

WORKMEN'S COMPENSATION  
(LEAD POISONING—BROKEN  
HILL) ACT.

---

Act No. 31, 1922.

**An Act** to extend the provisions for the payment of compensation to persons disabled by lead poisoning in or upon the Broken Hill mines; to establish a Medical Board with jurisdiction in the county of Yancowinna; to amend the Workmen's Compensation Act, 1916, and certain other Acts; and for purposes connected therewith. [Assented to, 24th November, 1922.]

George V,  
No. 31.

BE

**Workmen's Compensation (Lead Poisoning—  
Broken Hill) Act.**

George V,  
No. 31.

**B**E it enacted by the King'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 "Workmen's Compensation (Lead Poisoning—Broken Hill) Act, 1922," and shall be construed with the Workmen's Compensation Act, 1916, hereinafter called the Principal Act.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

"Board" means the medical board constituted under this Act.

"Broken Hill mine" means and includes any metalliferous mine situate in the county of Yancowinna, and any place within the said county in which the product of any mine is stacked, stored, crushed, or otherwise treated.

cf. 1901,  
No. 75, s. 4.

"Mine-owner" means an employer who is the immediate proprietor or lessee or occupier of a Broken Hill mine, or of any part thereof, and does not include a person who merely receives a royalty, rent, or fine from such a mine, or is merely the proprietor of such a mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine.

Medical  
board,  
constitution.

**3.** (1) A medical board is hereby constituted, consisting of three legally qualified medical practitioners who shall be appointed by the Governor, one of whom shall be nominated by the mine-owners, one by their workmen, and a chairman who shall be the medical officer in charge of the Bureau of Medical Inspection at Broken Hill, or if there should be no such officer, a legally qualified medical practitioner nominated by the Minister.

(2) Nominations may be made in the prescribed manner by the mine-owners and their workmen.

**4.**

**Workmen's Compensation (Lead Poisoning—  
Broken Hill) Act.**

173

**George V,  
No. 31.**

**4.** (1) The board shall within the county of Yancowinna, from a date to be notified by the Governor in the Gazette, exclusively exercise the powers and perform the duties of certifying surgeon or medical referee in respect of workmen disabled by any disease mentioned in Schedule Three of the Principal Act.

Powers:  
Certifying  
surgeon's.  
1916, No. 71,  
s. 12 (1) (i).

(2) Notwithstanding the provisions of paragraph (f) of subsection one of section twelve of the Principal Act the decision of the board shall be final.

1916, No. 71,  
s. 12 (1) (f).

(3) In addition to the powers conferred on the certifying surgeon by subsection one of section twelve of the Principal Act, the board may certify that any workman—

Withdrawal  
certificates.

(a) who has been previously certified as suffering from lead poisoning and who has recovered therefrom; and

(b) in the opinion of the board is susceptible to the action of lead,

Susceptible  
persons.

should be removed from further exposure to such action and withdrawn from employment in or upon the Broken Hill mines.

(4) The chairman of the board shall have the powers and perform the duties of medical referee in the county of Yancowinna in all other respects.

Chairman's  
powers as  
medical referee.

**5.** The Governor shall make all necessary appointments to the board. The members of the board may be paid such fees or salaries and allowances as may be prescribed.

Appoint-  
ments and  
fees.

**6.** (1) The provisions of section twelve of the Principal Act shall apply to any workman who was in the employment of a mine-owner for any time during the period of twelve months preceding the thirty-first day of May, one thousand nine hundred and nineteen, and who, prior to that date, had been employed for not less than one thousand two hundred and fifty shifts in or upon Broken Hill mines, notwithstanding that he may not have been employed in any such mine within twelve months previous to the date of his disablement if the board certifies that—

Compensation.  
cf. 1916, No.  
71, s. 12.

- (i) the said workman is suffering from lead poisoning, and is thereby disabled from earning full wages at the work at which he was employed; or
- (ii)

**Workmen's Compensation (Lead Poisoning—  
Broken Hill) Act.**

**George V,  
No. 31.**

(ii) the death of such workman has been caused by lead poisoning :

Provided that—

Notice of  
disablement.  
cf. 1916,  
No. 71, s. 12  
(1), s. 5,  
s. 12 (1) (e).

(a) the compensation shall be recoverable from and notice of death or disablement shall be given to the mine-owner who last employed the workman during the said one thousand two hundred and fifty shifts; and the notice may be given notwithstanding that the workman has voluntarily left his employment;

Limitation.  
*Ibid.* s. 6 (1).

(b) in the case of death or disablement occurring before the commencement of this Act, any such notice shall be valid if given within six months after such commencement.

Rates.  
*Ibid.* s. 5 (3).

(2) In determining the amount of compensation to be paid to any workman entitled to claim under this section—

Death claims.

(i) subparagraph (a) of paragraph one of Schedule One of the Principal Act shall be read as if the words “ prior to the thirty-first day of May, one thousand nine hundred and nineteen ” were inserted in lieu of “ next preceding the injury ”; and

Incapacity.

(ii) subparagraph (b) of paragraph one of Schedule One shall be read as if the words “ twelve months prior to the thirty-first day of May, one thousand nine hundred and nineteen ” were inserted in lieu of the words “ previous twelve months.”

Medical  
treatment  
during  
disablement.

**7.** (1) A workman who is in receipt of compensation for disablement by lead poisoning shall, unless the board declares in writing that it is unnecessary for him so to do, submit himself for treatment by a legally qualified medical practitioner either as a hospital patient or otherwise as the board may approve: Provided that the board may, in its discretion, require any such workman to submit himself to treatment by a legally qualified medical practitioner provided and paid by the mine-owner from whom such compensation is recoverable.

(2)

Workmen's Compensation (Lead Poisoning—  
Broken Hill) Act.

175

George V,  
No. 31.

(2) If a workman refuses to submit himself to any such treatment, or in any way obstructs the same, his right to compensation and to take or prosecute any proceeding under this Act in relation to compensation shall be suspended until he undergoes or continues such treatment to the satisfaction of the board.

Refusal to undergo treatment.  
cf. 1916, No. 71, Sch. I, 4.

(3) A mine-owner from whom compensation is recoverable as aforesaid shall, at the direction of the board, provide and pay a duly qualified medical practitioner to give such treatment as aforesaid.

Provision of medical treatment.  
*Ibid.*

(4) Any person failing to comply with the provisions of this section shall be guilty of an offence against this Act.

Offence.

**8.** (1) If the board, after examination, certifies that a workman who has been employed in or upon a Broken Hill mine, and who has been disabled by lead poisoning, is physically fit to return to employment in or upon a Broken Hill mine his right to compensation shall cease unless the mine-owner who last employed him before the commencement of the disablement refuses to re-employ or continue to employ or dismisses the said workman for the reason that the workman has been disabled by lead poisoning.

Compensation until fit.

Refusal to re-employ workman after certified fit.

(2) Any mine-owner who for the reason that a workman has been disabled by lead poisoning—

Dismissal after certified fit.

(a) refuses to employ or continue to employ a workman who has been disabled by lead poisoning, and subsequently certified as fit to return to employment in or upon a Broken Hill mine; or

(b) dismisses a workman who has been employed or continued in employment after disablement and subsequent certification of fitness as aforesaid,

shall, unless compensation is paid as prescribed by section nine, be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred pounds.

(3) In every case under this section it shall lie on the mine-owner to satisfy the arbitrator or the court that such workman was refused re-employment or continuance

Onus of proof on employer.

**Workmen's Compensation (Lead Poisoning—  
Broken Hill) Act.**

George V,  
No. 31.

continuance of employment or was dismissed from his employment for some reasonable cause other than that he had been disabled by lead poisoning.

Withdrawal  
or exclusion  
from employ-  
ment in B. H.  
mines.

**9.** (1) A workman who is withdrawn or excluded from employment in or upon the Broken Hill mines either—

(a) consequent upon the issue of a certificate by the board under subsection three of section four; or

Refusal to  
re-employ  
workman  
after certified  
fit.

(b) by the unlawful refusal of a mine-owner to re-employ or to continue to employ or by the unlawful dismissal of such a workman who has been disabled by lead poisoning and subsequently certified as fit to return to employment in or upon a Broken Hill mine,

shall be entitled to compensation not exceeding an amount according to the length of his service in or upon such mines as prescribed in the following scale:—

Compensation  
scale on  
withdrawal.

Not more than ten years' service, a sum not exceeding fifty pounds.

Over ten years and not more than twenty years, a sum not exceeding two hundred pounds.

Over twenty years and not more than thirty years, a sum not exceeding three hundred pounds.

Over thirty years, a sum not exceeding four hundred pounds.

Any year in which a workman has worked not less than one hundred and seventy-five shifts in or upon a Broken Hill mine shall be deemed to be a year's service by such workman for the purpose of this section.

Determina-  
tion of  
amount.  
1916, No. 71,  
s. 5 (3).

(2) The amount payable under this section shall in default of agreement be settled by arbitration under the Principal Act as reasonable compensation for his withdrawal from the industry, and to enable him to proceed elsewhere and obtain a new occupation.

(3) Upon payment of compensation to a workman under this section any claim which he may have to compensation under section eight shall cease.

Penalty for  
working in  
mines after  
withdrawal.

(4) A workman—

(a) who has been excluded or withdrawn from employment in or upon the Broken Hill mines

**Workmen's Compensation (Lead Poisoning—  
Broken Hill) Act.**

177

George V,  
No. 31.

mines consequent upon the issue of a certificate by the board under subsection three of section four; and

- (b) who has not subsequently thereto been certified as fit to return to work in or upon a Broken Hill mine,

shall, if he returns to employment in or upon any such mine,—

- (i) forfeit any right to compensation for any subsequent disablement by lead poisoning; and  
(ii) be guilty of an offence against this Act and be liable to a penalty not exceeding twenty-five pounds, and a further penalty not exceeding one pound for every day on which he works in or upon any such mine.

**10.** (1) Any mine-owner from whom compensation for lead poisoning is recoverable shall be entitled to contribution towards such compensation from any other mine-owner who, during the period of ten years preceding the date of disablement, employed the workman to whom compensation is payable, upon a basis agreed upon by the mine-owners and notified to the Minister; and unless and until such agreement is so notified the rate of such contribution shall be proportionate to the number of shifts such workman was employed by each such mine-owner during the said period.

Contribution to compensation.  
cf. 1916, No. 71, s. 12 (1), (c) (iii).

Basis of contribution.

(2) Proviso (iii) to subsection one, paragraph (c), of section twelve of the Principal Act shall not apply to compensation recoverable under this Act.

(3) A mine-owner shall be liable to contribute under subsection one of this section in respect of the employment of any such workman by any predecessor in title in or upon the Broken Hill mine of which such mine-owner is the proprietor, lessee, or occupier.

Contribution for time worked for predecessor.

**11.** (1) Any workman who has reasonable grounds for believing that he is suffering from lead poisoning contracted in or upon a Broken Hill mine shall forthwith give notice thereof to the board in the prescribed form.

Notification of lead poisoning.

(2) Any workman who omits to give notice as aforesaid shall not be entitled to compensation under this Act.

Omission to notify.

(3)

**Workmen's Compensation (Lead Poisoning—  
Broken Hill) Act. .**

**George V,  
No. 31.**

Notification  
by medical  
practitioner.

(3) Any medical practitioner attending any workman whom he has reasonable grounds for believing is suffering from lead poisoning contracted as aforesaid shall forthwith give notice thereof to the board in the prescribed form.

(4) The board may require any workman notified as suffering or as suspected to be suffering from lead poisoning to present himself to the board for the purpose of being medically examined, and the workman shall so present himself and submit to medical examination.

(5) The board shall furnish to the workman a certificate of the result of the examination and shall forward to the mine-owner who last employed the workman a duplicate of the certificate.

Penalty for  
failure.

(6) Any person failing to comply with the provisions of this section shall be guilty of an offence against this Act.

Notices to be  
posted on  
mines.

**12.** (1) Notices embodying precautions which should be observed by workmen employed in or upon the Broken Hill mines shall be posted as prescribed in conspicuous places in or near the mines where they may be conveniently read by the workmen employed therein; and so often as any notice becomes defaced, obliterated, or destroyed, it shall be renewed with all reasonable despatch.

Non-  
compliance  
an offence.

(2) In the event of any non-compliance with the provisions of this section the mine-owner shall be guilty of an offence against this Act unless it is proved that all reasonable means have been taken to enforce the observance of this section.

Pulling down  
or defacing  
notices.

(3) Every person who pulls down, injures, or defaces any notice when posted up in pursuance of this Act shall be guilty of an offence against this Act.

Absent  
beneficiary.

**13.** In the event of any beneficiary under this Act leaving the State of New South Wales, he shall not forfeit his rights under this Act.

General  
penalty.

**14.** Every person who is guilty of an offence against this Act for which a penalty is not expressly prescribed shall be liable to a fine not exceeding five pounds for each offence.

**15.**



**Workmen's Compensation (Lead Poisoning—  
Broken Hill) Act.**

179

George V,  
No. 31.

**15.** (1) The Governor may make regulations for carrying out the provisions of this Act, and may in such regulations impose any penalty not exceeding fifty pounds for any breach thereof. Regulations  
—power to  
make.

(2) Any such penalty may be recovered in a summary manner before a police or stipendiary magistrate or two or more justices.

(3) Such regulations shall—

- (i) be published in the Gazette ;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations ; and
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing such regulation, such regulation shall thereupon cease to have effect.

ARMIDALE