WORKERS' COMPENSATION.

15° GEO. V., No. XL.

No. 40 of 1924.

AN ACT to amend the Workers' Compensation Act, 1912.

[Assented to 16th January, 1925.]

B 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, 1924, and shall come into operation on a date to be fixed by proclamation, and shall be read as one with the Workers' Compensation Act, 1912, hereinafter referred to as the principal Act.

2. (1.) It shall not be necessary to proclaim that the whole of this Act shall come into operation on one date, but the several sections and schedules may be proclaimed to come into operation on such dates as are respectively fixed by proclamation:

Provided that, notwithstanding that a date has been so fixed for the coming into operation of any section or schedule, such date may, at any time prior to that date, be postponed to such later date as is fixed by proclamation.

(2.) The Governor may, by such proclamation, limit the operation of section five, so far as it extends to the diseases mentioned in the first column of the Third Schedule set opposite the words "mining, or quarrying, or stone crushing or cutting" as the description of process, to any defined portion of the State; and may, by any subsequent proclamation, extend the operation as aforesaid of that section to any other defined portion of the State.

Short title and commencement.

Proclamation of Act in several sections.

3. Section four of the principal Act is amended as fol- Amendment of lows:---

- (1) By inserting after the word "upon" in the second line in the definition of "Dependents" the words "or wholly or in part supported by."
- (2) By inserting in the paragraph relating to "Tributers," after the word "year" in line four, the words "and any wages man employed by the tributer whose rate of remuneration does not exceed four hundred pounds per year," and by the insertion of the words "or wages man" after the word "tributer" in the sixth line. ۰ : :

4. Section six of the principal Act is hereby amended-- Amendment of

- (1) By deleting the word "and," in line two, and inserting in lieu thereof the word "or," and also by inserting after the word "employment," in line two, the words "or whilst the worker is acting under his employer's instructions."
- (2) By the repeal of paragraph (a) of subsection two, $\frac{5c}{5}$ 0. 1916-21. and the substitution for paragraph (a) of a paragraph as follows :---
 - (a) The employer shall be liable to pay compensation under this Act from the date of the accident:
- (3) By the repeal of subsection three, and the substitu- compensation to tion of a subsection as follows:----
 - (3) (a) Notwithstanding the provisions of the ^{3, 14} (c). First Schedule to this Act, the compensation payable for the injuries mentioned in the first column of the table set out in the Second Schedule to this Act shall be the amounts indicated in the second column thereof.

Nothing in the said table shall limit the amount of compensation payable for any such injury during any period of total incapacity resulting from that injury, but any sum so paid shall be deducted from the compensation payable in accordance with the said table.

in second schedule

1924.1

(b) For the purpose of the said table the expression "loss of" includes "permanent loss of the use of";

(c) For the purpose of the said table the expression "loss of" also includes the "permanent loss of the efficient use of," but in such case such percentage of the prescribed amount payable as is equal to the percentage of the diminution of the full efficient use, may be awarded, in lieu of the full amount.

(d) The provisions of this subsection are subject to the proviso that no worker shall in any case (including the case of a worker suffering by the same accident more than one of the injuries mentioned in the Second Schedule) be entitled to receive more than seven hundred and fifty pounds compensation in addition to payment of such expenses as are provided for in paragraph (d) of the proviso to section one of the First Schedule, which paragraph is hereby made applicable to workers entitled to compensation under this subsection.

5. A section is inserted in the principal Act as follows:---

6a. (1.) Where---

- (a) a worker is suffering from any of the diseases mentioned in the first column of the Third Schedule to this Act, and is thereby disabled from earning full wages at the work at which he was employed; or
- (b) the death of a worker is caused by any of the diseases mentioned in the first column of the Third Schedule to this Act;

and the disease is or was due to the nature of any employment in which the worker was employed at any time within twelve months previous to the date of the disablement, whether under one or more employers, the worker, or in the case of death his dependants, shall be entitled to compensation in accordance with this Act as if the disease were a personal injury by accident

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ice Q., 1916-21, . 144 and 148. I.S.W. 1916, No; 1, 3rd Sch. Vic. No. 2750, ssg 8-27.

Edw. VII., c. 58, 8, and 3rd Sch., nd order of Secreiry of State, 22 lay, 1907. within the meaning of section six, suffered by the worker at the place of his employment, and the provisions of this Act shall apply thereto accordingly, subject, however, to the provisions of this section.

(2.) The death of the worker shall, if there has been no previous period of incapacity in respect of which the employer is or has been liable under this section, be deemed to be the disablement.

(3.) The disablement shall be treated as the happening of an accident.

(4.) If it is proved that the worker has at the time of entering the employment wilfully and falsely represented himself in writing as not having previously suffered from the disease, compensation shall not be payable.

(5.) The compensation shall be recoverable from the employer who last employed the worker during the said period of twelve months in the employment to the nature of which the disease was due.

Provided that-

- (i) the worker or his dependants shall, if so required, furnish that employer with such information as to the names and addresses of all the other employers who employed him in the employment during the said period as he or they may possess.
- (ii) if that employer alleges that the disease was in fact contracted whilst the worker was in the employment of some other employer and not whilst in his employ, he may join such other employer as a party to the proceedings, and if the allegation is proved, that other employer shall be the employer from whom the compensation shall be recoverable; and
- (iii) if the disease is of such a nature as to be contracted by a gradual process, any other employers who during the said twelve months 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.

(6.) The amount of the compensation shall be calculated with reference to the earnings of the worker under the employer from whom the compensation is recoverable.

(7.) The employer to whom notice of the death or disablement is to be given shall be the employer who last employed the worker during the said twelve months in the employment to the nature of which the disease was due, and the notice may be given notwithstanding that the worker has voluntarily left his employment.

(8.) If the worker at or immediately before the disablement was employed in any process mentioned in the second column of the Third Schedule to this Act and produces a certificate from a duly qualified medical practitioner that the disease contracted is the disease or one of the diseases in the first column set opposite the description of the process, such disease shall be deemed to have been due to the nature of the employment unless the employer proves the contrary.

(9.) If an employer disputes the medical certificate as set out in subsection (8), the matter shall, in accordance with regulations under this Act, be referred to a medical referee.

(10.) The Governor may, by Order in Council published in the *Gazette*, declare that any other disease or disease and process shall be included in the Third Schedule to this Act.

Every such order shall on the expiration of three months from the date of such publication, or while in force, have the same effect as if the disease or disease and process named therein were inserted in the said schedule, and this section of this Act shall be read and construed accordingly.

Provided that before any such Order in Council is published in the *Gazette* it shall be laid before both Houses of Parliament; and if either House of Parliament passes a resolution disallowing any such Order in Council, of which resolution notice has been given at any time within fourteen sitting days of such House after the said Order in Council has been laid before it, such Order in Council shall thereupon cease to have effect.

(11.) A worker coming to Western Australia after the commencement of this section of this Act, and the dependents of such worker, shall not be entitled to benefit under this section in so far as it refers to pneumoconiosis and miner's phthisis, until he has lodged with the Registrar a certificate from a medical referee appointed under this Act certifying him to be free from pulmonary tuberculosis, pneumoconiosis, and miner's phthisis.

(12.) Nothing in this section shall affect the rights of a worker to recover compensation in respect of a disease to which this section does not apply if the disease is a personal injury by accident within the meaning of this Act.

6. A section is inserted in the principal Act as fol-Notification of lows:----

(1.) Every employer shall forthwith send written 6b. notice to the Registrar whenever it comes to his knowledge that any worker employed by him is suffering from a disease mentioned in the Third Schedule to this Act. and such notice shall state the name and address of the worker and the time when the disablement began.

Penalty: Fifty pounds.

Whenever a notice under this subsection relates to a disease mentioned in the Third Schedule and marked with an asterisk, it shall be the duty of the Registrar to forward a copy of the notice to the Commissioner of Public Health.

(2.) It shall be the duty of every medical practitioner who attends a patient suffering from a disease mentioned in the Third Schedule to this Act, and which he has reason to believe was contracted by reason of the nature of his employment, to notify in writing the Commissioner of Public Health of the case within fourteen days after such attendance on a patient.

Penalty: Fifty pounds.

(3.) Every employer shall forthwith send written notice to the Registrar whenever it comes to his knowledge that any worker employed by him has suffered personal injury by accident, within the meaning of section six, and such notice shall state the name and address of the worker and the time when, the nature of, and the cause of the accident.

Penalty: Fifty pounds.

No. 40.]

Amendment of Section 7,

- 7. Section seven of the principal Act is amended by-
 - (a) Deleting the words "and before the worker has voluntarily left the employment in which he was injured" in subsection (a).
 - (b) Deleting the word "six" in lines two and four of subsection (b), and substituting therefor the word "twelve."
 - (c) Inserting after the word "proceedings," in line three of proviso (b) the words "if it is shown that the employer has not been prejudiced in his defence by such failure or."

8. Section thirteen of the principal Act is amended by inserting after the word "referees," in line two, the words "or members of a medical board."

9. Section fourteen of the principal Act is repealed, and a section is inserted in place thereof as follows:----

14. From and after the commencement of this section, the provisions of this Act shall apply and have effect in all cases, notwithstanding any contract to the contrary heretofore or hereafter made or entered into.

10. Section fifteen of the principal Act is amended by the deletion of the words "subject to a scheme certified under section eight."

11. (1.) A section is inserted in the principal Act as follows:—

Sa. (1.) It shall be obligatory for every employer to obtain from an incorporated insurance office approved by the Minister a policy of insurance for the full amount of the liability to pay compensation under this Act to all workers employed by him.

Any employer who fails to comply with this section shall be liable to a penalty not exceeding five pounds in respect of each uninsured worker employed by him; and, after the date of any conviction for a contravention of this section, he shall from time to time be liable to further penalties not exceeding twenty pounds for every week during which he fails to comply with this section:

Provided that if an employer proves to the satisfaction of the Minister that such employer has established a fund for insurance against such liability, and has de-

Repeat of Section 14. Prohibition of contracting out. See 1912, No. 69, 5. 8 (1).

Amendment of Section 13.

Amendment of sec. 15.

Insurance obligatory. Q., 1916, No. 35, S. 8, Vic., 1914, No. 2750, S. 37.

posited at the Treasury securities charged with all payments to become due under such liability, the Governor may, by Order in Council, exempt such employer from the operation of this section.

(2.) Section eight of the principal Act is repealed.

12. (1.) Section eighteen of the principal Act is amended Amendment of sec. by inserting after the word "vessel," in line six, the words "or any other premises or property of an employer where an industry is carried on by him"; and by inserting after the word "vessel," in sub-paragraph (a) thereof, the words "premises or property"; and by inserting after the word "appertains," in sub-paragraph (b) thereof, the words "or on which the industry is carried on."

(2.) Section twenty-one of the principal Act is repealed. Repeal?of sec. 21.

Section one of the First Schedule to the principal Act Amendment of sec. 1 13. is amended as follows :----

- (1) In sub-paragraph (1) of paragraph (a) in the sixth line of the sub-paragraph the words "six hundred pounds" are substituted for the words "five hundred pounds";
- (2) By substituting for paragraph (b) a paragraph as follows :---
 - (b) When total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding fifty per centum of his average weekly earnings during the previous twelve months if the worker has been so long employed, but if not, then for any less period during which he has been in the employment of the same employer, together in either case with seven shillings and sixpence per week for each child under the age of sixteen years; such weekly payment not to exceed three pounds ten shillings, and the total liability of the employer in respect thereof not to exceed seven hundred and fifty pounds:
- (3) By the substituting for paragraph (a) of the proviso a paragraph as follows :----
 - (a) Where the amount of the average weekly earnings on which the weekly payment is to be assessed is thirty shillings or less,

the weekly payment shall be an amount equal to the average weekly earnings; and when the amount of the average weekly earnings on which the weekly payment is to be assessed exceeds thirty shillings, but is such that fifty per centum thereof would not equal thirty shillings, the weekly payment shall be thirty shillings;

- (4) By the deletion of paragraphs (b) and (c) of the proviso;
- (5) By the deletion of the words "but not exceeding one pound" in paragraph (d) of the proviso, and the insertion of the words "but not exceeding in the aggregate one hundred pounds" in place thereof, and by the insertion in that paragraph after the words "first aid" of the words "and ambulance or other service to carry the worker to a hospital or other place for treatment, and also including treatment by specialists when their services are found necessary," and by the insertion of the words "after the word "injury" in line four, and by the addition to the paragraph of the following words: "and in the case of death, funeral expenses not exceeding £20."
- (6) By inserting a paragraph as follows:—
 - (b) Where the remuneration of a worker consists of wages with board or board and lodging, the earnings of the worker shall, for the purposes of this Act, be deemed to be the amount of the wages with the addition of the value of such board or board and lodging to be assessed, but such board or board and lodging shall not be assessed at a sum exceeding thirty shillings per week.

. 14. Section fourteen of the First Schedule is amended by deleting the words "both parties," in line eight of paragraph (a), and substituting therefor the words "either party," and by inserting after the word "shall," in line four of paragraph (b), the words "(subject to an appeal to a medical board consisting of three members, which shall have jurisdiction to hear and determine such appeal)."

Amendment of sec-14 of First Schedule. 1924.1

15 Section twenty of the said First Schedule is hereby Amendment of src. amended by the insertion, after the word "agreement" in the third line, the words "or any agreement, whether purporting to be made under this Act or not, has been entered into whereby a worker agrees to compound for any claim or right to compensation under this Act."

A section is hereby inserted in the said First Schedule Insertion of new 16. after section twenty-one thereof, as follows:----

21a. From and after the commencement of this section, no agreement to which section twenty of this schedule is applicable shall be binding on or enforceable against the parties or admitted to be good or valid unless it is registered as provided in that section.

17. The Second Schedule to the principal Act is hereby Substitution of new Second Schedule. repealed, and a schedule is hereby substituted therefor as follows:---

> SECOND SCHEDULE. TABLE.

Amount Nature of Injury. Payable. £ s. d. Loss of both eyes 7500 n Loss of both hands 0 7500 Loss of both feet 750 Ĥ. 0 ł Loss of a hand and a foot 750 0 n Total and incurable loss of mental powers, involving inability to work 7500 0 ł Total and incurable paralysis of limbs or mental powers 7500 **n** Loss of either arm, or of the greater part thereof 6750 0 Loss of lower part of either arm, either hand, or five fingers of either hand 600 0 0 Loss of a leg 600 0 0 Loss of the lower part of a leg 562 10 0 Loss of a foot 525 0 0 Loss of one eye, with serious diminution of the sight of the other 675 0 0 *Loss of sight of one eye 375 0 0 Loss of hearing •••• 600 0 0 •••• | Complete deafness of one ear 200 0 0 Loss of a thumb | 2250 0 Loss of a forefinger 150 0 - 0 - - - - -.... Loss of part of a thumb 112 10 - 0 112 10 Loss of little finger, middle finger, or ring finger 0 Loss of a toe or the joint of a finger 90 - 0 0 Loss of a joint of a toe 75 0 n ****

* For the partial loss of the sight of one eye there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

20 of First Schedule.

section after sec. 21 of First Schedule.

See Q. 1916—21, 5.14C.

[1924.

Addition of Third Schedule.

18. A schedule is hereby added to the principal Act as follows:—

	Description of Disease.	Description of Process.
See N.S. W., 1946, No. 71 Third Schedule, V., No. 2750, Fifth Schedule, Q. 1916-21, s. 14A. See also Order of Secretary of State, 22 May, 1997, under 6 Edw. VII., c. 58.	*Arsenic, phosphorus, lead, mercury, or other mineral poisoning	Any employment involving the use or handling of arsenic, phosphorus, lead, mercury, or other mineral, or their preparations or com-
	*Anthrax	pounds. Wool-combing; wool-sorting; hand- ling of hides, skins, wool, hair, bristles or carcasses.
	Zymotic diseases	Medical officer, nurse, orderly, or other person employed in a hos- pital or quarantine station or in an ambulance brigade.
	*Poisoning by benzol or its nitro and amido derivatives (dinitro- benzol, anilin, and others)	Any process involving the use of a nitro or amido derivative of benzol, or its preparations or compounds.
N.S.W., 1016, No. 71, Third Schedule	*Poisoning by carbon bisulphide	Any process involving the use of carbon bisulphide or its prepara- tions or compounds.
	*Poisoning by nitrous fumes	Any process in which nitrous fumes are evolved.
	*Poisoning by cyanogen compounds	Any process in which cyanogen compounds are used.
	*Poisoning by carbon monoxide	Any process in which carbon mon- oxide is used, or evolved.
	*Chrome ulceration	Any process involving the use of chromic acid or bi-chromate of ammonium, potassium, or sodium, or their preparations.
	Eczematous ulceration of the skin produced by dust, or caustic or corrosive liquids, or ulceration of the mucous membrane of the nose or mouth produced by dust	Any industrial process.
	Epitheliomatous cancer or ulcera- tion of skin or of the corneal sur- face of the eye due to mineral oils, pitch, tar or tarry com- pounds."	Handling of mineral oils, pitch, tar or tarry compounds.
	Scrotal epithelioma (Chimney sweep's cancer).	Chimney sweeping.
	*Compressed air illness	Any process carried on in com- pressed air.

THIRD SCHEDULE.

Description of Disease.	Description of Process.	
 *Trade spasms and cramps. *Pneumoconiosis *Miner's phthisis *Ankylostomiasis *Nystagmus Subcutaneous cellulitis of the hand (beat hand) Subcutaneous cellulitis over the patella (miner's beat knee) Acute bursitis over the elbow (miner's beat elbow) Inflammation of the synovial lining of the wrist joint and tendon sheath *Dermatitis 	Mining, or quarrying, or stone crushing or cutting.	Q., 1916-21, sec. 14B. N.S.W., 1916, No. 71, Third Schedule.

THIRD SCHEDULE-continued.

19. The Third Schedule to the principal Act is amended Amendment of Third Schedule. by the deletion of the words "any distance," and such schedule shall be inserted as the Fourth Schedule. In section nine of the principal Act the words "Fourth Schedule" are substituted for "Third Schedule."

20. All copies of the principal Act to be hereafter printed Principal Act to be by the Government Printer shall be printed as amended by amended. this Act, under the superintendence of the Clerk of Parliaments, and references to the amending Acts shall be made in the margin.

In such reprint of the principal Act the sections may be renumbered in arithmetical order, and cross references adjusted, and the short title shall be "The Workers' Compensation Act, 1972-1924."