent, shall, unless he is satisfied that, having regard to the circumstances of the case including the interests of any children in respect of whom allowances are payable, the allowances can properly be redeemed, refuse to record the memorandum and shall refer the matter to the judge who shall likewise refuse to record the memorandum unless he is satisfied as to the matter aforesaid:

Provided that this subsection shall not be taken as prejudicing any power of the registrar or judge under the principal Act to refuse to record any such memorandum as aforesaid.

(4) The representative committee shall not approve, for the purposes of any order made under section twenty-eight of the principal Act, any agreement for the redemption of any supplementary allowances, unless the committee is satisfied as to the matter aforesaid.

(5) Where for the purposes of any of the following enactments, that is to say—

(*a*) subsection (3) of section seven of the principal Act;

(*b*) sections seventy-eight and two hundred and sixty-four of the Companies Act, 1929; and 19 & 20 Geo. 5. c. 23.

(*c*) subsection (5) of section three of the Workmen's Compensation (Coal Mines) Act, 1934; 24 & 25 Geo. 5. c. 23.

it is necessary to ascertain the amount of the lump sum for which any weekly payment which includes supplementary allowances could be redeemed, those enactments shall have effect subject to the provisions of subsection (1) of this section, but the foregoing provisions of this section, other than subsection (1), shall not apply.

(6) Where any weekly payment is redeemed but not the supplementary allowances payable in respect thereof, those allowances shall continue to be payable as if the weekly payment had not been redeemed, and the provisions of the principal Act relating to reviews of weekly payments and periodical submission to medical examination and otherwise shall continue to apply for the purpose of ascertaining the amount which the weekly payment would have been at any time if it had not been redeemed, and of adjusting the supplementary allowances accordingly.

Requirements as to furnishing of information.

3.—(1) Any employer against whom a claim for supplementary allowances is made may by notice in writing require the workman to make a declaration in such form as may be prescribed by the Secretary of State and containing such information as may be necessary for the purposes of this Act as to any children in respect of whom allowances are claimed, and as to any other weekly payment by way of compensation under the principal Act, and any supplementary allowances payable in respect thereof, to which the workman is entitled, and any employer liable to pay supplementary allowances may by notice in writing require the workman to make, on any occasion on which the supplementary allowances are due, a declaration in such form as may be so prescribed containing such information as may be necessary to enable the employer to ascertain whether there has been any material change of circumstances; and if the workman, without reasonable cause, fails to make the declaration within a period of fourteen days from the service of any notice under this subsection, his right to the allowances shall be suspended as from the expiration of that period until the declaration is made,

and no allowances shall be payable in respect of the period of suspension.

(2) Any person who, for the purpose of obtaining a supplementary allowance for himself or any other person or of increasing the amount of any such allowance, knowingly makes any false statement or false representation, shall be liable, on summary conviction, to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment, and where any allowances have, in consequence of any such false statement or representation made in writing by the workman or with his knowledge, been paid in excess of the amounts to which the workman was entitled, the employer liable to pay the allowances shall, without prejudice to any other method of recovery, be entitled to deduct the amount of the excess from any future payments of allowances.

Proof of age and marriage.

4.—(1) Where for the purposes of this Act the age or marriage of any person is required to be ascertained or proved, any person shall—

(*a*) on presenting a written requisition in such form and containing such particulars as may be prescribed by the Minister of Health or, as respects Scotland, by the Secretary of State; and

(*b*) on payment of a fee, in the case of a birth certificate, of sixpence, and, in the case of a marriage certificate, of one shilling;

be entitled to obtain a certified copy of the entry of the birth or marriage, as the case may be, of the first-mentioned person in the register of births or marriages, as the case may be, under the hand of the registrar or superintendent registrar or other person having the custody thereof.

(2) Forms for such requisitions as aforesaid shall on request be supplied without any charge by every registrar of births and deaths, and by every superintendent registrar or other person having the custody of the register.

Provision with respect to certified schemes.

5.—(1) If it appears to the Registrar of Friendly Societies that any scheme duly certified by him under subsection (1) of section thirty-one of the principal Act no longer conforms to the conditions stated in that

subsection by reason of the provisions of this Act, he shall make such amendments of the scheme as may in his opinion be necessary to render the benefits thereunder, after discounting any additional benefits arising as the result of contributions by the workmen, not less favourable to the workmen than the benefits provided by the principal Act as amended by this Act.

(2) Where the Registrar has amended any such scheme, the amendments shall have effect as from the commencement of this Act, and the certificate given by the Registrar in respect of the scheme shall continue to apply to the amended scheme.

Provision with respect to schemes applying to workmen suffering from silicosis and certain other industrial diseases. 20 & 21 Geo. 5. c. 29.

6. This Act shall apply in relation to workmen entitled to compensation under any scheme made by the Secretary of State under the provisions of section forty-seven of the principal Act and of the Workmen's Compensation (Silicosis and Asbestosis) Act, 1930, subject to such adaptations, modifications and exceptions as may be contained in the scheme or in an amending scheme made under those provisions.

Consequential adaptation of Assurance Companies Act, 1909. 9 Edw. 7. c. 49.

7. The Board of Trade may by order make such adaptations and modifications of the Fourth, Sixth and Eighth Schedules to the Assurance Companies Act, 1909 (which contain certain forms of statement, rules and requirements relating to employer's liability insurance business) as appear to the Board to be necessary or expedient in consequence of the provisions of this Act.

Short title, construction, commencement and extent.

8.—(1) This Act may be cited as the Workmen's Compensation (Supplementary Allowances) Act, 1940, and shall be construed as one with the principal Act, and the Workmen's Compensation Acts, 1925 to 1938, and this Act may be cited together as the Workmen's Compensation Acts, 1925 to 1940.

(2) This Act shall come into operation on the nineteenth day of August nineteen hundred and forty.

(3) This Act shall not apply in any case where the accident happened before the first day of January nineteen hundred and twenty-four.

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FOR
SIR WILLIAM RICHARD CODLING, C.B., C.V.O., C.B.E., the King's Printer of Acts of Parliament