

WORKERS' COMPENSATION.

25° GEO. V., No. XXXV.

No. 36 of 1934.**AN ACT to amend the Workers' Compensation Act,
1912-1924.**

[Assented to 4th January, 1935.]

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

1. This Act may be cited as the *Workers' Compensation Act Amendment Act*, 1934, and shall be read as one with the Workers' Compensation Act, 1912-1924, as reprinted in the Appendix to the Sessional Volume of the Statutes for the year 1927, hereinafter referred to as the principal Act. Short title.

2. Section seven of the principal Act is amended by inserting after subsection (13) a subsection as follows:— Amendment of s. 7.

(14) Where a worker at the time of his disablement within the meaning of this section— Certain workers not to benefit under this section.

(a) is or was employed or was last employed in, on, or about a mine within the meaning of the Mines Regulation Act, 1906; and

(b) the disease by which he is or was disabled is one of the diseases by reason whereof he would be liable, if found to be suffering from the same, to be prohibited under or by virtue of the regulations made under the Mines Regulation Act, 1906, from being employed, or from continuing to be employed, in, or, or about a mine within the meaning of the said Act; and

- (c) at the time of the disablement, was employed or was last employed in, on, or about a mine under the authority of a provisional certificate issued to him by a medical practitioner under the provisions of the first proviso to regulation six (e) of the regulations made under the Mines Regulation Act, 1906; and
- (d) at the time of or after the disablement is found upon examination by a medical officer or practitioner appointed under and for the purposes of the Mine Workers' Relief Act, 1932, or the Commonwealth Health Laboratory at Kalgoorlie to have been suffering from the disease by which he is or was disabled as aforesaid at the time when the said provisional certificate was issued to him as aforesaid, and such medical officer or practitioner or the officer in charge of the said Commonwealth Health Laboratory so certifies in writing,

then, notwithstanding that the disease by which the worker is or was disabled is one of the diseases mentioned in the first column of the Third Schedule to this Act liable to be contracted by the worker in the course of his employment in, on, or about a mine, and notwithstanding anything to the contrary contained elsewhere in this section, neither the worker nor any dependant of the worker shall be entitled to claim or recover any workers' compensation from any employer under or by virtue of the provisions of this section in respect of the said disablement.

Amendment of the
First Schedule.

3. The First Schedule to the principal Act is amended as follows:—

- (a) by adding to clause fourteen, after subclause (f), a further subclause, as follows:—
- (g) the provisions of this clause shall apply, so far as the same can be made applicable, to questions arising in respect of any injury mentioned in the Second or Third Schedule to this Act;
- (b) by inserting after clause fourteen a new clause, as follows:—

14A. (i) Where any question arises between a worker and his employer as to the worker's condition or fitness for employment, and the worker and his employer are unable by mutual agreement to deter-

mine such question between themselves, and the determination of such question is necessary for the purposes of this or the Second or Third Schedule to this Act, then the worker and the employer may at any time by mutual agreement, evidenced in writing, signed by both of them, refer such question and any other question incidental or ancillary thereto direct to a medical board appointed under and for the purposes of this Act for determination.

(ii) The decision of such medical board upon the question or questions referred as aforesaid shall be final and conclusive, and shall be binding upon the worker and the employer, and upon any court hearing any matter in which such decision is relevant.

(iii) Where the reference is made under this clause direct to a medical board, the employer shall make application in writing to the Registrar of Friendly Societies, and upon receipt of such application the regulations relating to the appointment and sitting of medical boards appointed under the authority of this Act, and to the determination of the questions referred to it, shall apply in the same manner as if the said application were an appeal from the decision of a medical referee to a medical board under and as provided for in clause fourteen of this Schedule.

(iv) The worker and the employer may agree between themselves which one of them shall bear and pay the costs and fees (other than the remuneration of the members of the Board) incurred by the reference under this clause. Failing any such agreement, the party against whom the decision lies shall bear and pay such costs and fees, and the person entitled to payment thereof may recover the same as a debt owing by such party in any court of competent jurisdiction.

(v) Clause twenty of this Schedule shall not apply to any agreement for a reference made or entered into between a worker and his employer under this clause.

4. The principal Act as amended by this Act may be cited as the Workers' Compensation Act, 1912-1934.

Citation of
principal Act
as amended.