

WESTERN AUSTRALIA

WORKERS' COMPENSATION AND ASSISTANCE AMENDMENT ACT

No. 21 of 1987

AN ACT to amend the *Workers' Compensation and Assistance Act 1981* and the *Constitution Acts Amendment Act 1899*, and for connected purposes.

[Assented to 25 June 1987]

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:—

Short title

1. This Act may be cited as the *Workers' Compensation and Assistance Amendment Act 1987*.

Principal Act

2. In this Act, the *Workers' Compensation and Assistance Act 1981** is referred to as the principal Act.

[*Reprinted as at 6 February 1987.]

Section 5 amended

3. Section 5 of the principal Act is amended in subsection (1)—

(a) by deleting the definition of “Board” and substituting the following definition—

“ “Board” means—

(a) the Workers' Compensation Board constituted under this Act; or

(b) in respect of the exercise by the Chairman or Deputy Chairman of the Workers' Compensation Board of the powers conferred by section 112 (29), the Chairman or Deputy Chairman; ”; and

(b) by inserting after the definition of “dependants” the following definition—

“ “Deputy Chairman” means any person appointed for the time being under section 112 as the Deputy Chairman of the Workers' Compensation Board; ”.

Section 48 amended

4. Section 48 of the principal Act is amended—

(a) in subsection (2) by deleting “*Health Act 1911*” and substituting the following—

“ *Occupational Health, Safety and Welfare Act 1984* ”; and

(b) in subsection (3) by deleting “*Health Act 1911*” and substituting the following—

“ *Occupational Health, Safety and Welfare Act 1984* ”.

Section 58 amended

5. Section 58 of the principal Act is amended in subsection (2) by inserting after "Chairman" the following—

“ or Deputy Chairman ”.

Section 103 amended and validation

6. (1). Section 103 of the principal Act is amended—

(a) in subsection (2) by deleting “and records as may be necessary to ascertain the aggregate amount of wages paid by the employer and the number of employees engaged” and substituting the following—

“ documents and records as he thinks necessary to carry out those duties ”; and

(b) in subsection (4) by deleting “or records” and substituting the following—

“ , documents or records ”.

(2) Any act, matter or thing done or purported to be done, or duty performed or purported to be performed under the principal Act before the commencement of subsection (1) by a person appointed as an inspector under section 103 of that Act is and always has been as valid as if subsection (1) was in operation at the time the act, matter or thing was done or the duty was performed.

Section 112 amended

7. Section 112 of the principal Act is amended—

(a) in subsection (2) by deleting “The” and substituting the following—

“ Subject to subsection (3a), the ”;

- (b) by inserting after subsection (3) the following subsections—
- “ (3a) Where the Minister advises the Governor that the Board as referred to in subsection (3) is unable to deal expeditiously with all its business the Governor may, on the recommendation of the Minister, appoint—
- (a) a person as the Deputy Chairman of the Board; and
- (b) 2 extra members to be referred to as nominee members.
- (3b) An appointment under subsection (3a) and an act, matter or thing done by a Deputy Chairman or nominee member so appointed shall not be questioned on the ground that the occasion for the appointment had not arisen or had ceased. ”;
- (c) in subsection (4) by inserting after “Chairman” the following—
- “ or Deputy Chairman ”;
- (d) by inserting after subsection (5) the following subsection—
- “ (5a) Subject to this Act, the Deputy Chairman and nominee members appointed under subsection (3a) are entitled to hold office for such terms of not more than one year as are specified respectively in the instruments of their appointment but are eligible for re-appointment. ”;
- (e) in subsection (6) by inserting after “members” the following—
- “ appointed under subsection (2) and of the 2 nominee members (if any) appointed under subsection (3a) ”;
- (f) in subsection (7) by inserting after “(2)” the following—
- “ or (3a) (b) ”;
- (g) in subsection (8) by inserting after “member” the following—
- “ appointed under subsection (2) ”;
- (h) in subsection (9) by inserting after “of” the following—
- “ the Deputy Chairman or ”;
- (i) in subsection (10) by inserting after “Chairman” the following—
- “ or Deputy Chairman ”;

(j) in subsection (11) by inserting after "Chairman" the following—

“ or Deputy Chairman ”;

(k) by inserting after subsection (11) the following subsection—

“ (11a) If the Deputy Chairman—

(a) is an undischarged bankrupt or a person whose property is subject to an order of arrangement under the laws relating to bankruptcy;

(b) resigns and his resignation is accepted;

(c) has his appointment terminated pursuant to subsection (9); or

(d) is appointed as the Chairman or an Acting Chairman of the Board,

the office of the Deputy Chairman becomes vacant. ”;

(l) by repealing subsection (14) and substituting the following subsection—

“ (14) Where, for any reason the Chairman or Deputy Chairman of the Board is or is expected to be absent from duty or declines to deal with any matter, the Governor, on the recommendation of the Minister, may appoint to be an Acting Chairman of the Board a person qualified for appointment as Chairman or Deputy Chairman of the Board, to perform the duties of the Chairman or Deputy Chairman, as the case may be, when he is so absent or so declines. ”;

(m) in subsection (16) by inserting after "Chairman" in the second place where it occurs the following—

“ or Deputy Chairman ”;

(n) in subsection (19) by inserting after "office" the following—

“ , the Deputy Chairman ”;

(o) in subsection (20) by deleting "A" and substituting the following—

“ Subject to subsection (20a), a ”;

(p) by inserting after subsection (20) the following subsection—

“ (20a) A member of the Board appointed under subsection (3a) may be appointed on other than a full time basis and subsection (20) does not apply to a member appointed on that basis where, in engaging in the business or occupation there would not be, or tend to be, an interest in conflict with the powers and duties of the member's office and before engaging in the business or occupation the member makes a written undertaking to that effect to the Minister. ”;

(q) in subsection (21) by inserting after “the Chairman” the following—

“ , the Deputy Chairman ”; and

(r) by repealing subsections (22) to (25) and inserting the following subsections—

“ (22) Subject to subsection (29), for the purpose of hearing and determining any proceeding or application the Board shall be constituted by—

(a) the Chairman and 2 nominee members; or

(b) the Deputy Chairman and 2 nominee members,

and in each case, one of the nominee members shall be qualified as provided in subsection (6) (a) and one shall be qualified as provided in subsection (6) (b).

(23) The Board as constituted under subsection (22) (b) may sit simultaneously with the Board as constituted under subsection (22) (a).

(24) Subject to subsection (25), at any meeting of the Board at which 3 members are present, the determination of a majority of those members shall be the determination of the Board.

(25) At any meeting of the Board the presiding member alone shall determine any questions of law.

(26) Subject to subsection (29), the presiding member and one other member of the Board shall be a quorum and shall have all the powers and duties conferred upon the Board by this Act.

(27) In subsections (25) and (26) “presiding member” means the Chairman or Deputy Chairman, whichever is present.

(28) At any meeting of the Board at which only 2 members are present and those members do not agree on the determination of a question, other than a question of law, the matter shall be referred to the Board as constituted under subsection (22) (a) or (b) for resolution of the question.

(29) The Chairman or Deputy Chairman of the Board may hear and determine any interlocutory proceeding or application in Chambers or make any order or determination by consent.

(30) The Registrar, at the direction of the Chairman or Deputy Chairman of the Board, may perform duties in respect of the powers conferred on the Chairman and Deputy Chairman by subsection (29), but things done in the performance of those duties are subject to review by the Chairman or Deputy Chairman. ”.

Section 118 amended

8. Section 118 of the principal Act is amended in subsection (1) by inserting after “Chairman” the following—

“ and Deputy Chairman ”.

Section 187 amended

9. Section 187 of the principal Act is amended in subsection (1) by inserting after “Chairman” the following—

“ or Deputy Chairman ”.

Schedule 6 amended

10. Schedule 6 to the principal Act is amended in item 2—

(a) by inserting after “Chairman,” where it first occurs in paragraph (a) the following—

“ Deputy Chairman, ”; and

(b) by inserting after “Chairman,” where it first occurs in paragraph (b) the following—

“ Deputy Chairman, ”.

Constitution Acts Amendment Act 1899,
Schedule V amended

11. Schedule V to the *Constitution Acts Amendment Act 1899** is amended in the fifth item in Division 1 of Part 1 by deleting "deputy of the" and substituting the following—

“ Deputy ”.

[*Reprinted as approved 26 June 1984 and amended by Acts Nos. 75 and 78 of 1984 and 10, 97 and 101 of 1986.]
