

WORKERS' COMPENSATION.13^o Elizabeth II., No. LXXXVIII.

 No. 88 of 1964.

AN ACT to amend the Workers' Compensation Act, 1912-1963.*[Assented to 14th December, 1964.]*

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Workers' Compensation Act Amendment Act, 1964.*

(2) In this Act the Workers' Compensation Act, 1912-1963 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the *Workers' Compensation Act, 1912-1964.*

Short title
and citation.

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Vol. 13 of the
Reprinted
Acts,
approved for
reprint
22nd May,
1958, and
further
amended by
Acts Nos. 66
of 1959, 81 of
1960, 63 of
1961 and
80 of 1963.

s. 7
amended.

2. Section seven of the principal Act is amended—

(a) by repealing subsection (1a) and substituting the following subsections—

(1a) Without limiting the generality of subsection (1), but subject to the succeeding provisions, of this section, a worker is deemed to have suffered personal injury by accident arising out of or in the course of his employment, where—

(a) the worker suffers a personal injury without any substantial default or wilful act, on his part, while he is travelling on any regular, daily or periodic journey—

(i) between his place of residence and place of employment or place of pick-up; or

(ii) between his place of residence or place of employment and any trade, technical or other training school that he is required, by the terms of his employment or as an apprentice, to attend;

and

(b) the injury arises out of, and in the course of, the journey, unless the injury is incurred during, or after, any substantial interruption of, or substantial deviation from, the journey, made for any reason unconnected with his employment or with his attendance at the trade, technical or other training school.

(1b) For the purposes of subsection (1a) of this section and notwithstanding any other provision of this Act, any injury to which a disease is a contributing factor, and any aggravation, acceleration, exacerbation, recurrence or recrudescence of any such injury or of any

pre-existing disease, is not, whether of sudden occurrence or of gradual development, a personal injury by accident.

(1c) For the purposes of subsection (1a) of this section, any housing, lodging or other residential accommodation that is—

(a) provided, whether under the contract of employment or otherwise, by the employer for the full time occupation of the worker;

or

(b) occupied by the worker, under an express or implied term of his employment,

is, while so provided or occupied, the place of residence, and the only place of residence, of the worker. ;

and

(b) as to subsection (3), by substituting for the words, "two thousand four hundred",—

(i) in the penultimate line of paragraph (a);

(ii) in line six of paragraph (f); and

(iii) in the penultimate line of paragraph (g),

the words, "three thousand five hundred", in every case.

3. Section eight of the principal Act is amended—

S. 8
amended.

(a) by substituting for the passage, commencing with the word, "Where", at the beginning of subsection (1) and ending with, "Act," at the end of paragraph (b) of that subsection, the passage,

"Where a worker is disabled from earning full wages by reason of suffering from, or his death is caused by, any disease, except pneumoconiosis, mentioned in the first column of the Third Schedule to this Act";

- (b) by substituting for the passage, "silicosis, pneumoconiosis or miner's phthisis", in lines three and four of subsection (1a), the word, "pneumoconiosis";
- (c) by substituting for subsection (1b) the following subsection—

(1b) Subsection (1a) of this section applies and shall be deemed always to have applied to every worker who, being disabled in the manner and circumstances therein provided (irrespective of when he was so disabled), is living at the date of the coming into operation of the Workers' Compensation Act Amendment Act, 1964. ;

- (d) by adding, after subsection (1b), the following subsections—

(1c) Where, after the coming into operation of the Workers' Compensation Act Amendment Act, 1964, a worker becomes disabled from earning full wages, by reason of suffering from chronic bronchitis in association with silicosis, and the latter of those diseases is, or was, due to the nature of his employment in the mining industry, he is deemed to be so disabled by pneumoconiosis and is entitled to compensation under the provisions of this Act; but a worker who, after receiving compensation pursuant to this subsection, is subsequently employed in the mining industry, whether by the same or any other employer, shall not be entitled to any further compensation or benefit, in respect of any period of incapacity due to pneumoconiosis of any kind or to the aggravation or acceleration of any such disease, arising from his subsequent employment in that industry.

(1d) Whenever a claim is made by a worker for compensation under subsection (1a) or (1c) of this section, the question of the worker's condition and

fitness for employment shall be referred, by the Registrar, to a medical board comprising—

- (a) the Mines Medical Officer, appointed under the Mine Workers' Relief Act, 1932;
- (b) a physician of the Department of Public Health, specialising in occupational diseases, nominated from time to time by the Commissioner of Public Health; and
- (c) a physician specialising in diseases of the chest, nominated, from time to time, by the Commissioner of Public Health;

and the question of the worker's condition and fitness for employment shall be determined by, or by a majority of, the Board whose determination shall be final, conclusive and binding on the worker, on his employer and on any tribunal hearing a matter in which any such determination is relevant. ;

- (e) by substituting for the passage, "silicosis, pneumoconiosis or miner's phthisis" in lines five and six of subsection (5), the word, "pneumoconiosis";
- (f) by substituting for paragraph (iii) of the proviso to subsection (5) the following paragraph—
 - (iii) if the disease is of such a nature as to be contracted by a gradual process, any other employers who during the said period of three years employed the worker in the employment to the nature of which the disease was due shall be liable to make to the employer from whom compensation is recoverable such contribution as, in default of agreement, may be determined in proceedings under this Act for settling the amount of the compensation. ;

- (g) by substituting for the passage, “proviso (i)”, in line one of subsection (5a), the words, “the proviso”;
- (h) as to subsection (13)—
 - (i) by substituting for the passage, “silicosis, pneumoconiosis, or miner’s phthisis”, in lines five and six, the word, “pneumoconiosis”; and
 - (ii) by substituting for the passage, “silicosis, pneumoconiosis, or miner’s phthisis, as the case may be”, at the end of the subsection, the word, “pneumoconiosis”;
- (i) as to subsection (14)—
 - (i) by substituting for the first paragraph, commencing at line one and ending at line eighteen, the following—

Notwithstanding any provisions of the Mine Workers’ Relief Act, 1932 or any other provisions of this Act, the compensation payable to a worker in respect of any period or periods of total or partial incapacity due, or deemed due, solely to pneumoconiosis, arising, or deemed to arise, out of or in the course of employment in a process, described in the second column of the Third Schedule to this Act as, any process entailing exposure to mineral dusts harmful to the lungs, or to that disease in combination with any other disease, shall not in any case exceed three thousand five hundred pounds; and the provisions of this subsection shall apply whether the period or periods of incapacity occur or result while the worker is employed by the same employer or by different, successive employers. ; and

- (ii) by substituting for the passage, commencing with, “1956,” in line four of paragraph (e), and ending

with the word, "silicosis", being the last word in the subsection, the passage—

"1956; or

- (f) of the sum of three thousand five hundred pounds prior to the coming into operation of the Workers' Compensation Act Amendment Act, 1964,

in respect of such period or periods of incapacity or, in the case of a worker whose disease has resulted in an injury also entitling him to compensation under the Second Schedule of this Act, of the appropriate maximum amount in respect of such period or periods of incapacity and such injury, and who is subsequently employed in a process, described in the second column of the Third Schedule to this Act as, any process entailing exposure to mineral dusts harmful to the lungs, whether by the same employer or by different, successive employers, shall not, in any circumstances, be entitled to further compensation or benefit, for any period of incapacity due to pneumoconiosis, or to the combination of that disease with any other disease, or to the aggravation or acceleration of pneumoconiosis or of that disease in combination with any other disease, arising or deemed to arise from his subsequent employment in any such process";

and

- (j) by deleting the passage, "the first proviso to regulation six (e) of", in lines five and six of paragraph (c) of subsection (16).

S. 11
amended.

5. Section eleven of the principal Act is amended—

- (a) by substituting for the words, “two thousand four hundred”, in line nine of subsection (1), the words, “three thousand five hundred”;
- (b) by substituting for the passage, “silicosis, pneumoconiosis or miner’s phthisis”, in lines four and five of subsection (2), the word, “pneumoconiosis”; and
- (c) by substituting for the words, “two thousand four hundred”, in lines eight and nine of subsection (3), the words, “three thousand five hundred”.

S. 25
amended.

6. Section twenty-five of the principal Act is amended by substituting for the passage, “governing body of the Australian Labour Party, Western Australian Branch.”, at the end of paragraph (b) of subsection (6), the passage, “body known as the Trades and Labor Council of Western Australia.”.

S. 30
amended.

7. Section thirty of the principal Act is amended by substituting for the interpretation, “rate”, in subsection (1a), the following interpretation—

“rate” means the premium rate to be charged for insurance by employers against liability under this Act in respect of pneumoconiosis arising out of or in the course of employment in a process described in the second column of the Third Schedule to this Act as, any process entailing exposure to mineral dusts harmful to the lungs; .

First
Schedule
amended.

8. The First Schedule to the principal Act is amended—

- (a) as to clause 1,—
 - (i) by substituting for the words, “three thousand”, in line three, and the word, “seventy-five”, in line four, of

subparagraph (i) of paragraph (a), the words, "three thousand five hundred" and "one hundred", respectively;

(ii) by deleting paragraph (iii) of paragraph (a) and inserting in lieu the following:—

(iii) if he leaves no dependants, the reasonable expenses of his medical attendance and burial, the cost of which may be awarded to and upon the application of any person by whom the expenses were properly incurred, or to whom the whole or any part of the expenses is owed.

(iii) by substituting for the passage, "silicosis, pneumoconiosis, or miner's phthisis", in lines five and six of the proviso to paragraph (b), the word, "pneumoconiosis";

(iv) by substituting for the words, "two thousand four hundred", in line four of the final paragraph of the interpretation, "average weekly earnings", in paragraph (c), the words, "three thousand five hundred"; and

(v) by substituting for the words, "two hundred", in line twenty-one, and for the words, "three hundred and twenty-five", in line twenty-eight, of paragraph (c) of the proviso to subparagraph (iii) of paragraph (c), the words, "two hundred and fifty", and "four hundred and twenty-five", respectively;

and

(b) as to clause 11, by substituting for the words, "two thousand seven hundred and fifty", in line five of paragraph (i), the words, "three thousand five hundred".

Second
Schedule
repealed and
re-enacted.

9. The principal Act is amended by repealing the Second Schedule and re-enacting it with amendments as follows—

SECOND SCHEDULE.

TABLE.

Nature of Injury.	Amount of Compensation Payable.
	£
Total loss of the sight of both eyes	3,500
Total loss of the sight of an only eye	3,500
Loss of both hands	3,500
Loss of both feet	3,500
Loss of a hand and a foot	3,500
Total and incurable loss of mental powers involving inability to work	3,500
Total and incurable paralysis of the limbs or of mental powers	3,500
	and in addition, when a medical practitioner certi- fies the injury to be total and incur- able paralysis of the limbs, an at- tendant's remun- eration at a rate not exceeding three pounds per week.
Total loss of the right arm or of the greater part of the right arm	2,800
Total loss of the left arm or of the greater part of the left arm	2,620
Total loss of the right hand or of five fingers of the right hand, or of the lower part of the right arm	2,450
Total loss of the same for the left hand and arm	2,270
Total loss of a leg	2,620
Total loss of a foot or the lower part of the leg	2,100
Total loss of the sight of one eye, together with the serious diminution of the sight of the other eye	2,620
Total loss of hearing	2,100
Partial deafness of both ears	Such percentage of £2,100 as is equal to the percentage of diminution of hearing.
Complete deafness of one ear	700
Total loss of the sight of one eye	1,400
Loss of binocular vision	1,400
Total loss of the thumb of the right hand	1,050
Total loss of the thumb of the left hand	910
Total loss of the forefinger of the right hand	700

Nature of Injury.	Amount of Compensation Payable.
	£
Total loss of the forefinger of the left hand	555
Total loss of a joint of the thumb	555
Total loss of the first joint of the forefinger of either hand	275
Total loss of the middle finger of the hand	415
Total loss of the little or ring finger of the hand	380
Total loss of the great toe of either foot	700
Total loss of a joint of the great toe of either foot	350
Total loss of any other toe or of a joint of a finger	205
Total loss of a joint of any other toe	65
Partial loss of the sight of both eyes	Such percentage of £3,500 as is equal to the percentage of the diminution of sight measured without the aid of a correcting lens.
Partial loss of the sight of one eye	Such percentage of £1,400 as is equal to the percentage of the diminution of sight measured without the aid of a correcting lens.

10. The Third Schedule to the principal Act is amended—

Third
Schedule
amended.

- (a) by substituting for those descriptions of diseases, in the first column, commencing with, “*Trade spasms and cramps”, and ending with, “*Dermatitis”, the description, “*Pneumoconiosis”;
- (b) by deleting the bracket embracing the descriptions of diseases first mentioned in paragraph (a) of this section; and
- (c) by substituting for the description of process, “Mining, or quarrying, or stone crushing or cutting, or stone or metal screening”, in the second column, the description, “Any process entailing exposure to mineral dusts harmful to the lungs”, so as to appear directly opposite the description of disease, “*Pneumoconiosis”.