

**WORKERS' COMPENSATION.**

9° Elizabeth II., No. LXXXI.

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 No. 81 of 1960.
 

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**AN ACT to amend the Workers' Compensation Act, 1912-1959.***[Assented to 12th December, 1960.]*

**B**E 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, 1960.*

Short title  
and citation.

(2) In this Act the Workers' Compensation Act, 1912-1959, is referred to as the principal Act.

Vol. 13 of the  
Reprinted  
Acts,  
approved for  
reprint  
22nd May,  
1958, and  
amended by  
Act No. 66  
of 1959.

(3) The principal Act as amended by this Act may be cited as the Workers' Compensation Act, 1912-1960.

Commence-  
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

S. 4  
amended.

3. Section four of the principal Act is amended—

(a) by inserting at the end of paragraph (a) of subsection (5) the following proviso:—

Provided that where any of the amounts, payments and benefits and the specific sums, representing the maximum entitlement of the worker or the maximum liability of an employer, are, subsequent to the coming into operation of the Workers' Compensation Act Amendment Act, 1954, amended by any amending Act, such amounts, payments, benefits or specific sums shall be subject only to any increase or decrease in proportion to any alteration in the male basic wage as declared by the Court of Arbitration after, but not before the coming into operation of such amending Act.

(b) by inserting after the passage, "paragraph (d)" in line two of paragraph (c) of subsection (5), the passage, "of the proviso to paragraph (c)"; and

(c) by substituting for subsection (6) the following subsection:—

(6) The amendments to subsection (5) of this section, enacted by the Workers' Compensation Act Amendment Act, 1959, are, notwithstanding any other provision of that Act, deemed to have come into operation on the twenty-ninth day of January, one thousand nine hundred and sixty.

S. 8  
amended.

4. Section eight of the principal Act is amended—

(a) by inserting, after the word, "diseases", where it occurs in line three and again in line eight of subsection (1), the passage, " , except silicosis, pneumoconiosis and miner's phthisis," in each case;

- (b) by adding after subsection (1) the following subsection:—

(1a) Where a worker is disabled from earning full wages by reason of suffering from, or his death is caused by, silicosis, pneumoconiosis or miner's phthisis and the disease is, or was, due to the nature of any employment in which the worker was employed at any time previous to the date of the disablement, he, or in the case of his death his dependants, shall be entitled to compensation in accordance with this Act, if it is shown to the satisfaction of the Board that, since he was last employed in the State in any employment of that nature, the worker—

(a) has not been absent from the State for a period of, or periods aggregating, more than six months; or

(b) having been absent from the State for a period of, or periods aggregating, more than six months, has not during that period or those periods been employed in any employment of that nature. ;

- (c) by substituting for the first paragraph of subsection (5), commencing with the word, "The" and ending with the word, "due", the following paragraph:—

The compensation shall be recoverable from the employer who last employed the worker during the period of three years mentioned in subsection (1) of this section or, in the case of silicosis, pneumoconiosis or miner's phthisis, who last employed the worker, in the employment to the nature of which the disease is, or was, due. ;

- (d) by inserting after the word, "years", in line twenty-one of the proviso to subsection (5) the passage, "or where the disease is silicosis, pneumoconiosis or miner's phthisis and the worker is not at the date of disablement employed in the mining industry but was previously so employed then during any prior period commencing on the date three years prior to the date on which the worker ceased to be employed in the mining industry." ;
- (e) by adding, after subsection (5), the following subsection:—

(5a) The reference in proviso (i) to subsection (5) of this section to "the said period of three years" shall, in the case of silicosis, pneumoconiosis or miner's phthisis, be read and construed as a reference to the period of three years prior to the worker being last employed in the employment to the nature of which the disease is, or was, due. ;

and

- (f) by substituting for subsection (7) the following subsection:—

(7) The employer to whom notice of the disablement is to be given is the employer from whom compensation is recoverable under subsection (5) of this section, and that notice may be given notwithstanding that the worker has voluntarily left the employment of that employer.

S. 12  
amended.

5. Section twelve of the principal Act is amended by adding after subsection (5) the following subsection:—

(6) A person who fraudulently attempts to obtain any benefit under this Act, by malingering or by making any false claim or statement, and any person who, by a false statement or other means, aids or abets a person in that attempt, is guilty of an offence.

6. Section thirteen of the principal Act is amended— S. 13  
amended.

- (a) by adding, after the word, "section", being the last word in subsection (2), the following passage—

but if an incorporated insurance office, having been approved under the provisions of this subsection—

- (a) fails or refuses to comply with the requirements of this Act or of the regulations; or  
(b) so requests,

then, in any such, but no other, case, the Minister may revoke or suspend, and thereafter withhold, his approval of that office ;

- (b) by substituting for the passage commencing with the word, "Where", being the first word in the subsection, and ending with the word, "employees" in line eleven of subsection (3), the passage, "An employer obliged by this section to effect or renew a policy of insurance or indemnity shall, on applying to an incorporated insurance office, for that purpose, furnish to that office an estimate, made to the best of that employer's knowledge, information and belief, of the aggregate amount of wages to be paid to the employer's workers over the period for which the policy is to be effected or renewed; and shall forthwith after the termination of that period furnish a statement of the aggregate amount of those wages paid in fact and shall include in that statement";

- (c) by substituting for paragraph (a) of subsection (4) the following paragraph:—

(a) Any incorporated insurance office which has received the approval of the Minister under the provisions of this section shall, unless permitted by the

Board to refuse insurance, or the continuance of insurance, of that liability, wholly or in part, insure any employer requesting it, for the full amount of the liability of the employer to pay compensation under this Act to all workers employed by him. ;

- (d) by deleting paragraph (d) of subsection (4); and
- (e) by adding, after subsection (6), the following subsection:—

(7) The Governor may prescribe the form in which any policy of insurance made obligatory under this Act is to be effected and, upon a form being so prescribed, any policy in respect of which it is prescribed shall, insofar as it relates to insurance or indemnity, under this Act, be effected, or, in the case of an existing policy, renewed in that form.

S. 16  
repealed.

7. The principal Act is amended by repealing section sixteen.

S. 27  
amended.

8. Section twenty-seven of the principal Act is amended by—

- (a) deleting from lines eight and nine of paragraph (b) of subsection (1) the words, "and is unable to pay that compensation.";
- (b) adding after subparagraph (ii) of paragraph (d) of subsection (5), the following subparagraph:—

(iii) Notwithstanding the provisions of subparagraph (ii) of this paragraph, the Board shall, after the coming into operation of the Workers' Compensation Act Amendment Act, 1960, estimate annually the amount to be levied in each succeeding year to make provision for the compensation mentioned in paragraph (b) of subsection (1) of this section.

9. Section twenty-nine of the principal Act is amended— S. 29  
amended.

(a) by substituting for subparagraph (xiii) of paragraph (a) of subsection (7), the following subparagraph—

(xiii) whether an insurer shall be permitted to—

- (I) refuse the insurance of an employer against all or any liability under this Act and, if so, upon what terms;
- (II) cancel a policy of insurance and, if so, upon what terms and, in any event, upon the term that the cancellation be effective as between the parties to the policy, irrespective of the terms of the policy and whether or not the policy was effected prior to the coming into operation of this item; or
- (III) declare a policy void or refuse payment of any claim which is, or might be, made thereunder, by reason that the employer, worker or any person has failed to comply with any term of the policy; ;

and

(b) by adding, after subsection (9), the following subsection:—

(9a) Where, pursuant to subsection (9) of this section, the Board has stated a case for the decision of the Full Court of the Supreme Court, the Board may, in its absolute discretion, indemnify the parties or any of them against the costs, or part of the costs, of any proceedings resulting from a case being so stated, and

any moneys payable to a party by reason of that indemnity shall be paid by the Board out of the Workers' Compensation Board Fund.

S. 30  
amended.

10. Section thirty of the principal Act is amended by substituting for the words, "the Manager" in line four of paragraph (a) of subsection (1) the words, "the General Manager."

First  
Schedule  
amended.

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

- (a) by substituting for the words, "shall be" in line fifty of subparagraph (iii) of paragraph (c) of clause one, the words, "shall not exceed";
  - (b) by adding after the word, "hundred" in line twenty-one of paragraph (c) of the proviso to paragraph (c) of clause one, the words, "and fifty";
  - (c) by substituting for the word, "one", in line twenty-eight of paragraph (c) of the proviso to paragraph (c) of clause one, the word, "two"; and
  - (d) by adding after the word, "proper", being the last word in clause three, the passage, "and, in assessing weekly payments, the wages or average weekly earnings of the worker shall be deemed to have been varied in accordance with any basic wage fluctuation, or any amendment of a relevant industrial award, which would have affected those wages or average weekly earnings."
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