

WORKERS' COMPENSATION (AMENDMENT) ACT.

Act No. 34, 1966.

Elizabeth II,
No. 34, 1966
An Act to amend the law relating to workers' compensation; to amend the Workers' Compensation Act, 1926-1965, in certain respects; and for purposes connected therewith. [Assented to, 13th April, 1966.]

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 (Amendment) Act, 1966".

(2)

(2) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1966.

2. (1) The Principal Act is amended by inserting next after subsection five of section sixteen the following new subsection :—

Amendment
of Act No.
15, 1926.
Sec. 16.
(Compensa-
tion for
certain
injuries.)

(5A) (a) In this subsection—

“Appropriate amount” means the amount of compensation that would, but for this subsection, be payable under this section for an injury being a total loss of sight, of hearing or of a part of the body mentioned in the first column of the said table, as the case may be.

“Loss of function” means permanent diminution or permanent and total deprivation of sight, of hearing, or of the full efficient use of a part of the body referred to in the said table.

“Occupational disease” means the condition known as boilermaker's deafness, or any deafness of the like origin; total or partial loss of sight which is of gradual onset; or any disease which is of such a nature as to be contracted by a gradual process.

(b) If a worker, after having on one or more occasions (whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1966) received or become entitled to receive compensation for an injury (in this section called a “prior injury”) being an occupational disease, suffers a further loss of function in respect of the same occupational disease, he shall be deemed to have received a further injury which shall be deemed to have happened at the time when the worker makes a claim for compensation for that further loss of function.

(c)

296 **Workers' Compensation (Amendment) Act.**

No. 34, 1966

(c) Subject to this subsection, a worker who suffers such a further loss of function as is referred to in paragraph (b) of this subsection shall be entitled to receive from his employer in respect of that further injury, in addition to any other compensation prescribed by this Act, a percentage, calculated in accordance with paragraph (d) of this subsection, of the appropriate amount indicated in the second column of the said table.

(d) The percentage referred to in paragraph (c) of this subsection shall be the difference between the total percentage of loss of function, in respect of the relevant occupational disease, from which the worker was suffering immediately after the injury in respect of which the claim is made and—

(i) where the worker has had only one prior injury, the percentage of loss of function from which he was suffering, in respect of the relevant occupational disease, immediately after that prior injury; or

(ii) where the worker has had more than one prior injury, the total percentage of loss of function from which he was suffering, in respect of the relevant occupational disease, immediately after the later or, as the case may be, the latest of those prior injuries.

(e) Where a worker suffers such a further loss of function as is referred to in paragraph (b) of this subsection he shall not be entitled to receive compensation for that further injury under any provision of this section other than this subsection.

(2) The amendment made by subsection one of this section shall apply to and in respect of injuries received before as well as to those received after the commencement of this Act.

3. The Principal Act is further amended—

No. 34, 1966

Further amendment of Act No. 15, 1926.

- (a) by inserting at the end of section 17A the following new subsection :—

Sec. 17A.
(Bush fire fighters compensation.)

(2) This Part of this Act shall extend and apply to and in respect of injury or destruction of or damage to property sustained within the Commonwealth of Australia and its Territories but outside New South Wales by—

- (a) any person referred to in paragraph (a) of the definition of "Fire fighter" in subsection one of section 17B of this Act; or
- (b) any person referred to in paragraph (b) of that definition, resident in New South Wales; or
- (c) any person referred to in paragraph (c) of that definition, resident in New South Wales, if the bush fire referred to in that paragraph was within or partly within or, in the opinion of the Commission, likely to spread to New South Wales,

as though the injury, destruction or damage had been sustained in New South Wales.

- (b) (i) by omitting from subsection three of section 17C the word "subsection" and by inserting in lieu thereof the words "subsections (2B), (2C), (2D) and";
- (ii) by inserting at the end of the same subsection the following words :—

Sec. 17c.
(Compensation payable to fire fighters for injury received.)

A person entitled to an award under this section in respect of an injury or who would be so entitled if he elected pursuant to subsection (2C) of section seven of this Act to receive compensation in respect of that injury shall,

No. 34, 1966

shall, if he makes such an election by informing his employer thereof in accordance with the requirements of that subsection, also inform the Commission thereof and, if he does not so inform the Commission, shall be deemed not to have made the election.

- (iii) by omitting from subsection eight of the same section the words "any Act relating to workers' compensation, or from any other source whatsoever" and by inserting in lieu thereof the words "any Act or ordinance relating to worker's compensation of any State or Territory of the Commonwealth of Australia".

Further amendment of Act No. 15, 1926.

Sec. 28.
(Information, etc., to be supplied by licensees.)

4. The Principal Act is further amended—

- (a) (i) by omitting from paragraph (a) of subsection one of section twenty-eight the words "hereinafter referred to" and by inserting in lieu thereof the words "hereafter referred to in this paragraph";

- (ii) by inserting next after the same paragraph the following new paragraph :—

(a1) being a corporation, shall furnish to the Commission within the time specified in the notice hereafter referred to in this paragraph such information, particulars, accounts, documents and copies of accounts and documents as to the business and financial position of any corporation or corporations, being the holding company or a subsidiary or subsidiaries of the licensee, specified in the notice as—

- (i) is or are in the possession or under the control of the licensee; and
(ii) the Commission may by notice in writing to the licensee from time to time require to be furnished;

(iii)

Workers' Compensation (Amendment) Act. 299

(iii) by inserting next after the same subsection No. 34, 1966 the following new subsection :—

(1A) The Commission may by the terms of a notice given to any person pursuant to paragraph (a) of subsection one of this section, or by a subsequent notice, require that person to supply to the Commission a certificate by a registered public accountant under the Public Accountants Registration Act, 1945, as amended by subsequent Acts, approved by the Commission or an actuary so approved as to the correctness of any information, particulars, accounts or documents which or copies of which has or have been, or is or are required to be, furnished pursuant to the first mentioned notice, and where the Commission has so required, the information, particulars, accounts, documents or copies shall be deemed not to have been furnished unless such a certificate in respect thereof has been so supplied. The expense of obtaining any such certificate shall be borne by the person required to supply it.

(b) by inserting next after paragraph (h) of subsection one of section twenty-nine the following new paragraph :—

Sec. 29.
(Termination of licenses.)

(h1) that the licensee has in any one or more financial years incurred underwriting or other losses that in the opinion of the Commission are excessive.

5. The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

(a) by omitting from subsection one of section forty-four the words “, shall where the injury results in death or incapacity for work for a period of three days,” and by inserting in lieu thereof the word “shall”;

Sec. 44.
(Reports of injuries.)

(b)

Workers' Compensation (Amendment) Act.

No. 34, 1966
Sec. 49A.

(b) by omitting section 49A and by inserting in lieu thereof the following section :—

Death of
employer.

49A. (1) The Commission may on application by a worker and if satisfied as to the matters sought to be declared, declare that an employer has entered into a contract with an insurer, named in the declaration, in respect of any liability under this Act to that worker and that the employer—

- (a) being a natural person, has died, or is permanently resident outside the Commonwealth of Australia and its Territories, or cannot after due inquiry and search be found; or
- (b) being a corporation (other than a company which has commenced to be wound up) has ceased to exist; or
- (c) being a company, corporation, society, association or other body (other than a company which has commenced to be wound up) was at the time when it commenced to employ the worker incorporated outside the Commonwealth of Australia and its Territories and registered as a foreign company under the laws of any State or Territory of the Commonwealth of Australia and is not at the time of the declaration so registered under any such law.

On the Commission making such a declaration, the rights the employer has or would, had the employer not died or being a corporation ceased to exist, have had against the insurer as respects that liability shall be transferred to and vested in the worker.

(2) Where by the operation of this section the rights of an employer against an insurer are transferred to and vest in a worker, and the liability
of

of the insurer to the worker is less than the liability of the employer to the worker, then the worker may, if the employer—

- (a) has not died or, being a corporation, ceased to exist, proceed for the balance against the employer;
- (b) has died, proceed for the balance against the employer's personal representative.
- (c) by omitting from subsection two of section fifty-eight the words "elects to accept" and by inserting in lieu thereof the words "becomes entitled to";
- (d) by inserting at the end of section sixty-eight the following new subsections :—

Sec. 58.
(Payment into Commission.)

Sec. 68.
(Recovery of penalties.)

(2) Any proceedings for a penalty under this Act or the regulations against an employer which is an unincorporated club may be taken against the secretary or the managing committee of the club as nominal defendants on behalf of the club and its members.

cf. 1940, No. 2, s. 93A.

Any property of the club, whether in the hands of trustees or not, shall be available to answer any penalty imposed in such proceedings.

(3) Where a person convicted of an offence against this Act or the regulations is a body corporate, every person who at the time of the commission of the offence was a director or officer of the body corporate shall be deemed to have committed the like offence and be liable to the pecuniary penalty or imprisonment provided by this Act or the regulations for such offence accordingly, unless he proves that the offence was committed without his knowledge or that he used due diligence to prevent the commission of the offence.

1962, No. 43, s. 147 (3).

- (e) (i) by inserting in subsection two of section seventy-one after the word "make" the words "or are deemed by this subsection to make";
- (ii)

Sec. 71.
(Transfer of funds.)

No. 34, 1966

(ii) by inserting at the end of the same subsection the following new paragraph :—

(b) The Governor may make regulations under this Act prescribing any country as a country whose laws make the reciprocal provisions referred to in paragraph (a) of this subsection, and for the purposes of this subsection the laws of each country for the time being so prescribed shall be deemed to make such provisions.

Subsisting
policies.

6. Any policy of insurance against liability under the Workers' Compensation Act, 1926, or any amendment of that Act, being maintained in force at the commencement of this Act shall be deemed to insure the employer and always to have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment made by this Act.
