

WORKERS' COMPENSATION.

No. 28 of 1978.

AN ACT to amend the Workers' Compensation Act,
1912-1977.

[Assented to 18th May, 1978.]

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:—

1. (1) This Act may be cited as the *Workers' Compensation Act Amendment Act, 1978.*

Short title
and
citation.

(2) In this Act the Workers' Compensation Act, 1912-1977 is referred to as the principal Act.

Reprinted
as
approved
for
reprint
26th April,
1974 and
amended
by Acts Nos.
94 of 1972
(as amended
by No. 42 of
1975), 76 of
1975, 111 of
1976, and 70
of 1977.

(3) The principal Act as amended by this Act may be cited as the Workers' Compensation Act, 1912-1978.

Commence-
ment.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Sections 6 and 10 of this Act shall come into operation on the first day of July, 1978.

Section 4
amended.

3. Subsection (4) of section 4 of the principal Act is amended as to paragraph (a)—

(a) by inserting after the word “policy”, in line two the words “and thereafter”; and

(b) by inserting after the word “amounts”, in the last line, the words “in respect of all personal injuries by accident occurring during the currency of the policy”.

Section 5
amended.

4. Section 5 of the principal Act is amended—

(a) as to the interpretation “Prescribed amount”, by deleting the words “June quarter in Western Australia”, in the last two lines, and inserting in lieu thereof the passage “March quarter in Western Australia, but so that any variation of the prescribed amount by reason of any difference between the amount specified in the estimate seasonally adjusted for the March quarter of one year and the amount specified in the estimate seasonally adjusted for the March quarter of the next year shall apply on and from the 1st July immediately following that last mentioned March quarter”; and

(b) by deleting the interpretation “Widow” or “Wife” and inserting in lieu thereof an interpretation as follows—

“Widow” or “Wife” in relation to compensation payable in respect of the death of a worker includes—

- (a) any former wife of the worker if he was legally obliged immediately before his death to make provision for that former wife with respect to financial matters; and
- (b) a woman, who although not legally married to him—
 - (i) lived with him on a permanent and *bona fide* domestic basis immediately before his death, if he leaves any dependant who is the child of the union between him and the woman; or
 - (ii) lived with him on such a basis for not less than three years, if he does not leave any such dependant.

5. Subsection (3) of section 7 of the principal Act is amended— Section 7 amended.

- (a) as to paragraph (a), by inserting after the word “thereof”, in the last line, the passage “, but the compensation payable for each such injury shall be in accordance with the amount indicated in that column in respect of such an injury at the date of the accident whereby that injury was caused to the worker, irrespective of whether he so elects in respect of that injury before or after the coming into operation of section five of the Workers' Compensation Act Amendment Act, 1978”;
- (b) as to paragraph (e)—
 - (i) by adding after the word “use”, in the last line of subparagraph (i), the passage “, and the compensation payable shall be calculated at the rates applicable at the time of occurrence of each subsequent injury”;

(ii) by deleting subparagraph (ii) and inserting a subparagraph as follows—

(ii) Where a worker has received compensation payable under the provisions of that table for one hundred per cent of the loss of, or the permanent loss of the efficient use of, any part or faculty of the body referred to in the first column of the table—

whether in one payment for permanent total loss of, or permanent total loss of the efficient use of—

that part or faculty of the body—

or in several payments, each of which has been made for a permanent partial loss of, or a permanent partial loss of the efficient use of—

that part or faculty of the body, then and in such case, the worker shall not be entitled to any further payment under the provisions of the table in respect of that part or faculty. ; and

(c) by adding a paragraph as follows—

(ea) Notwithstanding the other provisions of this Act and in particular the provisions of subsection (2) of section twenty-nine of this Act, where any decision, ruling, order, award, judgment, settlement, or agreement was given or made by, or registered with, the Board, before the coming into operation of section five of the Workers' Compensation Act Amendment Act, 1978, on the basis that compensation payable for an injury under the provisions of the table was in accordance with the amount indicated in the second column of the table in respect of that injury at the date of the

accident whereby that injury was caused to the worker, that decision, ruling, order, award, judgment, settlement, or agreement shall not be rescinded, altered, or amended, and the worker shall not be entitled to any further payment under the provisions of the table in respect of that injury, by reason that it was given, made, or registered on that basis.

6. Subsection (3) of section 13 of the principal Act is amended by deleting the words "but no employer in compiling such statement shall be obliged to take into account that portion of the wages of any worker which exceeds or which he estimates will exceed the sum of fifty dollars per week", in lines fourteen to eighteen both inclusive.

Section 13
amended.

7. Subsection (1) of section 19 of the principal Act is amended by deleting the passage "Provided that it happens within this State or within the jurisdiction of this State", in lines five and six, and inserting in lieu thereof a passage as follows "whether or not the accident occurs within the State".

Section 19
amended.

8. Subsection (6) of section 25 of the principal Act is amended by deleting the passage "governing body of the association known as The Employers' Federation (W.A.)", in lines two, three, and four of paragraph (a), and inserting in lieu thereof the passage "body known as The Confederation of Western Australian Industry (Incorporated)".

Section 25
amended.

9. The principal Act is amended by adding after section 25 a section as follows—

Section 25A
added.

25A. (1) The Governor may from time to time appoint a Supplementary Workers' Compensation Board if he is satisfied that the Board is unable to deal expeditiously with all its business.

Power to
constitute
and
appoint
Supplemen-
tary
Board.

(2) The Supplementary Board shall be appointed and constituted in the same manner on the same terms and subject to the same conditions as the Board is constituted under this Act except that the chairman and the nominee members of the Supplementary Board shall hold office for such term not exceeding five years as is specified respectively in their instruments of appointment, but shall be eligible for re-appointment.

(3) The Supplementary Board appointed under this section shall perform such of the duties of the Board as are assigned to it by the Chairman of the Board.

(4) In performing any duties so assigned the Supplementary Board and the chairman thereof shall have the same jurisdiction, powers, duties, rights and immunities and shall be subject to the same rules and conditions as the Board or its chairman respectively would have or would be subject to in carrying out such duties.

(5) The Registrar and the other officers and staff of the Board shall be the registrar and the other officers and staff of the Supplementary Board and shall have the same powers, duties, rights and immunities in relation to any matter assigned to the Supplementary Board that they respectively would have had if such matter had been dealt with by the Board.

(6) All salaries, allowances and expenses payable to or in respect of the Supplementary Board shall be paid out of the same fund as the similar salaries, allowances and expenses payable to or in respect of the Board are paid.

(7) The Governor may appoint deputies for the chairman and members of the Supplementary Board in the same manner and on the same terms and conditions as he may appoint deputies for the Chairman and members of the Board.

(8) A member of the Board may with the consent of the Chairman of the Board act as and in the place of the corresponding member of the Supplementary Board and a member of the Supplementary Board may with the consent of the Chairman of the Board act as and in the place of the corresponding member of the Board.

10. Subsection (1) of section 30 of the principal Act is amended as to subparagraph (iv) of paragraph (b) by deleting the passage "(up to a maximum of fifty dollars per week in respect of each worker)".

Section 30
amended.

11. Clause 1 of the First Schedule to the principal Act is amended—

Clause 1
of First
Schedule
amended.

(a) as to paragraph (a)—

- (i) by inserting before the word "less", in line seven of item (I), the words "less the amount of any weekly payments made under this Act and";
- (ii) by deleting the passage ", payable from the Fund but recoverable for the Fund by the Board from the employer or his insurer in such manner as may be prescribed", in lines six to ten inclusive of item (II);
- (iii) by deleting the passage ", payable from the Fund but recoverable for the Fund by the Board from the employer or his insurer in such manner as may be prescribed,", in lines eight to twelve inclusive of item (III); and
- (iv) by deleting the passage ", payable from the Fund but recoverable for the Fund by the Board from the employer or insurer in such manner as may be prescribed,", in lines ten to fifteen inclusive of item (IV);

- (b) as to sub-proviso (ii) of proviso (c) to paragraph (c), by deleting the words "two hundred and fifty", in line five, and inserting in lieu thereof the words "five hundred"; and
- (c) as to proviso (e) to paragraph (c), by deleting the word "four", in line thirteen, and inserting in lieu thereof the word "fifteen".

Clause 1A
of First
Schedule
amended.

12. Clause 1A of the First Schedule to the principal Act is amended by inserting after the word "fit" being the last word in the clause, the passage "and may be apportioned so that amounts payable to dependants of the deceased worker, or classes of dependants of the deceased worker, or both, differ to such extent as, in the opinion of the Board, the interests of justice require".

Clause 2
of First
Schedule
amended.

13. Clause 2 of the First Schedule to the principal Act is amended by deleting the passage "work.", in the last line and inserting in lieu thereof a passage as follows—

work;

and in the case of a worker who had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer and

- (e) under which the total number of hours worked per week by him are less than the number of hours stated in the industrial award or agreement relating to the employment in which the injury occurs as ordinary hours which constitute a week's work, making a proportionate deduction in such weekly earnings to the extent the total number of hours worked by him are so less; or

- (f) under which the total number of hours worked by him, discounting in respect of each of the employments the exclusions referred to in paragraphs (c) and (d) of this clause, are equal to or more than the number of hours stated in the industrial award or industrial agreement relating to the employment in which the injury occurs as ordinary hours which constitute a week's work, making no such proportionate deduction. .

14. Clause 13 of the First Schedule to the principal Act is amended by inserting after the word "same", in the last line, the words "except in respect of voluntary advances of future compensation made by an employer or insurer with the approval of the Board".

Clause 13
of the First
Schedule
amended.
