

**WORKERS' COMPENSATION (SILICOSIS)
AMENDMENT ACT.**

Act No. 19, 1958.

**Elizabeth II, An
No. 19, 1958.**

Act to make further provisions in relation to the payment of compensation to dependants of deceased workers who suffered from silicosis or certain other diseases; for this and other purposes to amend the Workers' Compensation (Silicosis) Act, 1942, and certain other Acts; and for purposes connected therewith. [Assented to, 11th April, 1958.]

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
and
citation.

1. (1) This Act may be cited as the "Workers' Compensation (Silicosis) Amendment Act, 1958".

(2) The Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts and by this Act, may be cited as the Workers' Compensation (Silicosis) Act, 1942-1958.

Amendment
of Act No.
14, 1942.

2. The Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, is amended—

Sec. 5.
(Workers'
Compensa-
tion Silicosis
Committee.)

(a) (i) by omitting from paragraph (b) of subsection one of section five the words "The executive member shall devote the whole of his time to the duties of his office." and by inserting in lieu thereof the following new proviso and subparagraph :—

Provided that a person who is of or above the age of sixty-five years shall not be appointed to be the executive member of the committee.

(ii)

(ii) The executive member shall devote the whole of his time to the duties of his office. No. 19, 1958.

(ii) by omitting subparagraph (i) of paragraph (c) of the same subsection and by inserting in lieu thereof the following subparagraph :—

(i) The chairman and other members of the committee shall, subject to this paragraph, hold office for a term of three years and be eligible for reappointment.

The person appointed to be the executive member of the committee shall hold office as chairman or other member, as the case may be, of the committee and as the executive member thereof for a term of three years or for a term which expires upon and includes the day immediately preceding the day on which he attains the age of sixty-five years, whichever is the shorter term, and shall, subject to this section, be eligible for reappointment.

(iii) by inserting at the end of the same section the following new subsection:—

(3) No action or suit shall be brought or maintained against any person who is, or at any time has been, a member of the committee for anything done or omitted by him pursuant to the duties imposed upon him by or under this Act, nor shall any action, suit or other proceeding lie against him, nor any costs be payable by him, in respect of any proceeding before the committee.

(b) by inserting at the end of section seven the following new subsection:—

(6) No action or suit shall be brought or maintained against any person who is, or at any time has been, a member of the medical authority for anything done or omitted by him pursuant to the duties imposed upon him by or under this Act, nor shall any action, suit or other proceeding lie against him, nor any costs be payable by him, in respect of any proceeding before the medical authority.

Sec. 7.
(Medical authority.)

(c)

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Sec. 8.

(Certificate
of medical
authority.)

(c) (i) by omitting paragraph (c) of subsection one of section eight and by inserting in lieu thereof the following paragraph:—

(c) where a person dies and—

(i) immediately before his death he was receiving, or was entitled under an award of the committee to receive, continuing payments of compensation at the prescribed rates from the Fund in respect of his disablement for work from the disease; or

(ii) (a) he had before his death applied to the committee for compensation under the provisions of this Act or to be examined by the medical authority and—

(i) the medical authority had before his death examined such person and certified either before or after his death pursuant to the last examination of such person made by the medical authority before his death that such person was at the time of that examination totally or partially disabled for work from the disease and that his disablement was reasonably attributable to his exposure to the inhalation of silica dust in an occupation to the nature of which the disease was due; or

(ii) the medical authority had not before his death examined such person pursuant to such application but after his death certifies that such person was immediately before his death totally or partially disabled for
work

work from the disease and that ^{No. 19, 1958.}
his disablement was reasonably
attributable to his exposure to
the inhalation of silica dust in
an occupation to the nature of
which the disease was due, and

(b) the committee finds—

- (i) that such person was a worker during the whole of the time he was engaged in such occupation; or
- (ii) that such person was a worker during only part of the time he was engaged in such occupation, and the medical authority further certifies that his disablement was reasonably attributable to his exposure to the inhalation of silica dust in such occupation during the time that the committee has found that he was a worker in such occupation,

the dependants of such person shall, if they are not entitled under paragraph (b) of this subsection to an award from the committee and to receive compensation at the prescribed rates from the Fund, be entitled under this paragraph to an award from the committee and to receive compensation at the prescribed rates from the Fund:

Provided that the committee may refuse to make an award in favour of and to pay to the dependants of a person referred to in subparagraph (i) of paragraph (a) of subparagraph (ii) of this paragraph the whole

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whole or any part of the compensation to which such dependants would, but for this proviso, be entitled under the provisions of this Act if that person before his death refused, neglected or failed, without reasonable cause, to submit himself for examination by the medical authority in accordance with a request of the committee made to him after the last examination of him made by the medical authority before his death.

- (ii) by inserting in subparagraph (ii) of paragraph (c) of subsection two of the same section after the words "medical authority" where firstly occurring the words " , where the dependants of the person are entitled to compensation payments by reason of the operation of subparagraph (i) of paragraph (a) of subparagraph (ii) of paragraph (c) of subsection one of this section,";
- (iii) by inserting at the end of the same subparagraph the words "or, where the dependants of the person are entitled to compensation payments by reason of the operation of subparagraph (ii) of paragraph (a) of subparagraph (ii) of paragraph (c) of subsection one of this section, in the certificate issued by the medical authority pursuant to subparagraph (ii) of the said paragraph (a)";
- (iv) by inserting in subsection three of the same section after the words "the provisions of" where firstly occurring the words "subsections (2B) and (2C) of section seven,";
- (v) by omitting from the same subsection the word " , fourteen," and by inserting in lieu thereof the words "and fourteen, subsections one and three of section fifteen, sections";

(vi)

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- (vi) by omitting from the same subsection the word **No. 19, 1958.**
“, fifty-seven,” and by inserting in lieu thereof
the words “and fifty-seven, subsections one and
two of section fifty-nine and sections”;
- (vii) by inserting in subsection (3A) of the same
section after the word “fourteen” the words
“and of subsection one of section fifteen”;
- (viii) by inserting in subsection six of the same section
after the word “receiving” the words “, in
respect of his disablement for work from the
disease, or the death from the disease of any
other person,”;
- (ix) by inserting in the same subsection after the
word “receive” the words “, in respect of that
part of his disablement for work from the
disease in respect of which he is claiming or
receiving compensation under this Act, or in
respect of the death from the disease of such
other person, as the case may be,”;
- (x) by inserting in the same subsection after the
words “other Act” the words “(in this sub-
section referred to as ‘compensation Act’)”;
- (xi) by inserting at the end of the same subsection
the following new paragraphs :—
- (b) Where, but for this paragraph, compen-
sation would be payable under this Act as well
as under the Principal Act or any compensa-
tion Act in respect of the death of any person
and the compensation payable under the
Principal Act or under the said compensation
Act, as the case may be, in respect of such
death—
- (i) would be of the same or of a lesser
amount than the compensation payable
under this Act in respect of such death,
no compensation shall be payable
under

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under the Principal Act or under the said compensation Act, as the case may be, in respect of such death; or

- (ii) would exceed the compensation payable under this Act in respect of such death, the compensation payable under the Principal Act or under the said compensation Act, as the case may be, in respect of such death shall be reduced by the amount of compensation payable under this Act in respect of such death.

(c) Where the sum of—

- (i) the amount per week payable to any person under this Act in respect of his disablement for work from the disease; and
- (ii) the amount per week payable to such person under the Principal Act or under any compensation Act, in respect of injuries received by him, his disablement or industrial diseases contracted by him,

would, but for this paragraph, exceed—

- (iii) the amount of the weekly payments that would be payable to such person if he were receiving weekly payments under this Act in respect of his total disablement for work from the disease; or
- (iv) the amount of the weekly payments that would be payable to such person if he were receiving weekly payments under the Principal Act or under the said compensation Act, as the case may be, in respect of his total incapacity for work from injury, disablement or industrial diseases,

whichever

whichever is the greater, then the weekly payments of compensation that would, but for this paragraph, be payable to such person under the Principal Act or under the said compensation Act shall be reduced by an amount equal to the difference between—

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- (v) the sum of the amounts referred to in subparagraphs (i) and (ii) of this paragraph; and
- (vi) the amount of the weekly payments referred to in subparagraph (iii) or (iv) of this paragraph, whichever is the greater.

(d) by inserting next after subparagraph (iv) of paragraph (a) of subsection two of section ten the following new paragraph:—

Sec. 10.
(Regulations.)

- (iva) requiring persons who have been examined by the medical authority and would but for section eleven or thirteen of the Principal Act be entitled to compensation under this Act to submit themselves for periodical medical examination.

3. Where the dependants of a person who died after the first day of January, one thousand nine hundred and fifty-two, and before the commencement of this Act would, had the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts and by this Act, been in force at the date of such person's death, have been entitled under paragraph (c) of subsection one of section eight of that Act, as so amended, to an award from the committee and to receive compensation at the prescribed rates from the Fund but such dependants were not entitled under the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, to such an award and to receive such compensation in respect of the death of such person, such dependants shall be entitled to an award from the committee and to receive compensation at the prescribed

Dependants of certain persons who died before the commencement of this Act to be entitled to compensation.

Snowy Mountains Hydro-electric Agreements Act.

No. 19, 1958. prescribed rates from the Fund as if the said paragraph (c) of subsection one, and paragraph (c) of subsection two, of section eight of the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts and by this Act, had been in force at the date of such person's death.

Amendment
of Act No.
26, 1957,
s. 4.
(Dependants
of certain
persons
dying before
commence-
ment of
this Act
entitled to
awards.)

4. (1) The Workers' Compensation (Silicosis) Amendment Act, 1957, is amended by inserting in section four next after the figure and symbols "(1A)" the words "of section eight".

(2) The amendment made by subsection one of this section shall be deemed to have commenced on the first day of June, one thousand nine hundred and fifty-seven.
