

WESTERN AUSTRALIA

**EMPLOYERS' INDEMNITY
SUPPLEMENTATION FUND
AMENDMENT ACT 1993**

No. 1 of 1993

AN ACT to amend the *Employers' Indemnity Supplementation Fund Act 1980* and to make consequential amendments to the *Workers' Compensation and Rehabilitation Act 1981*.

[Assented to 19 July 1993.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Employers' Indemnity Supplementation Fund Amendment Act 1993*.

Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.

Principal Act

3. In this Act the *Employers' Indemnity Supplementation Fund Act 1980** is referred to as the principal Act.

[* *Act No. 80 of 1980.*

*For subsequent amendments see 1992 Index to
Legislation of Western Australia, Table 1, pp. 66-7.]*

Section 3 amended

4. Section 3 of the principal Act is amended by deleting the definitions of "paragraph", "Part", "section", "subparagraph" and "subsection".

Section 6 amended and transitional provision

5. (1) Section 6 of the principal Act is amended —

(a) by deleting "Treasurer" and substituting the following —

" Commission "; and

(b) in paragraph (a) by deleting "the manner that moneys in the Public Bank Account may lawfully be invested under the Financial Administration and Audit Act 1985" and substituting the following —

" such manner as the Treasurer approves ".

(2) The Commission as defined in the principal Act may deal with investments made under section 6 of the principal Act before the commencement of this Act as if those investments had been made under that section as amended by subsection (1).

Section 6A inserted

6. After section 6 of the principal Act the following section is inserted —

“

Treasurer may direct payment of moneys to or from General Fund

6A. (1) If the Treasurer is satisfied that the amount of moneys standing to the credit of the Fund exceeds the amount of moneys that is reasonably required for the purposes of this Act, the Treasurer may direct the Commission to pay the whole or any part of that excess into the General Fund for use in accordance with the provisions of the *Workers' Compensation and Rehabilitation Act 1981*.

(2) Where moneys have been paid into the General Fund under subsection (1), the Treasurer may, before making an advance under section 7 (1) (a), direct that an amount, not exceeding the amount of moneys so paid, be paid from the General Fund into the Fund to make up or partially make up the insufficiency referred to in section 7 (1).

(3) In this section —

“General Fund” means the *Workers' Compensation and Rehabilitation General Fund* established under section 106 of the *Workers' Compensation and Rehabilitation Act 1981*.

”.

Section 10 amended

7. Section 10 of the principal Act is amended by deleting paragraph (b) and substituting the following paragraphs —

- “
- (b) the amount of any expenses incurred by the Insurance Commission in the settlement of any claim made under this Act;

 - (ba) any amount required to be paid under section 6A (1) into the General Fund (as defined in section 6A (3));
- ”.

Section 19 amended

8. Section 19 of the principal Act is amended —

- (a) in subsection (1) by deleting all of the subsection after “that employer may make a claim” and substituting the following —

“

against the Insurance Commission for payment or reimbursement, as the case requires, of the amount of that judgment, order or award.

”.

- (b) in subsection (2) by deleting all of the subsection after “that employer may make a claim” and substituting the following —

“

against the Insurance Commission for payment or reimbursement, as the case requires, of the amount of compensation or damages referred to in paragraph (a).

”.

- (c) in subsection (3) by deleting "against the Insurance Commission"; and
- (d) by repealing subsection (4).

Sections 20 and 21 repealed

9. Sections 20 and 21 of the principal Act are repealed.

Sections 22 and 23 repealed and a new section substituted

10. Sections 22 and 23 of the principal Act are repealed and the following section is substituted —

“

Payment of claims

22. The Insurance Commission shall pay to a claimant such amount as is necessary to satisfy a claim lodged under section 19 (3).

”

Section 36 amended

11. Section 36 of the principal Act is amended in subsection (3) by deleting "This" and substituting the following —

“ Subject to section 38A, this ”.

Section 38A inserted

12. After section 38 of the principal Act the following section is inserted —

“ **Commission may accept final payment from liquidator**

38A. (1) The Commission may accept from the liquidator of an insurer an amount, as agreed between the Commission and the liquidator, for payment into the Fund in full and final satisfaction of all rights, whether actual, contingent or prospective, that the Commission has or may have against the liquidator or the insurer under this Act.

(2) Without limiting the operation of subsection (1), where the Commission accepts an amount from the liquidator of an insurer under that subsection, the acceptance has effect to discharge any liability the liquidator might otherwise have to make payments under section 36.

”

References to “Workers’ Compensation and Assistance Act 1981” amended

13. The principal Act is amended by deleting “Workers’ Compensation and Assistance Act 1981” wherever it occurs in the provisions referred to in the Table to this section and substituting in each case the following —

“ *Workers’ Compensation and Rehabilitation Act 1981* ”.

TABLE

Section 3 (definitions of “Commission”, “employer”, “employer’s policy”, “insurer” and “self-insurer”)

Section 4

Section 16 (2)

Section 19 (1) (a), (2) (a) and (5) (definition of “compensation”).

***Workers' Compensation and Rehabilitation Act 1981
amended***

14. Section 106 of the *Workers' Compensation and Rehabilitation Act 1981** is amended —

(a) in subsection (2) —

(i) by deleting “and” after paragraph (b);

(ii) by deleting the fullstop after paragraph (c) and substituting the following —

“ ; and ”; and

(iii) by inserting after paragraph (c) the following paragraph —

“

(d) any moneys required to be paid into the General Fund under section 6A (1) of the *Employers' Indemnity Supplementation Fund Act 1980*.

”;

and

(b) in subsection (3) by inserting after paragraph (d) the following paragraph —

“

(da) any moneys required to be paid into the *Employers' Indemnity Supplementation Fund* under section 6A (2) of the *Employers' Indemnity Supplementation Fund Act 1980*;

”.

[* *Reprinted as at 9 October 1991.*

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 234.]

Saving

15. Notwithstanding the amendments and repeals effected by sections 8, 9 and 10 of this Act, sections 20, 21, 22 and 23 of the principal Act as in force immediately before the commencement of this Act continue to apply in respect of claims that had been lodged with the liquidator of an insurer under section 19 (4) of the principal Act before the commencement of this Act as if this Act had not been enacted.