

**WORKERS' COMPENSATION (AMENDMENT) ACT, 1984,
No. 90**

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 90, 1984.

An Act to amend the Workers' Compensation Act, 1926, for, or in connection with, the purpose of replacing the Workers' Compensation Commission with a Compensation Court of New South Wales and a State Compensation Board, and for certain other purposes. [Assented to, 28th June, 1984.]

Workers' Compensation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Workers' Compensation (Amendment) Act, 1984".

Commencement.

2. (1) Except as provided by subsections (2)–(4), this Act shall commence on the date of assent to this Act.

(2) Section 5, in its application to a provision of Schedules 1–11, shall commence on the day on which the provision commences.

(3) Schedules 1–4, Schedule 5 (3) (a) and Schedules 6–11 shall commence on the day appointed and notified under section 2 (2) of the Compensation Court Act, 1984.

(4) Schedule 5 (Schedule 5 (3) (a) excepted) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

3. The Workers' Compensation Act, 1926, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE LONG TITLE AND PART I OF THE PRINCIPAL ACT.

Workers' Compensation (Amendment).

SCHEDULE 2.—AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO PART IIa OF THE PRINCIPAL ACT.

SCHEDULE 4.—AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENTS TO PART IIIa OF THE PRINCIPAL ACT.

SCHEDULE 6.—AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

SCHEDULE 7.—AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

SCHEDULE 8.—AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

SCHEDULE 9.—AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

SCHEDULE 10.—AMENDMENT TO PART VIII OF THE PRINCIPAL ACT.

SCHEDULE 11.—AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO THE PRINCIPAL ACT.

Amendment of Act No. 15, 1926.

5. The Principal Act is amended in the manner set forth in Schedules 1–11.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE LONG TITLE AND PART I OF THE PRINCIPAL ACT.

(1) Long title—

- (a) Omit “to constitute a Workers’ Compensation Commission, and to define its jurisdiction, powers and duties”, insert instead “to constitute a State Compensation Board”.
- (b) Omit “the Commission”, insert instead “the Compensation Court and the State Compensation Board”.

Workers' Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE LONG TITLE AND PART I OF THE
PRINCIPAL ACT—*continued.*

(2) (a) Section 1A—

From the matter relating to Part IIA, omit “17J”, insert instead “17I”.

(b) Section 1A—

Omit the matter relating to Part IV, insert instead:—

PART IV.—STATE COMPENSATION BOARD—*ss.* 31–42I.

DIVISION 1.—*Constitution of Board—ss.* 31–36.

DIVISION 2.—*Functions of Board—ss.* 37–40.

DIVISION 3.—*Financial provisions—ss.* 41–42B.

DIVISION 4.—*Miscellaneous—ss.* 42C–42I.

(c) Section 1A—

After the matter relating to Part IX, insert:—

SCHEDULE 1.—PROVISIONS RELATING TO THE MEMBERS
OF THE BOARD.

SCHEDULE 2.—PROVISIONS RELATING TO THE PROCEDURE
OF THE BOARD.

(3) Section 3 (2), (3)—

Omit the subsections.

(4) (a) Section 6 (1), definitions of “Board” or “State Compensation Board”, “Chief Executive Officer”—

Omit the definition of “Commission”, insert instead:—

“Board” or “State Compensation Board” means the State
Compensation Board constituted under this Act.

“Chief Executive Officer” means the Chief Executive
Officer of the Board.

Workers' Compensation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LONG TITLE AND PART I OF THE
PRINCIPAL ACT—*continued.*

- (b) Section 6 (1), definition of "Court" or "Compensation Court"—
After the definition of "Contribution Fund", insert:—
"Court" or "Compensation Court" means the Compensation
Court of New South Wales constituted under the
Compensation Court Act, 1984.
- (c) Section 6 (1), definitions of "Registrar", "Regulation", "Rules of
the Board", "Rules of Court"—
Omit the definitions of "Prescribed" and "Registrar", insert
instead:—
"Registrar" means the registrar of the Court.
"Regulation" means a regulation made under this Act.
"Rules of the Board" means rules of the board made under
this Act.
"Rules of Court" means rules of the Court made under
the Compensation Court Act, 1984.
- (d) Section 6 (3) (b)—
Omit "the Commission under this Act", insert instead "the
Court".
- (e) Section 6 (3) (h), (i)—
Omit "Registrar" wherever occurring, insert instead "Court".
- (f) Section 6 (3) (i)—
Omit ", subject to paragraph (j),".
- (g) Section 6 (3) (j)—
Omit the paragraph.

Workers' Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE LONG TITLE AND PART I OF THE
PRINCIPAL ACT—*continued.*

(h) Section 6 (14A) (b)—

Omit “(a) if such”, insert instead “(i) if such”.

(i) Section 6 (14A) (b)—

Omit “(b) if such”, insert instead “(ii) if such”.

(j) Section 6 (14A) (b), (14D) (b) (ii)—

Omit “Commission” wherever occurring, insert instead “Court”.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

(1) (a) Section 7 (1) (b) (ii), (2C) (d), (4), (4A)—

Omit “Commission” wherever occurring, insert instead “Court”.

(b) Section 7 (4B) (g)—

Omit the paragraph, insert instead:—

- (g) where the Court is satisfied that a contribution required to be made under paragraph (e) cannot be recovered by an employer referred to in paragraph (d) (i) or (ii), it may direct the Board to pay to that employer out of the Uninsured Liability and Indemnity Scheme such amount, not exceeding the amount of the contribution, as the Court considers appropriate and the Board shall pay out that amount accordingly;

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(c) Section 7 (5A)—

Omit "Commission", insert instead "Court".

(2) Section 7A—

Omit "Commission" wherever occurring, insert instead "Court".

(3) (a) Section 7B (1) (c)—

Omit "(7A)", insert instead "(18)".

(b) Section 7B (2)—

Omit "Commission" wherever occurring, insert instead "Court".

(c) Section 7B (2)—

After "Liability" wherever occurring, insert "and Indemnity".

(4) Section 8 (1A), (2), (3), (5)—

Omit "Commission" wherever occurring, insert instead "Court".

(5) (a) Section 9 (7) (a)—

Omit "Commission" wherever occurring, insert instead "Court".

(b) Section 9 (8) (d)—

Omit "an amount", insert instead "a rate".

(c) Section 9 (8A)—

After section 9 (8), insert:—

(8A) Where a regulation made for the purposes of subsection (8) (c) or (10A) (b) (whether made before or after the date of commencement of this subsection) contains a reference to an award or a provision of an award and the award or

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

provision, in so far as it relates to a particular worker, is subsequently varied or replaced, the reference shall, on and from the date of the variation or replacement, be deemed, in relation to that worker, to be a reference to—

(a) the award or provision as so varied; or

(b) the award or provision which replaced that award or provision,

as the case may be.

(6) Section 9A (4)—

Omit “Registrar”, insert instead “Board”.

(7) (a) Section 10 (3) (a), (c), (4) (b), (8)—

Omit “Commission” wherever occurring, insert instead “Court”.

(b) Section 10 (5)—

Omit “Commission allow”, insert instead “Court allows”.

(8) (a) Section 10A (1), (1A) (b)—

Omit “Commission” wherever occurring, insert instead “Court”.

(b) Section 10A (1B)—

Omit “40 and 53”, insert instead “53 and 53r”.

(9) (a) Section 10B (1), (2) (b)—

Omit “Commission” wherever occurring, insert instead “Court”.

(b) Section 10B (3)—

Omit “40 and 53”, insert instead “53 and 53r”.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(10) Section 11 (2) (a), (b)—

Omit "Registrar" wherever occurring, insert instead "Board".

(11) Section 12—

Omit "Commission" wherever occurring, insert instead "Court".

(12) (a) Section 15—

Omit "Commission" wherever occurring, insert instead "Court".

(b) Section 15 (3)—

Omit "invested or otherwise applied for the benefit of the person entitled thereto", insert instead "paid to the Board to be invested, applied, paid out or otherwise dealt with as agreed upon or ordered or, subject to any such agreement or order, as provided by section 57".

(13) (a) Section 16 (1AA), (1B) (a), (b)–(e)—

Omit "medical board" wherever occurring, insert instead "medical panel".

(b) Section 16 (1B) (a1), (a2), (e), (1BA) (b) (ii)—

Omit "Commission" wherever occurring, insert instead "Court".

(c) Section 16 (1B) (b), (d)—

Omit "Commission or the Registrar" wherever occurring, insert instead "Court".

(d) Section 16 (5B) (b)—

Omit "by regulations made under this Act" wherever occurring.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(14) Section 17—

Omit “Commission”, insert instead “Court”.

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO PART IIA OF THE PRINCIPAL ACT.

(1) Section 17A (2) (c)—

Omit “Commission”, insert instead “Board”.

(2) Section 17B (1), definition of “Fire fighter”—

From paragraph (c), omit “Registrar”, insert instead “Board”.

(3) (a) Section 17BB—

Omit “Registrar” wherever occurring, insert instead “Board”.

(b) Section 17BB (2)—

Omit “Commission” wherever occurring, insert instead “Court”.

(4) (a) Section 17C (4), (5), (8)—

Omit “Registrar” wherever occurring, insert instead “Board”.

(b) Section 17C (6)—

Omit “Commission”, insert instead “Board”.

Workers' Compensation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IIA OF THE PRINCIPAL ACT—*continued.*

- (c) Section 17C (7)—
Omit "Registrar may appear before the Commission", insert instead "Board or its representative may appear before the Court".
 - (5) (a) Section 17D (1), (1A), (2)—
Omit "Registrar" wherever occurring, insert instead "Board".
 - (b) Section 17D (2) (b)—
Omit "his", insert instead "its".
 - (6) Section 17E (2)—
Omit "Registrar in the exercise of his", insert instead "Board in the exercise of its".
 - (7) Section 17G—
Omit "Commission" wherever occurring, insert instead "Board".
 - (8) Section 17H—
Omit "Commission" wherever occurring, insert instead "Board".
 - (9) (a) Section 17I—
Omit "subsection (6) of section 32", insert instead "section 42D".
 - (b) Section 17I—
Omit "Commission", insert instead "Board".
 - (10) Section 17J—
Omit the section.
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Workers' Compensation (Amendment).

SCHEDULE 4.

(Sec. 5.)

AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

(1) (a) Section 18 (1A)—

Omit "Commission" where firstly, secondly, thirdly, fourthly and fifthly occurring, insert instead "Board".

(b) Section 18 (1A)—

Omit "by rules made under this Act".

(c) Section 18 (1B), (1C)—

From section 18 (1A), omit:—

The Commission may at any time upon notice to an employer so licensed, after due inquiry and consideration of such evidence as he may submit and of such information, documents, particulars and other evidence as the Commission may receive, exercise, in relation to the license of that employer, the power specified in subsection (1) of section 29C.

Insert instead:—

(1B) The Board may at any time—

(a) upon notice to an employer licensed under subsection (1A); and

(b) after due inquiry and consideration of such evidence as the employer may submit and of such information, documents, particulars and other evidence as the Board may receive,

exercise, in relation to the license of that employer, the power specified in section 29C (1).

(1C) Without limiting the generality of subsection (1B)—

(a) the Board may take action under that subsection in respect of an employer licensed under subsection (1A) where the employer has failed, upon being called upon by the Board so to do, to establish to the reasonable satisfaction of the Board the existence of matters, events or

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

things such that, if the employer were presently applying for a license under subsection (1A), the employer would, in the opinion of the Board, be granted the license; and

(b) where an employer licensed under subsection (1A) has, under paragraph (a), been called upon to establish the existence of certain matters, events or things and—

(i) the employer establishes to the reasonable satisfaction of the Board the existence of matters, events or things such that, if the employer were presently applying for a license under subsection (1A), the employer would, in the opinion of the Board, be granted the license; but

(ii) the Board is of the opinion that any license so granted would be granted only subject to certain conditions, or for a certain period,

the Board may take action under subsection (1B) to make the variations or additions, or variations and additions, of or to the license held by the employer which the Board deems necessary in order that the license may be such as, in the opinion of the Board, would be so granted.

(d) Section 18 (2)—

Omit “Commission”, insert instead “Board”.

(e) Section 18 (8) (b), (d)—

Omit “Commission” wherever occurring, insert instead “Board”.

(f) Section 18 (8) (e)—

Omit “Commission” where firstly occurring, insert instead “Court”.

(g) Section 18 (8) (e)—

Omit “Registrar”, insert instead “Board”.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(h) Section 18 (8) (e)—

Omit “for contempt of the Commission”, insert instead “by the Court in respect of that failure”.

(i) Section 18 (8) (e)—

Omit “Commission may impose”, insert instead “Court may impose”.

(j) Section 18 (8) (e)—

Omit “jurisdiction of the Commission”, insert instead “power of the Board”.

(k) Section 18 (8) (f)–(h)—

After section 18 (8) (e), insert:—

(f) An amount ordered to be paid under paragraph (d) together with any interest payable in respect thereof under paragraph (h) may be recovered as a debt in a court of competent jurisdiction by the insurer in whose favour the order was made.

(g) A certificate executed by the Board and certifying that an amount specified in the certificate is payable under paragraph (d) or (h) by a person so specified is admissible in any proceedings as evidence of the matters specified in the certificate.

(h) Interest at the rate for the time being in force under section 19 (2) of the Compensation Court Act, 1984, is payable in respect of an amount ordered to be paid under paragraph (d) as from the date it is due to be paid.

(2) Section 18A (1), (1B), (2A), (2D)—

Omit “Commission” wherever occurring, insert instead “Board”.

Workers' Compensation (Amendment).

SCHEDULE 4—continued.**AMENDMENTS TO PART III OF THE PRINCIPAL ACT—continued.****(3) Section 18c—**

Omit the section, insert instead:—

Uninsured Liability and Indemnity Scheme.

18c. (1) There shall be constituted a scheme called the “Uninsured Liability and Indemnity Scheme” (referred to in this section as “the Scheme”) which shall be administered by the Board.

(2) Subject to this section, a claim may be made under the Scheme by any person who considers he or she has a claim for compensation under this Act against an employer in respect of an injury to a worker, where the employer—

- (a) had not obtained, or was not maintaining in force, a policy of insurance or indemnity under this Act for the full amount of the employer's liability to the injured worker at the relevant time; or
- (b) having been a self-insurer at the relevant time has ceased to undertake liability to pay compensation to the employer's own workers and has withdrawn, in accordance with the provisions of this Act, the deposit lodged by the employer with the Treasurer.

(3) A claim for compensation may be made under the Scheme where the person claiming the compensation has been unable, after due search and inquiry, to identify the employer.

(4) Where a payment is made by the Board in respect of a claim under subsection (3) and the employer is subsequently identified, the Board may recover the amount paid from the employer or the employer's insurer in the manner provided in this section.

(5) Subject to subsection (6), a claim for compensation shall not be made under the Scheme where the person claiming the compensation is entitled under section 6 (3) (a) to claim compensation against a principal within the meaning of section 6 (3) (a).

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(6) Where a person is entitled to claim compensation against a principal within the meaning of section 6 (3) (a) and the principal was not maintaining in force a policy of insurance or indemnity for the full amount of the principal's liability under this Act at the relevant time—

- (a) the person may make to the Board a claim for compensation against the person's employer, the principal and the Board; and
- (b) the Board may deal with such claim as it thinks proper.

(7) Claims under the Scheme shall be made in the form and manner for the time being determined by the Board or, if no form and manner have been so determined, by instrument in writing lodged with the Board.

(8) The Board may, by notice in writing, require an employer to furnish to the Board within the period (being not less than 7 days) specified in the notice any information described in the notice which—

- (a) is available to the employer; and
- (b) is required by the Board in order for it to deal with a claim under the Scheme.

(9) An employer who fails to comply with a notice given under subsection (8) is guilty of an offence against this Act.

(10) Subject to subsection (11), the Board shall, at least 7 days before considering a claim under the Scheme, publish a notice of the claim in the manner prescribed by the rules of the Board.

(11) Where the Board is of the opinion that it is not appropriate, in the circumstances of a particular case, to publish a notice of a claim in the manner prescribed by the rules of the Board, the Board may publish a notice of that claim in such manner as it deems appropriate.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(12) Where notice of a claim is published under subsection (10) or (11), any insurer who, without reasonable cause, fails to notify the Board within the time prescribed in the notice that it is the insurer of the liability under this Act of any person who is an employer within the meaning of this section in respect of the claimant, or who fails to furnish the Board with any information it has which may be material to the matter, shall be liable—

- (a) to have the license issued to it under this Act suspended or terminated pursuant to section 29 (3) (a);
- (b) to reimburse the fund such amount as the Board has paid out in respect of the claim and any costs incurred in connection therewith; and
- (c) to a penalty not exceeding \$2,000.

(13) Where, in respect of a claim under the Scheme, a licensed insurer with whom the Board considers the injured worker's employer had a relevant policy of insurance at the relevant time is located, the following provisions shall apply:—

- (a) the Board shall furnish the insurer with all relevant details of the claim;
- (b) the insurer shall, within 14 days of being advised of the claim, either accept or deny liability to indemnify the employer;
- (c) if the insurer accepts liability to indemnify the employer, the Board shall—
 - (i) inform the claimant of the existence of the insurance; and
 - (ii) transfer the claim documents to the insurer;
- (d) if the insurer denies liability to indemnify the employer, or does not either accept or deny liability to indemnify the employer within 14 days of being advised of the claim, the Board shall deal with the claim in the manner provided in this section.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(14) From the fund the Board may, in respect of a claim under the Scheme—

- (a) pay compensation in accordance with this Act, with or without admission of liability; or
- (b) make ex gratia payments.

(15) The Board may refuse to satisfy a claim under the Scheme.

(16) Where the Board does not, wholly or in part, satisfy a claim under the Scheme, it shall, within 14 days of making the relevant decision, advise the claimant of its decision and the reasons therefor.

(17) A claimant under the Scheme who is dissatisfied with a decision of the Board in respect of the claim may apply to the Court for a determination of the claim.

(18) Where an application is made under subsection (17)—

- (a) the applicant shall name the employer by whom he alleges compensation is payable and the Board as respondents to the proceedings; and
- (b) the Board may, by service of a notice on any person who, in the opinion of the Board, may be liable to pay to the applicant compensation under this Act, join that person as a party to the proceedings.

(19) The Court may hear and determine any application made to it under subsection (17) and may make such orders in relation thereto as it thinks fit.

(20) Where an order under subsection (19) directs the doing of anything by the Board or any other person, the Board or that person, as the case may be, shall comply with that direction.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(21) Subject to this section, the Board may serve on a person who in the opinion of the Board was—

- (a) in respect of an injured worker to or in respect of whom a payment has been made under the Scheme, an employer at the relevant time; or

- (b) an insurer under this Act of such an employer,

a notice requiring that person, within a period specified in the notice, to reimburse the fund an amount (not being an amount exceeding the amount of the payment made) specified in the notice.

(22) The Board may, by instrument in writing, waive the liability of an employer under subsection (21) to reimburse the fund an amount, where the Board, in respect of the amount, is satisfied that—

- (a) the amount is beyond the capacity of the employer to pay;
- (b) the employer could not reasonably have been expected to regard himself or herself as an employer at the relevant time;
- (c) the employer, not being a corporation, is bankrupt and the liability under subsection (21) is not provable in the bankruptcy;
- (d) the employer, being a corporation, is being wound up and the liability under subsection (21) is not provable in the winding up;
- (e) the employer, being a corporation, has been dissolved; or
- (f) it would not be commercially feasible for the Board to attempt to recover the amount.

(23) A person on whom a notice has been served under subsection (21) in respect of an injured worker may, within the period specified in the notice, apply to the Court in accordance with the rules of Court for a determination as to the person's liability under this Act.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(24) The Court may hear any application made to it under subsection (23) and may—

- (a) make such determination in relation thereto; and
 - (b) make such awards or orders as to the payment of compensation under this Act to or in respect of the injured worker concerned,
- as it thinks fit.

(25) In any proceedings under subsection (24), a certificate executed by the Board and certifying that—

- (a) the payments specified in the certificate were paid to or in respect of an injured worker named in the certificate; and
 - (b) a person named in the certificate was, in the opinion of the Board, liable at the relevant time to pay to or in respect of the injured worker compensation under this Act,
- shall be admissible in evidence in any proceedings and be prima facie evidence of the matters stated therein.

(26) The Board may recover an amount—

- (a) specified in a notice served under subsection (21), being a notice in respect of which an application has not been made under subsection (23); or
 - (b) ordered by the Court, in a determination under subsection (24) (a), to be reimbursed to the fund by a person named in the determination,
- from the person to whom the notice was given or the person named in the determination, as the case may be, as a debt in a court of competent jurisdiction.

(27) Subject to subsections (28) and (29), where there is, pursuant to the Scheme, a liability to make—

- (a) a weekly payment of compensation in respect of an injury;
- or

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- (b) a weekly payment of compensation and any payment under section 10 or 16 in respect of an injury,

the liability may, if the Board and the worker so agree, be redeemed.

(28) Section 15 applies to and in respect of a redemption agreed upon under subsection (27) in the same way as it applies to and in respect of other redemptions.

(29) On the application of an employer, the Court may, if it thinks fit, refuse to make the determination referred to in section 15 (1) (as applied by subsection (28)) in respect of an agreement made under subsection (28) but the making of such an application in no way fetters the discretion of the Court to make the determination, and a redemption made in consequence of the determination is binding on the employer whether or not the employer has made such an application.

(30) Where a claim under the Scheme has been made and the employer does not appear and defend the application for an award of compensation, or where an award of compensation has, prior to the making of the claim, been obtained in default of appearance by the employer, or by consent of the worker and the employer, or if in any case the Board for any reason thinks fit, the Board may cause to be made such inquiries as may be deemed necessary to determine the genuineness of the grounds on which the award is sought or was based.

(31) The Court may adjourn an application referred to in subsection (30) or, if an award has been made, may reopen the proceedings and order some fit person to take and defend the proceedings in substitution for the employer, and for such purposes all the rights of the employer shall be subrogated to that person.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(32) The provisions of section 51 apply to and in respect of the Board and a worker in respect of whom a claim has been made under the Scheme as if—

- (a) the words “given notice of an injury” were omitted from section 51 (1) and the words “made a claim under the Uninsured Liability and Indemnity Scheme” were inserted instead;
- (b) the words “the employer” wherever occurring were omitted from section 51 and the words “the Board” were inserted instead;
- (c) the words “either party” were omitted from section 51 (4) and the words “the worker or on its own initiative” were inserted instead; and
- (d) the words “an employer” were omitted from section 51 (11) and the words “the Board” were inserted instead.

(33) Where a worker has received weekly payments of compensation under this Act for a continuous period of at least 12 weeks and has provided the Board with a certificate by a medical practitioner specifying the expected duration of the worker's incapacity, the Board shall not discontinue payment, or reduce the amount, of the compensation during the period of incapacity so specified without giving, in the prescribed form and manner, the prescribed period of notice (within the meaning of section 54A) of its intention to discontinue payment of the compensation or, as the case may be, to reduce the amount thereof.

(34) A lump sum payable to a claimant under the Scheme may by agreement with the Board, or by order of the Court, be paid to the Board to be invested, applied, paid out or otherwise dealt with as agreed upon or ordered or, subject to any such agreement or order, as provided by section 57.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(35) In this section—

- (a) except in so far as the context or subject-matter otherwise indicates or requires, “employer” includes a principal within the meaning of section 6 (3) (a) and any person deemed to be an employer for the purpose of any provision of this Act; and
- (b) “the relevant time”, in relation to an injured worker, means the time of the happening of that worker’s injury.

(36) A claim shall not be satisfied under the Scheme where in respect of the injury the subject of the claim, an award of compensation was obtained under this Act before 10th May, 1941.

(4) Section 20—

Omit “Commission” wherever occurring, insert instead “Board”.

(5) (a) Section 27 (1)—

Omit “Commission” wherever occurring, insert instead “Board”.

(b) Section 27 (1)—

Omit “by rules made under this Act”.

(6) Section 28 (1), (1A)—

Omit “Commission” wherever occurring, insert instead “Board”.

(7) (a) Section 29 (1)—

Omit “the Commission may exercise, in relation to any license granted under section 27, the power specified in subsection (1) of section 29c”, insert instead “, the Board, in relation to any license granted under section 27, may exercise, upon notice to the licensee, the power specified in section 29c (1)”.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(b) Section 29 (1) (a) (iv)—

Omit “30A”, insert instead “30AB”.

(c) Section 29 (1) (a) (vi)—

Omit “Commission”, insert instead “Court”.

(d) Section 29 (1) (a) (vii), (b), (c), (2), (2A)—

Omit “Commission” wherever occurring, insert instead “Board”.

(e) Section 29 (1A)—

Omit the subsection, insert instead:—

(1A) Where, in relation to a license granted under section 27, a licensee has, under subsection (1) (b), been called upon to establish the existence of certain matters, events or things and—

(a) the licensee establishes to the reasonable satisfaction of the Board the existence of matters, events or things such that, if the licensee were presently applying for a license under section 27, the licensee would, in the opinion of the Board, be granted the license; but

(b) the Board is of the opinion that any license so granted would be granted only subject to certain conditions, or for a certain period,

the Board may take action under subsection (1) to make the variations or additions, or variations and additions, of or to the license held by the licensee which the Board deems necessary in order that the license may be such as, in the opinion of the Board, would be so granted.

(f) Section 29 (2A)—

After “may”, insert “, upon notice to the licensee,”.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(g) Section 29 (3) (a), (a1), (a2)—

Omit section 29 (3) (a) and (a1), insert instead:—

(a) Where a license is liable to be suspended or terminated under section 18C (12) (a), the Board may, upon notice to the licensee, suspend or terminate the license.

(a1) A notice given by the Board under subsection (1) or (2A) or paragraph (a) shall set out the grounds upon which the Board proposes to take the action to which the notice relates.

(a2) The Board shall exercise, in relation to a license—

(i) the power referred to in subsection (1);

(ii) its power under subsection (2A); or

(iii) its power under paragraph (a),

(where that power is, or is of the same kind as, a power specified in section 29C (1)) only after due inquiry and consideration of such evidence as the licensee may submit and of such information, documents, particulars and other evidence as the Board may receive.

(h) Section 29 (3) (b)–(d)—

Omit the paragraphs.

(8) Section 29B—

Omit “Commission”, insert instead “Board”.

(9) (a) Section 29C (1)—

Omit “subsection (1A) of section 18, subsection (1) of section 29, and section 29B, of the Commission”, insert instead “sections 18 (1B), 29 (1) and 29B, of the Board”.

(b) Section 29C (2)—

Omit “Commission”, insert instead “Board”.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(10) Section 29D—

After section 29C, insert:—

Appeals against certain decisions of the Board.

29D. (1) Where the Board—

- (a) under section 18 (1A) or 27 (1), decides to refuse an application for a license or to grant a license for a limited period or subject to conditions; or
- (b) under section 18 (1B) or 29 (1), decides to exercise the power specified in section 29C (1) in relation to a license,

it shall serve on the applicant or licensee, as the case may be, notice of its decision and specify in that notice the grounds for making its decision.

(2) Any applicant or licensee aggrieved by a decision of the Board, notice of which has been served under subsection (1), may, subject to subsection (3), appeal to the Court against the decision within 28 days after the date of service of the notice.

(3) The Court may, on the application of the Board or an applicant or a licensee, extend or abridge the period referred to in subsection (2) in a particular case.

(4) Except as provided by subsection (2), action taken by the Board under section 18 (1A) or (1B) or section 27 (1) or 29 (1) shall not be liable to be appealed against or reviewed by any court.

(5) The Court shall, in determining an appeal made under subsection (2), have regard only to the circumstances existing up to the time of the making of the decision appealed against unless, in the opinion of the Court, it would be just and equitable to allow the admission of evidence in relation to matters arising after that time.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(6) The Board shall give effect to any determination of the Court made on the hearing of an appeal made under subsection (2).

(7) Where the Board, under section 18 (1B) or 29 (1), decides to exercise the power specified in section 29C (1) in relation to a license, that power may be exercised by the Board—

- (a) where no appeal against the decision has been lodged under subsection (2)—on or after the expiration of 28 days after the date of the service under subsection (1) of the notice of the decision; or
- (b) where an appeal against the decision has been lodged under subsection (2) and the Court has determined that the Board should take action under section 29C (1) in relation to the license—subject to Part IV of the Compensation Court Act, 1984, on or after the making of the determination.

(11) (a) Section 30A (2)–(4)—

Omit the subsections, insert instead:—

(2) The committee shall consist of 6 members of whom—

- (a) 1 shall be the Chairman of the State Compensation Board, who shall be the chairman of the committee;
- (b) 4 shall be the members, other than the Chairman, of the State Compensation Board; and
- (c) 1 shall be an officer within the meaning of the Public Service Act, 1979, appointed as a member by the Governor on the nomination of the Minister.

(3) A member referred to in subsection (2) (c) is in this section referred to as an appointed member.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(4) The Public Service Act, 1979, does not apply to or in respect of the appointment of an appointed member and an appointed member is not, as a member, subject to that Act.

(b) Section 30A (7)—

Omit the subsection.

(c) Section 30A (8)—

Omit “each appointed member and each”, insert instead “an appointed member and”.

(d) Section 30A (8A), (8B)—

Omit the subsections.

(e) Section 30A (10)—

Omit the subsection, insert instead:—

(10) An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the appointed member.

(f) Section 30A (13)—

Omit the subsection, insert instead:—

(13) Section 39 of the Interpretation Act, 1897, applies in respect of the committee as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(g) Section 30A (13A) (b)—

Omit the paragraph, insert instead:—

(b) The provisions of—

- (i) section 40 apply to and in respect of the committee and members or other persons acting under the direction of the committee in the same way as they apply to and in respect of the Board and members or other persons acting under the direction of the Board; and

Workers' Compensation (Amendment).

SCHEDULE 4—continued.**AMENDMENTS TO PART III OF THE PRINCIPAL ACT—continued.**

- (ii) section 17 (3) and (6) of the Compensation Court Act, 1984, apply to and in respect of the committee in the same way as they apply to and in respect of the Court, and shall so apply as if the references therein to Part IV of that Act were omitted therefrom.
- (h) Section 30A (13A) (c)—
Omit “Workers’ Compensation (Silicosis) Act, 1942–1946”, insert instead “Workers’ Compensation (Dust Diseases) Act, 1942”.
- (12) (a) Section 30B (1) —
Omit “on an application made to a member of the Commission in chambers by the Registrar there is shown to be”, insert instead “the Board has”.
- (b) Section 30B (1)—
Omit “such member of the Commission may make an order”, insert instead “the Board may, by instrument in writing”.
- (c) Section 30B (1) (a)—
Omit “authorising”, insert instead “authorise”.
- (d) Section 30B (1) (b)—
Omit “requiring”, insert instead “require”.
- (e) Section 30B (1) (b)—
Omit “order” wherever occurring, insert instead “instrument”.
- (f) Section 30B (2)—
Omit “thereto by such order”, insert instead “by an instrument executed under subsection (1)”.
- (g) Section 30B (2)—
Omit “any such order” wherever occurring, insert instead “the instrument”.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(13) (a) Section 30c (1)—

Omit "Commission" wherever occurring, insert instead "Board".

(b) Section 30c (2)—

Omit "signed by the Registrar or deputy or assistant registrar of the Commission or other prescribed officer", insert instead "executed by the Board".

(c) Section 30c (2)—

Omit "the signature or of the official character of the person purporting to have signed the certificate", insert instead "its execution by the Board".

(d) Section 30c (3), (4)—

Omit "Commission" wherever occurring, insert instead "Board".

(14) (a) Section 30F (6), (8), (10) (b)—

Omit "Commission" wherever occurring, insert instead "Court".

(b) Section 30F (8)—

Omit "under this Act", insert instead "of the Court".

(c) Section 30F (11)—

Omit "Commission" wherever occurring, insert instead "Board".

Workers' Compensation (Amendment).

SCHEDULE 5.

(Sec. 5.)

AMENDMENTS TO PART IIIA OF THE PRINCIPAL ACT.

(1) (a) Section 30H (2)—

Omit "Government Insurance Office", insert instead "Board".

(b) Section 30H (3)—

Omit the subsection, insert instead:—

(3) The Board may invest and re-invest any money in the Contribution Fund—

- (a) in any Commonwealth Government security;
- (b) on loan on the security of land in New South Wales or elsewhere;
- (c) on deposit with any bank approved by the Treasurer;
- (d) in securities of statutory authorities in New South Wales;
- (e) in any other manner—
 - (i) approved by the Treasurer; or
 - (ii) determined by the Board in accordance with such directions as may be given to the Board by the Treasurer; or
- (f) in all or any 2 or more of the investments or securities referred to in paragraphs (a)–(e),

and the Board may, at any time, realise, hypothecate or otherwise dispose of those investments or securities as the Board may from time to time determine.

(c) Section 30H (4)—

Omit "Government Insurance Office", insert instead "Board".

(2) (a) Section 30I—

Omit "Government Insurance Office", insert instead "Board".

Workers' Compensation (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART IIIA OF THE PRINCIPAL ACT—*continued.*

(b) Section 30I (a)—

Omit “that Office pursuant to this Part (sections 30K (6) and 30M excepted);”, insert instead “the Board pursuant to this Part; and”.

(c) Section 30I (b)—

Omit the paragraph.

(3) (a) Section 30J (2) (b)—

Omit “for which the Commission has, under section 44 (4), compiled and published workers’ compensation statistics”, insert instead “in respect of which the Board has available to it the information necessary for the determination of the deemed premium income”.

(b) Section 30J (4)—

Omit “, other than the Government Insurance Office, shall pay his prescribed contributions to the Government Insurance Office”, insert instead “shall pay the prescribed contributions to be paid by the insurer or self-insurer to the Board”.

(c) Section 30J (5) (a)—

Omit “Government Insurance Office”, insert instead “Board”.

(d) Section 30J (6)—

Omit “signed by the Registrar”, insert instead “executed by the Board”.

(4) (a) Section 30K (2) (a), (2A) (a), (2B) (a), (2C) (a), (3), (6)—

Omit “Government Insurance Office” wherever occurring, insert instead “Board”.

Workers' Compensation (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART IIIA OF THE PRINCIPAL ACT—*continued.*

(b) Section 30K (2) (b), (2A) (b), (2B) (b), (2C) (b)—

Omit “, or where that insurer is the Government Insurance Office” wherever occurring.

(5) (a) Section 30L (1)—

Omit “Government Insurance Office for payment into that Fund (or, if the insurer is the Government Insurance Office, that Office shall forthwith repay into that Fund)”, insert instead “Board for payment into that Fund”.

(b) Section 30L (2)—

Omit “Government Insurance Office”, insert instead “Board”.

(c) Section 30L (2)—

Omit “that Office”, insert instead “the Board”.

(6) Section 30M (2)—

Omit the subsection, insert instead:—

(2) An amount which an employer is liable to pay under subsection (1) may be recovered by the Government Insurance Office from the employer as a debt in any court of competent jurisdiction.

(7) (a) Section 30N (1)—

Omit the subsection.

(b) Section 30N (2), (3)—

Omit “Government Insurance Office” wherever occurring, insert instead “Board”.

Workers' Compensation (Amendment).

SCHEDULE 5—continued.**AMENDMENTS TO PART IIIA OF THE PRINCIPAL ACT—continued.**

(c) Section 30N (2)—

Omit “that Office”, insert instead “the Board”.

(d) Section 30N (3)—

Omit “Commission”, insert instead “Court”.

SCHEDULE 6.

(Sec. 5.)

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

(1) Part IV, heading—

Omit the heading, insert instead:—

STATE COMPENSATION BOARD.

DIVISION 1.—*Constitution of Board.*

(2) Sections 31–40—

Omit the sections, insert instead:—

The Board.

31. (1) There is hereby constituted a corporation under the corporate name of the “State Compensation Board”.

(2) The Board—

- (a) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (b) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

Workers' Compensation (Amendment).

SCHEDULE 6—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.**

(3) The Board shall consist of 5 members who shall be appointed by the Governor.

(4) Of the members—

- (a) 1 shall, in and by the instrument by which the member is appointed, be appointed as a full-time member and Chief Executive Officer of the Board;
- (b) 2 shall, in and by the instruments by which the members are appointed, be appointed as full-time members of the Board;
and
- (c) 2 shall, in and by the instruments by which the members are appointed, be appointed as part-time members of the Board.

(5) Sections 38 and 39 of the Interpretation Act, 1897, apply in respect of the Board as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

Nomination, etc., of members, other than Chief Executive Officer.

32. (1) Of the persons appointed as the full-time members of the Board referred to in section 31 (4) (b)—

- (a) 1 shall be a person nominated by the Minister to represent the interests of employees; and
- (b) 1 shall be a person nominated by the Minister to represent the interests of employers.

(2) A person appointed as a full-time member of the Board referred to in section 31 (4) (b) shall be a person who, in the Minister's opinion, has a background and experience in one or more of the following fields:—

- (a) rehabilitation;
- (b) industrial relations;
- (c) law;

Workers' Compensation (Amendment).

SCHEDULE 6—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.**

- (d) accounting;
- (e) commerce;
- (f) finance.

(3) Of the persons appointed as the part-time members of the Board referred to in section 31 (4) (c)—

- (a) 1 shall be a person nominated by the Minister to represent the interests of insurers; and
- (b) 1 shall be a person selected by the Minister from a panel of not less than 5 persons whose names are submitted by the Labor Council of New South Wales, or (where subsection (4) applies) nominated by the Minister, to represent the interests of employees.

(4) If, in respect of a proposed appointment, a panel of names required to be submitted for the purposes of subsection (3) (b) is not submitted to the Minister within a time specified by the Minister, the Minister may nominate a person for the purposes of that paragraph.

Chairman.

33. The Chief Executive Officer shall be the Chairman of the Board.

Provisions relating to the members and the procedure of the Board.

34. (1) Schedule 1 has effect with respect to the members of the Board.

(2) Schedule 2 has effect with respect to the procedure of the Board.

Workers' Compensation (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.***Functions of Chief Executive Officer.**

35. The Chief Executive Officer—

- (a) shall be responsible for the management of the affairs of the Board subject to and in accordance with any directions given by the Board; and
- (b) shall have and may exercise such other functions as are conferred or imposed on the Chief Executive Officer by or under this or any other Act.

Secretary and other staff of the Board.

36. (1) The Governor may, under the Public Service Act, 1979, appoint a Secretary of the Board.

(2) The Secretary of the Board shall, during—

- (a) any temporary absence of the Chief Executive Officer; or
- (b) any vacancy in the office of Chief Executive Officer,

have, and may exercise, the functions of the Chief Executive Officer including the Chief Executive Officer's functions as member and Chairman of the Board or as member or chairman of any other board or of any committee.

(3) Anything done by the Secretary of the Board in the exercise of any of the functions conferred on the Secretary by subsection (2) shall be deemed to have been done by the Chief Executive Officer.

(4) Such staff as may be necessary to enable the Board to exercise its functions shall be employed under the Public Service Act, 1979.

(5) The Board may appoint, employ and dismiss such casual employees as it deems necessary for the purposes of this Act, and may fix wages and conditions of employment where they are not fixed in accordance with the provisions of any other Act or law.

Workers' Compensation (Amendment).

SCHEDULE 6—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.**

(6) The Board may, with the approval of the Minister and of the Minister administering a government department or administrative office, arrange for the use of the services of any staff or facilities of the department or office.

(7) The Board may engage persons having suitable qualifications and experience as consultants to the Board.

DIVISION 2.—*Functions of Board.***Functions.**

37. (1) A reference in this Part to—

- (a) a function includes a reference to a power, authority and duty; and
- (b) the exercise of a function includes, where that function is a duty, a reference to the performance of the duty.

(2) The Board shall have and may exercise such functions as are conferred or imposed on it by or under this or any other Act.

(3) The Board may, in relation to workers' compensation or any other form of compensation in respect of which the Court or the Board exercises functions or for or in relation to the preventing or minimising of accidents, injuries, losses of functions or diseases in respect of which compensation may be payable—

- (a) carry out research;
- (b) collect statistics;
- (c) monitor the operation of any statutory system for compensating injured persons;
- (d) make reports and recommendations to the Minister on such matters as the Minister requests or as the Board considers appropriate;

Workers' Compensation (Amendment).

SCHEDULE 6—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.**

- (e) provide advisory services, including financial advice;
- (f) provide funds for or in relation to—
 - (i) measures for the prevention or minimisation of accidents, injuries, losses of functions or diseases; and
 - (ii) safety education;
- (g) institute, administer or co-ordinate vocational re-education or rehabilitation schemes;
- (h) provide information in languages other than the English language;
- (i) arrange interpreter services for the Board and the Court;
- (j) provide a law reporting service; and
- (k) provide and administer a legal aid service.

(4) The Board may do all such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions.

(5) Without affecting the generality of subsection (4), the Board, for the purpose of exercising its functions, shall be entitled at the convenience of the Court to—

- (a) uplift, examine, inspect or copy documents or statistics or extracts of documents or statistics; or
- (b) obtain from the Court Registry copies of, or extracts from, documents or statistics,

maintained or available at the Court Registry.

(6) The Court may, in respect of any information obtained by the Board from the Court for the purposes of this section, order that that information shall not be used in any proceedings, or in any specified proceedings, before the Court.

Workers' Compensation (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(7) The Board shall liaise with such organisations or bodies, representatives of groups, members of professions, departments of government or statutory bodies (in each case, whether in or of New South Wales or elsewhere) as may assist the Board to exercise its functions.

(8) The Governor may make regulations for or with respect to the provision or administration of a legal aid service in relation to workers' compensation or any other form of compensation in respect of which the Board exercises functions.

Conciliation.

38. (1) The Board shall make all reasonable efforts to conciliate and bring parties to agreement where dispute has arisen concerning any compensation in respect of which the Court or the Board may exercise functions, other than compensation in respect of which any claim or application has been filed with, and is pending determination by, the Court.

(2) The Board may, for the purpose of exercising its functions under subsection (1)—

- (a) by notice given as prescribed require—
 - (i) persons to attend before it and give evidence; or
 - (ii) persons to produce to it documents or records;
- (b) require evidence to be given before it on oath or affirmation or by way of statutory declaration; and
- (c) refer a matter to a medical panel (within the meaning of section 51) for a report to the Board.

(3) The Chief Executive Officer may administer an oath or affirmation to a person attending before the Board for the purpose of giving evidence.

Workers' Compensation (Amendment).

SCHEDULE 6—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.**

(4) A medical panel to which a matter has been referred by the Board under this section shall submit a report to the Board in accordance with the terms of reference.

(5) The Governor may make regulations for or with respect to conciliation proceedings under this section.

(6) Without affecting the generality of subsection (5), the regulations made under that subsection may contain provisions for or with respect to enabling persons to bring compensation disputes to which subsection (1) applies before the Board for conciliation, including provisions for or with respect to requiring employers or insurers who deny liability under this Act to furnish written statements to that effect to persons affected by the denial.

(7) A person who—

- (a) fails to comply with a notice given under subsection (2) (a);
or
- (b) in any conciliation proceedings under this section makes any statement which he knows to be false or misleading in a material particular,

is guilty of an offence against this Act.

Conciliators.

38A. (1) Persons may be employed as conciliators under the Public Service Act, 1979, for the purpose of exercising the functions of the Board under section 38.

(2) A conciliator shall have, and may exercise, the functions of the Board in respect of any particular matter or class of matters which the Board may specify, in writing, in respect of the conciliator from time to time.

Workers' Compensation (Amendment).

SCHEDULE 6—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.****Supply of information to workers and employers, etc.**

39. (1) The Board shall furnish workers and employers with information as to their rights and liabilities in respect of injuries sustained by workers in connection with their employment.

(2) The Board may furnish to persons, classes of persons or the public generally other information relating to—

- (a) rights and liabilities with respect to compensation; and
- (b) the functions and operations of the Board and the Court.

Liability of members, etc.

40. No matter or thing done by the Board and no matter or thing done by any member or by any person acting under the direction of the Board shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

- (3) Part IV, Division 3, heading—

Before section 41, insert:—

DIVISION 3.—*Financial provisions.*

- (4) (a) Section 41 (2)—

Omit the subsection, insert instead:—

(2) There shall be a fund, in this Act called “the fund”, belonging to and vested in the Board and consisting of—

- (a) the amounts which immediately before the date of commencement of Schedule 6 (4) to the Workers' Compensation (Amendment) Act, 1984, stood to the credit of the fund constituted by this section as then enacted;

Workers' Compensation (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

- (b) the amounts contributed by insurers and self-insurers pursuant to this section; and
- (c) all other amounts received by the Board and not otherwise appropriated.

(b) Section 41 (3)—

Omit “required”.

(c) Section 41 (3) (a)–(d)—

Omit section 41 (3) (a) and (b), insert instead:—

- (a) required for the remuneration, fees and allowances payable to the members, Secretary and staff of the Board and any other persons employed, or whose services are used, under this Act in connection with the exercise by the Board of its functions under this Act;
- (b) required by the Minister administering the Compensation Court Act, 1984, for the remuneration, fees and allowances payable to—
 - (i) the Judges, commissioners and other officers and staff of the Compensation Court; and
 - (ii) arbitrators appointed under the Compensation Court Act, 1984,

and any other costs of operation of the Compensation Court (including the provision of court accommodation and Judges' chambers);
- (c) which the Board thinks proper should be applied towards or in connection with enabling persons to take or defend or be a party to proceedings before the Compensation Court, whether or not those proceedings are taken under this Act; and

Workers' Compensation (Amendment).

SCHEDULE 6—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.**

- (d) required for carrying out the provisions of this Act or for the exercise by the Board of its functions under this Act where moneys are not otherwise provided for that purpose.

- (d) Section 41 (3A)—

After section 41 (3), insert:—

(3A) The Board may invest any money in the fund in any manner for the time being authorised by section 14 (2) of the Trustee Act, 1925.

- (e) Section 41 (4)–(13)—

Omit “Commission” wherever occurring, insert instead “Board”.

- (f) Section 41 (13)—

Omit “signed by the Registrar”, insert instead “executed by the Board”.

- (g) Section 41 (13)—

Omit “the signature or of the official character of the person by whom the certificate purports to have been signed”, insert instead “its execution by the Board”.

- (5) (a) Section 42 (1), (4)—

Omit “Commission” wherever occurring, insert instead “Board”.

- (b) Section 42 (4)—

Omit “30A”, insert instead “30AB”.

- (6) Section 42A—

Omit “Commission” wherever occurring, insert instead “Board”.

Workers' Compensation (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(7) Section 42B, Part IV, Division 4 —

After section 42A, insert:—

Financial year.

42B. The financial year of the Board shall be the year commencing on 1st July.

DIVISION 4.—*Miscellaneous.*

Delegation.

42C. (1) The Board may, by instrument in writing, delegate to—

- (a) a member of the Board;
- (b) a committee comprised of members, including the Chief Executive Officer;
- (c) an officer or employee of the Board;
- (d) a person for the time being holding or acting in a specified position in the staff establishment of the Board; or
- (e) any person of whose services the Board makes use pursuant to this or any other Act,

the exercise of such of the functions of the Board as are specified in the instrument.

(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by the delegate.

Workers' Compensation (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(3) Without limiting the operation of subsection (2), a function the exercise of which has been delegated under this section to the Chief Executive Officer may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by—

- (a) an officer or employee of the Board;
- (b) a person for the time being holding or acting in a specified position in the staff establishment of the Board; or
- (c) any person of whose services the Board makes use pursuant to this or any other Act,

as authorised by instrument in writing by the Chief Executive Officer in that behalf either generally or in a particular case or class of cases.

(4) A delegation or authorisation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation or authorisation.

(5) Notwithstanding any delegation under this section, the Board may continue to exercise any function delegated.

(6) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section, or by a person duly authorised in that behalf by the Chief Executive Officer under this section, has the same force and effect as it would have if it had been done or suffered by the Board and shall be deemed to have been done or suffered by the Board.

(7) The Board may, by instrument in writing, revoke wholly or in part any delegation under this section, and the Chief Executive Officer may, by instrument in writing, revoke wholly or in part any authorisation under this section.

Workers' Compensation (Amendment).

SCHEDULE 6—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.**

(8) An instrument purporting to have been signed by a person in the capacity of a delegate of the Board, or as a person authorised under this section, shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Board and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Board or by a person duly authorised under this section, as the case may be.

(9) Any instrument necessary to be executed and any notice, order, summons or other like document requiring authentication for the purpose of the exercise of any function delegated to any person under this section shall be sufficiently executed or authenticated, as the case may be, if signed by the delegate in such a way as to show that the delegate does so under and in pursuance of the delegation.

(10) In subsections (8) and (9), a reference to a delegate includes a reference to the chairman of a committee to which the exercise of a function has been delegated under subsection (1).

(11) Except as provided by subsection (3), nothing in this section authorises the delegation of the power of delegation conferred by this section.

Annual report.

42D. (1) As soon as practicable after 30th June, but not later than 31st December, in each year, the Board shall prepare and forward to the Minister a report of its work and activities for the 12 months ending on 30th June in that year.

(2) The Minister shall lay the report, or cause it to be laid, before both Houses of Parliament as soon as practicable after receipt of the report.

Workers' Compensation (Amendment).

SCHEDULE 6—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.****References to Board.**

42E. In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the "State Compensation Board" or the "Compensation Board" shall be construed as a reference to the State Compensation Board constituted by this Act.

Service of process.

42F. Any notice, summons, writ or other proceeding required to be served on the Board may be served—

(a) by leaving it; or

(b) in the case of a notice, by posting it addressed to the Board, at its office or, if it has more than one office, at one of its offices.

Authentication of certain documents.

42G. Every summons, process, demand, order, certificate, notice, statement, direction and document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chief Executive Officer or by any officer or employee of the Board authorised to do so by the Chief Executive Officer.

Recovery of charges, etc., by Board.

42H. In any case where no express provision is made for the recovery of any charge, fee or money due to the Board, or to the Crown, in respect of any of the activities of the Board under the provisions of this or any other Act or of any instrument made under this or any other Act, the charge, fee or money, as the case may be, may be recovered by the Board as a debt in a court of competent jurisdiction.

Workers' Compensation (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

Proof of certain matters not required.

42I. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of, or the holding of office by, any member;
or
- (d) the presence or nature of a quorum at any meeting of the Board.

SCHEDULE 7.

(Sec. 5.)

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) (a) Section 43 (3)—

Omit “an official authorised by the Commission”, insert instead “the Board”.

(b) Section 43 (4) (e)—

Omit “Commission”, insert instead “Board”.

(2) (a) Section 44 (1), (2), (4)—

Omit “Commission” wherever occurring, insert instead “Board”.

(b) Section 44 (5)—

Omit “Commission” where firstly occurring, insert instead “Board”.

Workers' Compensation (Amendment).

*SCHEDULE 7—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.*

(c) Section 44 (5)—

Omit “by rule made by it”.

(d) Section 44 (5) (b)—

Omit “by rule made by the Commission or the Insurance Premiums Committee”.

(3) Section 46 (3) (g), (h)—

Omit “Commission” wherever occurring, insert instead “Court”.

(4) Section 49A—

Omit “Commission” wherever occurring, insert instead “Court”.

SCHEDULE 8.

(Sec. 5.)

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

(1) (a) Section 50 (1)—

Omit “Commission” wherever occurring, insert instead “Board”.

(b) Section 50 (1)—

After “medical practitioners”, insert “, including medical practitioners residing outside the State,”.

(c) Section 50 (1)—

Omit “rules made under this Part”, insert instead “the regulations”.

Workers' Compensation (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(d) Section 50 (3)–(5)—

After section 50 (2), insert:—

(3) The Board may appoint 2 or more medical referees as a medical panel.

(4) The Board may appoint a medical referee as a superintendent of medical panels.

(5) The Governor may make regulations for or with respect to the fixing or determining of the remuneration and expenses payable to medical referees.

(2) (a) Section 51 (3)—

Omit “rules made by the Commission”, insert instead “the regulations”.

(b) Section 51 (3)—

Omit “such rules”, insert instead “the regulations”.

(c) Section 51 (4)—

Omit “Registrar on application being made to the Commission by either party, may refer the matter to a medical referee or board”, insert instead “Board, on application being made to it by either party, may refer the matter to a medical referee or medical panel”.

(d) Section 51 (5)—

Omit “or board”, insert instead “or medical panel”.

(e) Section 51 (5)—

Omit “rules made by the Commission”, insert instead “the regulations”.

Workers' Compensation (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(f) Section 51 (5)—

Omit “medical board”, insert instead “medical panel”.

(g) Section 51 (5)—

Omit “the board”, insert instead “the panel”.

(h) Section 51 (6)—

Omit “any rules made by the Commission”, insert instead “the regulations”.

(i) Section 51 (6A)—

After section 51 (6), insert:—

(6A) The Governor may, for the purposes of subsection (6), make regulations for or with respect to the application of the provisions of this section.

(j) Section 51 (7)—

Omit “board”, insert instead “medical panel”.

(k) Section 51 (8)—

Omit “Commission”, insert instead “Court”.

(l) Section 51 (8)—

Omit “board”, insert instead “panel”.

(m) Section 51 (8A), (8B)—

After section 51 (8), insert:—

(8A) The Court may require any worker—

(a) who is in receipt of weekly payments, or who claims compensation, under this Act; and

Workers' Compensation (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(b) who resides outside the State,
to submit himself or herself, on a date and at a place arranged by the Board at the request of the Court, to examination by a medical referee residing outside the State.

(8B) If a worker refuses to submit himself or herself to examination in accordance with a requirement referred to in subsection (8A) or in any way obstructs such an examination, his or her right to compensation, or to take or prosecute any proceedings under this Act in relation to compensation, shall be suspended until the Court otherwise orders.

(n) Section 51 (9)—

Omit the subsection, insert instead:—

(9) In this section—

“medical panel” means a medical panel appointed under section 50 (3);

“medical referee” means a medical referee appointed under section 50 (1).

(o) Section 51 (10)—

Omit “Commission”, insert instead “Board”.

(p) Section 51 (12)—

Omit “board” wherever occurring, insert instead “panel”.

(q) Section 51 (12)—

Omit “Commission”, insert instead “Court”.

(r) Section 51 (13)—

Omit “board” wherever occurring, insert instead “panel”.

(3) Section 52—

Omit “Commission” wherever occurring, insert instead “Board”.

Workers' Compensation (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(4) Section 52A (1)—

Omit "Commission", insert instead "Board".

SCHEDULE 9.

(Sec. 5.)

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

(1) Sections 53A (3)–(6), 53B, 53C, 53E (4)—

Omit "Commission" wherever occurring, insert instead "Court".

(2) Section 53E (3)—

After "rules", insert "of Court".

(3) (a) Section 53F—

Omit "Commission" where firstly occurring, insert instead "Board".

(b) Section 53F—

Omit "Commission" where secondly occurring, insert instead "Court".

(4) Sections 53G–53I—

After section 53F, insert:—

Jurisdiction of Court under Act.

53G. (1) Subject to Part IV of the Compensation Court Act, 1984, the Court shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this Act.

Workers' Compensation (Amendment).

SCHEDULE 9—continued.**AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—continued.**

(2) Without affecting the generality of subsection (1), the jurisdiction of the Court shall extend to determining—

- (a) the question whether an injury received by a worker, or a fire fighter within the meaning of Part IIA, entitles the worker or fire fighter to compensation under this Act;
- (b) the existence and degree of incapacity for work by reason of an injury;
- (c) the permanence of disablement by reason of an injury;
- (d) the degree of diminution of earning capacity by reason of an injury;
- (e) the amount of average earnings of a worker;
- (f) the weekly amount or sum, as the case may be, in accordance with section 11 (1) or 60 (2);
- (g) the existence, for the purpose of this Act, of the relationship of any member of the family of a worker as defined by this Act; and
- (h) the existence and extent of dependency.

(3) Subsection (1) does not affect the functions of the Board under section 38 or of a conciliator under section 38A.

Orders for payment of costs.

53H. (1) Without affecting the generality of the provisions of the Compensation Court Act, 1984, an order by the Court for payment of costs may include—

- (a) the fees and costs actually incurred or to be incurred by a worker;
- (b) where an employer denies liability but later admits liability without recourse to the Court—the reasonable expenses incurred by the worker in pursuing the worker's claim;

Workers' Compensation (Amendment).

SCHEDULE 9—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

- (c) costs of and incidental to an application under section 51 (4); and
- (d) costs incurred in relation to any proceedings under this Act (including proceedings under section 29).

(2) The amount allowable for costs in respect of the attendance before the Court of any medical witness is the lesser of—

- (a) the actual cost of the attendance to the party who calls the witness; and
- (b) an amount calculated according to the scale of costs applicable to proceedings in the Supreme Court in the Common Law Division or, where some other amount is prescribed for the purposes of this paragraph, that other amount.

Illegal employment.

53I. If, in any proceedings for the recovery under this Act of compensation for an injury, it appears to the Court that the contract of service or apprenticeship under which the injured person was engaged at the time when the injury happened was illegal, the Court may, if, having regard to all the circumstances of the case, it thinks it proper so to do, deal with the matter as if the injured person had at that time been a worker under a valid contract of service or apprenticeship.

(5) (a) Section 54 (1)—

Omit “board”, insert instead “panel”.

(b) Section 54 (1)—

Omit “Commission”, insert instead “Court”.

(c) Section 54 (2)—

Omit “board”, insert instead “medical panel”.

Workers' Compensation (Amendment).

SCHEDULE 9—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(d) Section 54 (2)—

Omit "Commission" where firstly occurring, insert instead "Court".

(e) Section 54 (2)—

Omit "made by the Commission", insert instead "of the Board".

(6) Section 54A (2)—

Omit "Commission", insert instead "Court".

(7) (a) Section 56 (1)—

Omit "Commission", insert instead "Board".

(b) Section 56 (2)—

Omit "Commission", insert instead "Court".

(c) Section 56 (4)—

Omit "rules made by the Commission", insert instead "rules of Court".

(8) (a) Section 57 (1)—

Omit "Commission", insert instead "Board".

(b) Section 57 (2)—

Omit "shall, subject to rules made by the Commission, be invested, applied,", insert instead "and any sum paid to the Board under section 15 (3) or 18c (34) shall (subject to the rules of the Board and, in the case of a sum paid to the Board under section 15 (3) or 18c (34), to any agreement or order referred to in that subsection) be invested, applied, paid out".

Workers' Compensation (Amendment).

SCHEDULE 9—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(c) Section 57 (2)—

Omit “Commission” where secondly, thirdly, fourthly and fifthly occurring, insert instead “Board”.

(d) Section 57 (3)—

Omit “Registrar”, insert instead “Board”.

(e) Section 57 (5)—

After section 57 (4), insert:—

(5) The Board may make rules for or with respect to investing, applying or otherwise dealing with sums paid into the office of the Board in pursuance of subsection (1) or section 58 (2).

(9) (a) Section 58 (1)—

Omit “Commission may, on application being made in accordance with the rules made by the Commission”, insert instead “Court may, on application being made in accordance with the rules of Court”.

(b) Section 58 (1)—

Omit “office of the Commission” wherever occurring, insert instead “office of the Board”.

(c) Section 58 (2)—

Omit “Commission, and, subject to rules made by the Commission, be invested, applied, or otherwise dealt with by the Commission in such manner as in its discretion the Commission”, insert instead “Board and, subject to the rules of the Board, be invested, applied or otherwise dealt with by the Board in such manner as in its discretion it”.

Workers' Compensation (Amendment).

SCHEDULE 9—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(d) Section 58 (2)—

Omit "Registrar", insert instead "Board".

(10) Section 59 (1), (2)—

Omit "Commission" wherever occurring, insert instead "Court".

(11) Section 60 (1)—

Omit "Commission" wherever occurring, insert instead "Court".

(12) (a) Section 61—

Omit "Commission" wherever occurring, insert instead "Court".

(b) Section 61—

Omit "as to the manner in which any sum payable to any such dependant", insert instead "the manner in which any sum payable to any such dependant is or".

(c) Section 61—

After "the award,", insert "or the manner of investing, applying or otherwise dealing with that sum,".

(d) Section 61 (2)—

At the end of section 61, insert:—

(2) The Board may apply to the Court for an order under subsection (1).

(13) (a) Section 62 (1)—

Omit "Commission" where firstly occurring, insert instead "Board".

Workers' Compensation (Amendment).

SCHEDULE 9—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(b) Section 62 (1) (a)—

Omit “date of assent to the Workers’ Compensation (Amendment) Act, 1980, was held by the Commission”, insert instead “date of commencement of Schedule 9 (13) to the Workers’ Compensation (Amendment) Act, 1984, was held by the Workers’ Compensation Commission”.

(c) Section 62 (1) (b)—

Omit the paragraph, insert instead:—

(b) any amount that, pursuant to this Act, has—

- (i) been invested by the Workers’ Compensation Commission before the commencement of Schedule 9 (13) to the Workers’ Compensation (Amendment) Act, 1984; or
- (ii) been invested by the Board after that commencement,

for the benefit of a person;

(d) Section 62 (1) (c)—

Omit “Commission”, insert instead “Board”.

(e) Section 62 (2) (a)—

Omit “Commission”, insert instead “Board”.

(f) Section 62 (3)—

Omit “The Commission shall establish an Investment Guarantee Account to the credit of which shall be paid—”, insert instead “The Board shall maintain the Investment Guarantee Account established under this subsection as in force before the commencement of Schedule 9 (13) to the Workers’ Compensation (Amendment) Act, 1984, and shall pay to the credit of that account—”.

Workers' Compensation (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(g) Section 62 (3) (a), (4)–(6)—

Omit “Commission” wherever occurring, insert instead “Board”.

(14) Section 62A—

Omit the section.

(15) (a) Section 62B (1)—

Omit “Commission” wherever occurring, insert instead “Board”.

(b) Section 62B (1)—

Omit “order that the investment be realised and that the proceeds, together with accrued income from the investment, be paid”, insert instead “realise the investment and pay the proceeds, together with accrued income from the investment,”.

SCHEDULE 10.

(Sec. 5.)

AMENDMENT TO PART VIII OF THE PRINCIPAL ACT.

Section 64 (1) (d)—

Omit “Commission”, insert instead “Court”.

Workers' Compensation (Amendment).

SCHEDULE 11.

(Sec. 5.)

AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT.

(1) Section 66 (2), (3)—

Omit section 66 (2), insert instead:—

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(2) Sections 66A–66F—

After section 66, insert:—

Rules.

66A. (1) The Board, with the approval of the Minister, may, in relation to any functions (other than functions of making rules) imposed on it by or under the provisions of this or any other Act, make rules not inconsistent with this Act or another Act or any regulations thereunder for or with respect to any matter required or permitted to be prescribed by rules made by the Board or that are necessary or convenient to be prescribed by rules made by the Board for carrying out or giving effect to those provisions.

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.***AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT—*continued.***

(2) Subsection (1) does not apply in relation to a function imposed on the Board by or under another Act where provision is made in that Act for the making of rules in relation to that function.

(3) Rules of the Board may be made so as to apply differently according to such factors as may be specified in the rules.

Gazettal and Parliamentary review of rules.

66B. (1) A rule of the Board shall—

- (a) be published in the Gazette;
- (b) take effect on and from the date of publication or a later date specified in the rule; and
- (c) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

(2) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a rule of the Board has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have effect.

(3) For the purposes of subsections (1) and (2), sitting days shall be counted, whether or not they occur during the same session.

Judicial notice of rules.

66C. Judicial notice shall be taken—

- (a) of a rule of the Board made or purporting to have been made under this Act and published in the Gazette; and
- (b) of the date of its publication.

Workers' Compensation (Amendment).

SCHEDULE 11—continued.**AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT—continued.****Presumption as to making of rules.**

66D. It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of a rule of the Board under this Act have been complied with and performed.

Service of notices.

66E. A notice required or authorised to be given to, or served on, a person by or under this Act shall be in writing and shall be given to, or served on, that person—

- (a) personally or by post; or
- (b) if a manner of giving or serving the notice is prescribed, in the manner prescribed.

Secrecy.

66F. A person who, without lawful excuse, reveals any matter or thing which has come to the person's knowledge in connection with the administration or execution of this Act is guilty of a misdemeanour, and shall be liable on conviction to imprisonment for any term not exceeding 2 years.

(3) Section 68 (4)—

After section 68 (3), insert:—

(4) Proceedings to recover any penalty for a contravention of this Act may be instituted by the Board.

(4) Section 70—

Omit the section.

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.*

AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT—*continued.*

(5) Section 71 (1) (b)—

Omit "Commission" wherever occurring, insert instead "Board".

(6) Schedules 1, 2—

At the end of the Act, insert:—

SCHEDULE 1.

(Sec. 34 (1).)

PROVISIONS RELATING TO THE MEMBERS OF THE BOARD.

Interpretation.

1. In this Schedule—

"full-time member" means a member referred to in section 31 (4) (a) or (b);

"part-time member" means a member referred to in section 31 (4) (c).

Age of members.

2. A person of or above the age of 65 years is not eligible to be appointed as a member or to act in the office of a member.

Acting members.

3. (1) Subject to section 32, the Governor may, from time to time, appoint a person to act in the office of a member, other than in the office of the member who is the Chief Executive Officer, during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member.

(2) The Governor may remove any person from any office to which the person was appointed under subclause (1).

(3) A person while acting in the office of a member under this clause is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

Workers' Compensation (Amendment).

SCHEDULE 11—continued.**AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT—continued.**

(4) For the purposes of this clause a vacancy in the office of a member shall be deemed to be an absence from office of the member.

Terms of office.

4. (1) Subject to this Schedule, a member shall hold office—

- (a) in the case of a full-time member—for such period not exceeding 7 years; or
- (b) in the case of a part-time member—for such period not exceeding 3 years,

as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

(2) A full-time member shall devote the whole of his or her time to the duties of the office of member, except as permitted by this Act or except with the consent of the Minister (which consent the Minister is hereby authorised to give).

(3) A full-time member is entitled to such leave as may be—

- (a) prescribed; or
- (b) specified in respect of the member in the member's instrument of appointment.

(4) Leave may be prescribed or specified as referred to in subclause (3) by reference to the leave entitlement of the holder of any other office or class of office.

Remuneration.

5. (1) A full-time member is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the member.

(2) A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the part-time member.

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.*AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT—*continued.***Filling of vacancy in office of member.**

6. In the event of the office of a member becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

7. (1) A member shall be deemed to have vacated office if the member—

- (a) dies;
- (b) being a full-time member, absents himself or herself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless the absence is occasioned by illness or other unavoidable cause;
- (c) being a part-time member, absents himself or herself from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (e) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (f) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (g) being a full-time member, engages in any paid employment outside the duties of office of member, except with the consent of the Minister (which consent the Minister is hereby authorised to give);
- (h) resigns the office by instrument in writing addressed to the Minister;
- (i) attains the age of 65 years;

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.***AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT—*continued.***

(j) is retired from office by the Governor under subclause (2); or

(k) is removed from office by the Governor under subclause (3), (4) or (5).

(2) A full-time member may be retired from office by the Governor after attaining the age of 60 years and before attaining the age of 65 years and, if so retired, is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(3) The Governor may remove a full-time member from office for incapacity, incompetence or misbehaviour.

(4) The Governor may remove a part-time member from office.

(5) Without affecting the generality of subclauses (3) and (4), the Governor may remove from office a member who contravenes the provisions of clause 8.

Disclosure of pecuniary interests.

8. (1) A member who has a direct or an indirect pecuniary interest—

(a) in a matter that is being considered, or is about to be considered, at a meeting of the Board; or

(b) in a thing being done or about to be done by the Board,

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a member at a meeting of the Board that the member—

(a) is a member, or is in the employment, of a specified company or other body;

(b) is a partner, or is in the employment, of a specified person; or

(c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.***AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT—*continued.***

(3) The Board shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Board from time to time.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines—

(a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to the matter; or

(b) exercise any functions under this Act with respect to that thing,

as the case may require.

(5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Board or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only of the member's function as a representative of employees, employers or insurers, as the case may be.

Effect of Public Service Act, 1979.

9. The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of a member and a member is not, as a member, subject to those provisions.

Preservation of rights of full-time member if previously public servant, etc.

10. (1) In this clause—

“statutory body” means any body declared under clause 12 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Workers' Compensation (Amendment).

*SCHEDULE 11—continued.**AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT—continued.*

(2) Subject to subclause (3) and to the terms of appointment, where a full-time member was, immediately before being appointed—

- (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee,

he or she—

- (e) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as a member; and
- (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he or she had continued to be such an officer, contributor or person during his or her service as a full-time member, and—

- (h) his or her service as a full-time member shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred; and
- (i) he or she shall be deemed to be an officer or employee, and the Government of New South Wales shall be deemed to be the employer, for the purpose of the superannuation scheme to which he or she is entitled to contribute under this clause.

(3) If a full-time member would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme, to receive any payment, pension or gratuity under that scheme, he or she shall not be so entitled upon becoming (whether upon appointment as a member or at any later time while holding office as a member) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him or her and the Government of New South Wales in any case where he or she becomes a contributor to any such other superannuation scheme.

Workers' Compensation (Amendment).

SCHEDULE 11—continued.**AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT—continued.**

(4) Subclause (3) does not prevent the payment to a full-time member upon his or her ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

(5) A full-time member shall not, in respect of the same period of service, be entitled to claim or receive a benefit under this Act and another Act.

Full-time member entitled to re-appointment in former employment in certain cases.

11. (1) In this clause, "statutory body" means any body declared under clause 12 to be a statutory body for the purposes of this Schedule.

(2) A person who—

- (a) ceases to be a full-time member by reason of the expiration of the period for which the person was appointed or by reason of resignation;
- (b) was, immediately before being appointed as a member—
 - (i) an officer of the Public Service; or
 - (ii) an officer or employee of a statutory body; and
- (c) has not attained the age at which the person would have been entitled to retire had the person continued to be such an officer or employee,

shall be entitled to be appointed to some position in the Public Service or the service of that statutory body, as the case may be, not lower in classification and salary than that which the person held immediately before being appointed as a member.

Declaration of statutory bodies.

12. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.*

**AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT—*continued.*****SCHEDULE 2.**

(Sec. 34 (2).)

PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD.**General procedure.**

1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Schedule, be as determined by the Board.

Quorum.

2. Three members, of whom one shall be the Chairman, shall form a quorum and any duly convened meeting of the Board at which a quorum is present is competent to transact any business of the Board and shall have and may exercise all the functions of the Board.

Presiding member.

3. (1) The Chairman shall preside at a meeting of the Board.

(2) The Chairman shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

Voting.

4. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present shall be the decision of the Board.

Minutes.

5. (1) The Board shall cause a minute book to be kept in which shall be recorded full and accurate minutes of the proceedings of each meeting of the Board.

(2) Minutes recorded under subclause (1) in respect of a meeting shall, when duly read and confirmed at the next meeting of the Board, be signed by the Chairman at that next meeting.

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.*

AMENDMENTS TO PART IX OF, AND ADDITION OF SCHEDULES TO,
THE PRINCIPAL ACT—*continued.*

First meeting of Board.

6. The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.