

**WORKERS' COMPENSATION (DUST DISEASES)  
AMENDMENT ACT.**

**New South Wales**



ANNO SEXTO DECIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 98, 1967.**

An Act to make further provision with respect to the payment, under certain Acts, of compensation for the disablement or death of workers; for this and other purposes to amend the Workers' Compensation (Silicosis) Act, 1942, the Workers' Compensation Act, 1926, and certain other Acts; to validate certain matters; and for purposes connected therewith. [Assented to, 18th December, 1967.]

**BE**

*Workers' Compensation (Dust Diseases) Amendment.*

**No. 98, 1967** **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 :—

**PART I.****PRELIMINARY.**

Short title  
and  
citation.

**1.** (1) This Act may be cited as the "Workers' Compensation (Dust Diseases) Amendment Act, 1967".

(2) The Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, is in this Act referred to as the Silicosis Act.

(3) The Silicosis Act, as amended by this Act, may be cited as the Workers' Compensation (Dust Diseases) Act, 1942-1967.

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

Division  
into Parts.

**2.** This Act is divided into Parts, as follows :—

**PART I.—PRELIMINARY.**

**PART II.—AMENDMENT OF THE SILICOSIS ACT.**

**PART III.—AMENDMENT OF THE PRINCIPAL ACT.**

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**PART**

*Workers' Compensation (Dust Diseases) Amendment.*

## PART II.

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## AMENDMENT OF THE SILICOSIS ACT.

## 3. (1) The Silicosis Act is amended—

Amendment  
of Act No.  
14, 1942.

- (a) (i) by omitting subsections three and four of section two and by inserting in lieu thereof the following subsection :—

Sec. 2.  
(Repeal of  
Workmen's  
Compensa-  
tion (Sili-  
cosis) Act,  
1920-1936,  
and schemes  
made there-  
under.)

(3) (a) Any balance and investments at the credit of the Silicosis Fund immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, shall, as from that commencement, be transferred to the Fund established under this Act and any liability of the Silicosis Fund shall, as from that commencement, be and become a liability of the Fund established under this Act.

Existing  
assets and  
debts of  
Silicosis  
Fund.

(b) All property, assets, rights, books and documents that, immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, were vested in or in the custody or possession of or under the control of the Silicosis Committee shall, as from that commencement be vested in, or transferred to the custody, possession and control of, the board.

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

(5) Any worker who immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, was in receipt of continuing payments of compensation to which he was entitled

Certain  
awards to  
be a charge  
against  
the Fund.

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entitled under subsection four of this section, as enacted immediately before that commencement, shall be entitled to receive compensation from the Fund, as from that commencement, at the rate prescribed by or under this Act and appropriate to the case.

Sec. 3.  
(Definitions.)

- (b) (i) by inserting in section three next before the definition of "Broken Hill mine" and "Broken Hill mine-owner" the following new definition :—

"Board" means the Workers' Compensation (Dust Diseases) Board constituted under this Act.

- (ii) by omitting from the same section the definition of "Committee";
- (iii) by omitting from the same section the definition of "Disease" and by inserting in lieu thereof the following definitions :—

"Dust" means dust of such a nature that the inhalation thereof may give rise to a dust disease.

"Dust disease" means any disease specified in the Schedule to this Act, and includes any pathological condition of the pulmonary organs, that is caused by dust and accompanies a disease so specified.

"Dust occupation" means industry or process prescribed as a dust occupation.

- (iv) by omitting from the definition of "Employer" in the same section the words "the disease" and by inserting in lieu thereof the words "a dust disease";
- (v) by omitting from the definition of "Fund" in the same section the word "Silicosis" and by inserting in lieu thereof the words "Dust Diseases";

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- (vi) by omitting from the same section the definition of "Silicosis" and by inserting in lieu thereof the following definitions :—
- "Prescribed" means prescribed by regulations made under this Act.
- "Process" includes occupation and any description of manual labour.
- "Silicosis Account" means the Silicosis Contribution Account established under the Silicosis Act.
- "Silicosis Act" means the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts passed before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967.
- "Silicosis Committee" means the Workers' Compensation (Silicosis) Committee constituted under the Silicosis Act.
- "Silicosis Fund" means the Workers' Compensation (Silicosis) Fund established under the Silicosis Act.
- "Silicosis Reserve Fund" means the Silicosis Outstanding Liability Reserve Fund constituted under the Silicosis Act.
- (c) (i) by omitting from paragraph (a) of subsection one of section five the words "Workers' Compensation (Silicosis) Committee" and by inserting in lieu thereof the words "Workers' Compensation (Dust Diseases) Board"; Sec. 5. (Workers' Compensation Silicosis Committee.)
- (ii) by omitting from the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (d) (i) by omitting from subsection one of section six the words "Workers' Compensation (Silicosis) Fund" and by inserting in lieu thereof the words "Workers' Compensation (Dust Diseases) Fund"; Sec. 6. (Constitution of Fund.)

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- (ii) by omitting paragraph (a) of the same subsection and by inserting in lieu thereof the following paragraph :—
- (a) all balances, investments and moneys of which the Silicosis Fund consisted immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, and all moneys that, immediately before that commencement, were owing to the Silicosis Fund and are paid after that commencement;
- (iii) by omitting from paragraph (b) of the same subsection the word "committee" and by inserting in lieu thereof the word "board";
- (iv) by omitting from subsection two of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (v) by omitting from subsection three of the same section the word "committee" and by inserting in lieu thereof the word "board";
- (vi) by omitting from the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease";
- (vii) by omitting from subsection four of the same section the words "The committee shall as soon as practicable after the commencement of section three of the Workers' Compensation (Amendment) Act, 1945, make an estimate of the amount to be expended out of the fund for that portion of the year ending on the thirtieth day of June next following the date

of

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of such commencement as is unexpired on that date. And thereafter the committee” and by inserting in lieu thereof the words “The board”; No. 98, 1967

- (viii) by omitting from subsection five of the same section the words “the committee” wherever occurring and by inserting in lieu thereof the words “the board”;
- (ix) by omitting from paragraph (d) of the same subsection the words “disease caused by silica dust” and by inserting in lieu thereof the words “dust disease”;
- (x) by omitting from paragraph (b) of subsection (7A) of the same section the words “Committee for the purposes of the fund” and by inserting in lieu thereof the words “Silicosis Committee for the purposes of the Silicosis Fund”;
- (xi) by omitting from subsection (7B) of the same section the word “Silicosis” and by inserting in lieu thereof the words “Dust Diseases”;
- (xii) by omitting from subsection (7C) of the same section the word “Silicosis” wherever occurring and by inserting in lieu thereof the words “Dust Diseases”;
- (xiii) by inserting in the same subsection after the word “section” where firstly occurring the words “and into which shall be paid all moneys which immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, stood to the credit of or were payable to the Silicosis Account”;
- (xiv) by omitting from the same subsection the words “the committee” and by inserting in lieu thereof the words “the board”;

(xv)

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- (xv) by omitting from subsection (7D) of the same section the word "Silicosis" and by inserting in lieu thereof the words "Dust Diseases";
- (xvi) by inserting in the same subsection after the words "consist of" the words "all moneys which immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, stood to the credit of the Silicosis Reserve Fund and of";
- (xvii) by omitting from subsection ten of the same section the word "committee" and by inserting in lieu thereof the word "board";
- (xviii) by omitting from the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease";
- (xix) by omitting from the same subsection the word "committee's" and by inserting in lieu thereof the word "board's";

Sec. 7.  
(Medical  
authority.)

- (e) (i) by omitting from subsection one of section seven the words "the disease" and by inserting in lieu thereof the words "a dust disease";
- (ii) by omitting from subsection three of the same section the word "committee" and by inserting in lieu thereof the word "board";
- (iii) by omitting from subsection five of the same section the words "except as to any of the matters found in an award made by the Commission in the circumstances mentioned in subsection five of section eight of this Act";

Sec. 8.  
(Certificate  
of medical  
authority.)

- (f) (i) by omitting from paragraph (a) of subsection one of section eight the words "the disease" where firstly occurring and by inserting in lieu thereof the words "a dust disease";
- (ii) by omitting from the same paragraph the word "silica" wherever occurring;

(iii)



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- (iii) by omitting from the same paragraph the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (iv) by omitting from paragraph (b) of the same subsection the words "the disease" where firstly occurring and by inserting in lieu thereof the words "a dust disease";
- (v) by omitting from the same paragraph the word "silica" wherever occurring;
- (vi) by omitting from the same paragraph the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (vii) by omitting from paragraph (c) of the same subsection the word "committee" where firstly occurring and by inserting in lieu thereof the words "board or of the Silicosis Committee";
- (viii) by omitting from the same paragraph the word "committee" where secondly occurring and by inserting in lieu thereof the words "board or to the Silicosis Committee";
- (ix) by omitting from the same paragraph the word "committee" where thirdly, fourthly, fifthly, sixthly and seventhly occurring and by inserting in lieu thereof the word "board";
- (x) by omitting from the same paragraph the word "committee" where eighthly occurring and by inserting in lieu thereof the words "board or the Silicosis Committee";
- (xi) by omitting from the same paragraph the word "silica" wherever occurring;
- (xii) by omitting from subparagraph (i) of the same paragraph the words "the disease" and by inserting in lieu thereof the words "a dust disease";
- (xiii)

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- (xiii) by omitting from paragraph (a) of subparagraph (ii) of the same paragraph the words "the disease" where firstly and thirdly occurring and by inserting in lieu thereof the words "a dust disease";
- (xiv) by omitting from subsection two of the same section the word "committee" and by inserting in lieu thereof the word "board";
- (xv) by omitting from the same subsection the words "the disease" wherever occurring and by inserting in lieu thereof the words "the dust disease";
- (xvi) by omitting from subsection (2A) of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (xvii) by omitting from subsection three of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (xviii) by omitting from subsection (3A) of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (xix) by omitting from subsection four of the same section the word "committee" and by inserting in lieu thereof the word "board";
- (xx) by omitting subsection five of the same section;
- (xxi) by omitting from paragraph (a) of subsection six of the same section the words "the disease" where firstly and secondly occurring and by inserting in lieu thereof the words "a dust disease";
- (xxii) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words "the disease" and by inserting in lieu thereof the words "a dust disease";

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- (xxiii) by omitting from subsection seven of the same section the word "committee" and by inserting in lieu thereof the word "board";
- (g) (i) by omitting from section 8A the word "committee" where firstly occurring and by inserting in lieu thereof the words "Silicosis Committee or the board"; Sec. 8A.  
(Power to vary awards for certain purposes.)
- (ii) by omitting from the same section the word "committee" where thirdly and fourthly occurring and by inserting in lieu thereof the word "board";
- (h) by omitting from section 8B the word "committee" wherever occurring and by inserting in lieu thereof the word "board"; Sec. 8B.  
(Interim award.)
- (i) by omitting from section 8C the word "committee" and by inserting in lieu thereof the word "board"; Sec. 8C.  
(Power to terminate or vary awards.)
- (j) (i) by omitting from section 8D the words "the committee's powers under"; Sec. 8D.  
(Power to resume weekly payments ended under section 60 of Principal Act.)
- (ii) by inserting in the same section after the words "Principal Act" the words "as applied by subsection three of section eight of this Act";
- (iii) by omitting from the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (k) (i) by omitting from section nine the words ", shall be deemed to be and to have been entitled to such payments, and any such person shall be deemed to" and by inserting in lieu thereof the words "shall, where such payments were, immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, being continued under this section as enacted immediately before that commencement,"; Sec. 9.  
(Allowances for "hard luck" cases.)
- (ii)

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- No. 98, 1967 (ii) by omitting from the same section the words "committee constituted under this Act and the payments made to any such person in any such case are hereby validated" and by inserting in lieu thereof the word "board";
- Sec. 10. (Regulations.) (1) (i) by omitting from paragraph (a) of subsection two of section ten the words "industry or process or group of industries or processes involving exposure to the risk of contracting a disease caused by silica dust," wherever occurring and by inserting in lieu thereof the words "dust occupation";
- (ii) by omitting from subparagraph (iii) of the same paragraph the words "disease so caused" and by inserting in lieu thereof the words "dust disease";
- (iii) by omitting from subparagraph (iii) of paragraph (b) of the same subsection the word "committee" and by inserting in lieu thereof the word "board";
- (iv) by omitting from paragraph (c) of the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease";
- (m) by inserting at the end of the Act the following new Schedule :—

Sec. 3.

## SCHEDULE.

Aluminosis  
 Asbestosis  
 Bagassosis  
 Baritosis  
 Berylliosis  
 Boiler scalers' and repairers' pneumoconiosis  
 Byssinosis  
 Carbon pneumoconiosis  
 Carborundum pneumoconiosis  
 Cement dust pneumoconiosis  
 Coal dust pneumoconiosis

Diatomite

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Diatomite pneumoconiosis  
 Emery pneumoconiosis  
 Farmers' lung  
 Graphite pneumoconiosis  
 Hard metal pneumoconiosis  
 Micatosis  
 Pumice pneumoconiosis  
 Siderosis  
 Silicosis  
 Silico-tuberculosis  
 Sillimanite pneumoconiosis  
 Stannosis  
 Talcosis  
 Titaniosis

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(2) (a) The Workers' Compensation (Silicosis) Committee is hereby dissolved and the chairman, executive member and other members thereof shall, on and from the commencement of this Part of this Act, cease to hold office as such.

(b) The persons who held office as the chairman and executive member and as the other members of the Workers' Compensation (Silicosis) Committee immediately before the commencement of this Part of this Act shall, on and from that commencement, be deemed to have been appointed as the chairman and executive member and as the other members, respectively, of the Workers' Compensation (Dust Diseases) Board and shall, notwithstanding the provisions of section five of the Silicosis Act, hold office as such for the balance of the term for which they were appointed as chairman and executive member, and as the other members, respectively, of the Workers' Compensation (Silicosis) Committee.

(c) On and from the commencement of this Part of this Act, in the construction and for the purposes of any Act, by-law, regulation, ordinance or any other instrument or document whatsoever, of the same or a different kind or nature, any reference to, or to be read, deemed or taken to refer to the Workers' Compensation (Silicosis) Committee or to the Workers' Compensation (Silicosis) Fund constituted

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No. 98, 1967 constituted by the Silicosis Act shall be read and construed as a reference to the Workers' Compensation (Dust Diseases) Board and to the Workers' Compensation (Dust Diseases) Fund, respectively.

(d) Every award, finding, decision, order, estimate or request of the Workers' Compensation (Silicosis) Committee shall be deemed to have been an award, finding, decision, order, estimate or request of the Workers' Compensation (Dust Diseases) Board.

(e) Every application, inquiry, investigation or other proceeding commenced by or before the Workers' Compensation (Silicosis) Committee and pending at the commencement of this Act may be continued and completed as though it had been commenced by or before the Workers' Compensation (Dust Diseases) Board.

Further  
amendment  
of Act No.  
14, 1942.

4. The Silicosis Act is further amended—

Sec. 8.  
(Certificate  
of medical  
authority.)

(a) by inserting in subsection two of section eight after the word "section" where firstly occurring the words " , not being an award to which subsection (2B) of this section applies, ";

(b) by inserting next after subsection (2A) of the same section the following new subsections :—

(2B) (a) This subsection applies to every award of the board made, after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, pursuant to paragraph (b) or (c) of subsection one of this section in respect of the death before or after that commencement of a person (in this subsection and in subsections (2C) and (2D) of this section referred to as "the worker") upon whom there was dependent for support, immediately before his death, the following and no other person or persons :—

(i) his widow; or

(ii)

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- (ii) where the worker left no widow or no widow No. 98, 1967 who was so dependent, one other person who, although not legally married to the worker, lived with him as his wife on a permanent and bona fide domestic basis for a period of not less than three years immediately preceding the death of the worker; or
- (iii) either of the dependent persons referred to in subparagraphs (i) and (ii) of this paragraph and a child or children.

In this paragraph and in subsections (2C) and (2D) of this section "child" means a child or step-child of the worker under sixteen years of age and a child under that age to whom the worker stood in loco parentis and "children" has a corresponding meaning.

(b) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of this subsection was wholly dependent for support on the worker and an award to which this subsection applies is made by the board under paragraph (b) of subsection one of this section, the prescribed rates of compensation payable shall be—

- (i) the sum of three thousand dollars;
- (ii) a weekly payment of sixteen dollars per week, to continue until the marriage or death, whichever event first occurs, of that person; and
- (iii) a weekly payment of five dollars per week in respect of each child who was wholly or partly dependent on the worker for support, to continue in respect of each child until he attains the age of sixteen years or dies, whichever event first occurs:

Provided that in respect of any such child who on attaining that age is receiving full time education at a school, college or university

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university the payment shall continue until he dies, or attains the age of twenty-one years, or ceases to receive such education, whichever event first occurs.

(c) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of this subsection was wholly dependent for support on the worker and an award to which this subsection applies is made pursuant to paragraph (c) of subsection one of this section, the prescribed rates of compensation payable shall be—

- (i) where the disablement for work from the disease was total, the compensation payments prescribed by paragraph (b) of this subsection; or
- (ii) where the disablement for work from the disease was partial, a percentage of the compensation payments prescribed by paragraph (b) of this subsection, such percentage being calculated in accordance with the provisions, mutatis mutandis, of subparagraph (ii) of paragraph (c) of subsection two of this section.

(d) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of this subsection was partially dependent on the worker for support the prescribed rate of compensation payable shall be such payments, not exceeding in any case the amount that would have been payable as compensation under the award had that person been wholly dependent on the worker for support, as may be determined by the board to be reasonable and proportionate to the injury to that person.

(2c) (a) The board may, of its own motion, and shall, on the application of a person who is, or at any time was, entitled under any award made pursuant to this Act before the commencement of Part II of the Workers' Compensation

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(Dust Diseases) Amendment Act, 1967, or No. 98, 1967 pursuant to any scheme made under the Workers' Compensation (Silicosis) Act, 1920, as amended by subsequent Acts, to compensation in respect of the death of another person, order that compensation in respect of such death shall be payable under that award in accordance with the provisions of this subsection.

(b) Where the board makes an order under paragraph (a) of this subsection in respect of an award referred to in that paragraph, there shall be payable under that award in addition to any other amounts paid or payable thereunder, such compensation as would have been payable by virtue of subsection (2B) of this section if—

- (i) the award had been made after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967; and
- (ii) that subsection had been amended by the omission therefrom of subparagraphs (i) and (iii) of paragraph (b) and the word "and" in subparagraph (ii) of that paragraph.

(c) Compensation payable under an award pursuant to paragraph (b) of this subsection shall be payable as from such date, not earlier than the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, as the board, in its discretion, may specify in its order made under this subsection or subsequently determine.

(2D) (a) The provisions of section fifty-seven of the Principal Act shall not apply to or in respect of compensation payable under subsection (2B) or (2C) of this section.

(b)

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(b) All weekly compensation prescribed by subsection (2B) or (2C) of this section as payable in respect of a child of a worker shall—

- (i) where the worker left a widow, be paid to such widow unless the board otherwise orders;
- (ii) where the worker did not leave a widow or where the board otherwise orders under subparagraph (i) of this paragraph, be paid to such person or institution as the board may direct.

Where the board makes an order under this paragraph the compensation shall be paid in accordance with the terms of such order.

(c) All weekly compensation payable under subsection (2B) or (2C) of this section, other than compensation referred to in paragraph (b) of this subsection, shall be paid to the person entitled (otherwise than as a child of the worker) to compensation under the award.

(d) All compensation payable under subsection (2B) or (2C) of this section, other than weekly compensation, shall—

- (i) where the board, being of opinion that by reason of the age or health of the person entitled to such compensation or any disability to which she may be subject or for any other reason it would be in her best interests that the compensation be paid in accordance with this subparagraph, so orders, be invested, applied or otherwise dealt with by the board in such manner as the board thinks fit for the benefit of that person;
- (ii) where the board does not make an order under subparagraph (i) of this paragraph, be paid to the person entitled to such compensation, in one or more lump sums determined by the board.

(c)

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- (c) by inserting in subsection three of the same section **No. 98, 1967** after the words "mutatis mutandis," the words "subject to this section";
- (d) by inserting at the end of paragraph (b) of subsection six of the same section the following words:—

For the purposes of this paragraph the amount of any weekly payments prescribed by this Act as compensation payable in respect of the death of a person (not being payments in respect of a child or stepchild of such person or a child to whom he stood in loco parentis) shall be deemed to be a capital sum the amount of which shall be assessed by the board as the equivalent of such weekly payments. The board shall make such an assessment on the application of a person required to pay compensation under the Principal Act or a compensation Act in respect of that death and, for that purpose, may act upon or take into account such actuarial or other advice or information as it may think fit.

5. (1) The Silicosis Act is further amended—

Further amendment of Act No. 14, 1942.

- (a) by inserting next after subsection two of section five the following new subsection:—

Sec. 5.  
(Workers' Compensation Silicosis Committee.)

(2A) The chairman of the board may by writing under his hand summon any person to attend a meeting of the board at a time and place named in the summons and then and there to give evidence in relation to any application or other matter before the board, and to produce any books, documents, or writings in his custody or control which he is required by the summons to produce.

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Any person so summoned who disobeys the summons shall be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred dollars.

The chairman may require a person attending a meeting of the board, whether or not in obedience to such a summons, in connection with any application or matter, to give evidence on oath in relation thereto, and for that purpose shall have authority to administer an oath to any such person.

Sec. 6.  
(Constitution of Fund.)

- (b) (i) by omitting from subsection two of section six the words "office staff" and by inserting in lieu thereof the words "staff of the board";
- (ii) by omitting from subsection (7C) of the same section the words "as soon as practicable after the time fixed by the Insurance Premiums Committee for payment of contributions under this section";
- (iii) by omitting from the same subsection the words "the amount of the estimate made in accordance with this section" and by inserting in lieu thereof the words "such amounts, not exceeding in the aggregate in any year the amount of the estimate made in accordance with this section in respect of that year, as the board may from time to time requisition";
- (iv) by inserting in subsection (7D) of the same section after the word "section" where secondly occurring the words "or the whole or part of any amount by which the amount to be expended out of the fund in any one year exceeds the estimate so made for that year";
- (v) by inserting in subsection (7E) of the same section after the words "shall be" the words "guilty of an offence against this Act and";

(c)

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(c) (i) by omitting from subsection one of section **No. 98, 1967** eight the words "the medical authority further certifies" wherever occurring and by inserting in lieu thereof the words ", on the report of the medical authority, further finds"; Sec. 8.  
(Certificate of medical authority.)

(ii) by inserting in subsection two of the same section after the word "shall" where firstly occurring the words ", subject to this section,";

(iii) by inserting next after subsection (3A) of the same section the following new subsection :—

(3B) Where the board is satisfied that a person who pursuant to this Act is receiving or entitled to receive weekly payments of compensation under an award in respect of his partial disablement for work from a dust disease has taken all reasonable steps to obtain, and has failed to obtain employment of a kind suited to a person so partially disabled, and that his failure to obtain such employment is a consequence, wholly or mainly, of such disablement, the board may order that his disablement shall be treated as total disablement, and the board may at any time rescind any such order.

While such an order remains in force the compensation payable under the award shall be that which would have been payable thereunder had the disablement from the disease been total.

(iv) by inserting next after subsection six of the same section the following new subsection :—

(6A) Where the board makes an award under this section in respect of the total or partial disablement for work of a person from a dust disease, or the death of a person from

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a dust disease, or the death of a person totally or partially disabled for work from a dust disease, and the board—

- (a) has found that such person was a worker during only part of the time he was engaged in an occupation to the nature of which the disease was due; and
- (b) is of the opinion, on the report of the medical authority, that the disablement of that person from the disease (if the award was not made in respect of his death from the disease) or his death from the disease (if the award was so made) was to a substantial extent attributable to his having been exposed to the inhalation of dust during such time as he was engaged in that occupation otherwise than as a worker,

the board shall by the terms of that award fix the rate of compensation to be paid thereunder at such rate, being a lesser rate than would otherwise have been payable under the award in accordance with the terms of this section, as the board considers to be appropriate having regard to the extent or likely extent to which his disablement or death was attributable to his having been so exposed to the inhalation of dust, and the prescribed rate of compensation payable under the award shall in such case be the rate of compensation as so fixed by the board.

**Sec. 8A.**  
(Power to vary awards for certain purposes.)

- (d) (i) by omitting from section 8A the words and figures "Act, 1947-1953" and by inserting in lieu thereof the word and figures "Act 1947";

(ii)

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- (ii) by inserting in the same section after the word "Australia," the words "as amended by subsequent Acts of that Parliament, or any other pension, allowance or benefit under any Act or an Act of that Parliament,"; No. 98, 1967

- (e) by inserting next after the same section the following new section :— New sec.  
8AA.

8AA. (1) In this section "prescribed engagement" means engagement (whether before or after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967) in an occupation— Compensa-  
tion not  
payable in  
certain  
circum-  
stances.

- (a) as an employee within the meaning of the Commonwealth Employees Compensation Act 1930 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts of that Parliament; or
- (b) under a contract of service or apprenticeship outside New South Wales.

(2) (a) This subsection applies to any person who has received or is receiving compensation under any Act or ordinance of the Commonwealth of Australia or any State (other than New South Wales) or Territory of the Commonwealth of Australia or under any law of any country outside the Commonwealth of Australia in respect of—

- (i) his disablement for work from a dust disease contracted in the course of a prescribed engagement; or
- (ii) the death of another person from a dust disease contracted in the course of a prescribed engagement.

(b) Subject to this section, but notwithstanding anything elsewhere contained in this Act or any amendment thereof, no person to whom this subsection applies shall, if he or, as the case may

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may be, the person in respect of whose death he has received or is receiving compensation as aforesaid was not after the cessation of his prescribed engagement engaged as a worker in an occupation to the nature of which the disease was due, be entitled to compensation from the Fund for that part of his disablement in respect of which he has so received or is so receiving compensation, or for the death from the disease of that other person, as the case may be.

(3) Every person in receipt of or claiming compensation from the Fund in respect of his total or partial disablement for work from a dust disease or the death of another person from a dust disease shall, on his receiving any compensation under an Act (other than this Act), ordinance or other law referred to in subsection two of this section in respect of his total or partial disablement for work from the disease or the death from the disease of that other person, as the case may be, or on his being notified of his entitlement to any compensation in respect of such disablement or death by the person, authority or body who or which would be liable under such Act, ordinance or law to pay the same, inform the board of such receipt or notification within seven days thereafter and if he does not do so shall be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred dollars.

(4) The board may, if it is of the opinion that any person (in this subsection called the claimant) claiming or receiving compensation from the Fund in respect of his total or partial disablement for work from a dust disease is or may be entitled to other compensation in respect of that disablement or death, as the case may be, require the claimant to take all appropriate and reasonable steps to claim and recover such other compensation and may, if it is satisfied that the claimant having  
been



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been so required has not complied with such require- **No. 98, 1967**  
 ment, make an order reducing any compensation  
 payable to him from the Fund in respect of such  
 disablement or death by such amount or weekly  
 amounts as the board may in its discretion deter-  
 mine, not exceeding the amount or amounts his  
 entitlement to which would in the opinion of the  
 board be divested by subsection two of this section  
 if he had received or were receiving that other  
 compensation, and may at any time rescind any  
 such order. While any such order remains in force  
 the compensation payable to the claimant in respect  
 of such disablement or death, as the case may be,  
 shall, subject to this section but notwithstanding  
 anything elsewhere contained in this Act or any  
 amendment thereof, be reduced by the amount or  
 amounts specified in the order.

In this subsection "other compensation" means,  
 in relation to any claimant, compensation the  
 receipt of which would under subsection two of this  
 section divest in whole or in part the claimant's  
 entitlement to compensation from the Fund.

(5) No person shall be liable by virtue of  
 any provisions of this section to repay any money  
 paid from the Fund.

(f) by inserting next after section 8D the following new **New secs.**  
 sections :— **8E-8H.**

8E. (1) Subject to this section, a person who **Board's**  
 has been engaged either before or after the com- **consent**  
 mencement of Part II of the Workers' Compensation **to employ-**  
 (Dust Diseases) Amendment Act, 1967— **ment to be**  
**obtained**  
**in certain**  
**cases.**

(a) in any dust occupation otherwise than as a  
 worker;

(b) in any industry or process in Broken Hill  
 mines or mines to which the Coal Mines  
 Regulation Act, 1912, as amended by sub-  
 sequent Acts, applies which is of such a  
 nature that workers engaged therein are  
 exposed to the risk of contracting a dust  
 disease; or (c)

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- (c) in an occupation of any kind outside New South Wales, whether or not under a contract of service or apprenticeship,

and who has not after ceasing to be so engaged or (if he has been so engaged more than once) after the cessation of his last such engagement, obtained the prior consent of the board to his being employed in a particular dust occupation shall, if after such commencement he is engaged as a worker in that dust occupation, be deemed for the purposes of sections eight and 8AA of this Act to be engaged therein otherwise than as a worker until he has obtained that consent.

(2) Where a person applies for the consent of the board pursuant to subsection one of this section, the board shall not give that consent unless it is of the opinion, on the report of the medical authority, that during his engagement in any occupation, industry or process referred to in paragraph (a), (b) or (c) of subsection one of this section that person—

- (a) was not exposed to any substantial risk of the inhalation of dust, or
- (b) was not affected by the inhalation of dust to such an extent that he ought not to be employed in that dust occupation.

(3) The consent of the board under this section may be given in respect of a specified dust occupation or occupations, or a specified class or description of dust occupations, or all dust occupations except a specified occupation or occupations or class or description thereof.

(4) Subsection one of this section shall not apply to or in respect of any person—

- (a) by reason only of his having been engaged, before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, in an occupation, industry

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industry or process referred to in paragraph (a), (b) or (c) of subsection one of this section if, after ceasing to be so engaged but before such commencement, he was engaged as a worker in a dust occupation; or

- (b) by reason only of his engagement in an industry or process which at the time when the current period of such engagement commenced was not a dust occupation; or
- (c) in respect of any period of engagement of that person in an industry or process that, but for that subsection would be a period of engagement as a worker, or any part of that period, if the board on the application, made at any subsequent time, of that person or his dependants is satisfied that his failure before that period or that part of a period, as the case may be, to seek the consent referred to in that subsection was due to mistake of, or ignorance of, fact or law, or due to other reasonable cause, and excuses such failure.

8F. There shall be kept constantly posted up in some conspicuous place at or near every mine, quarry, factory, or workshop wherein workers are employed in any dust occupation, where it may be conveniently read by the workers so employed, such information as to or summary of the provisions of this Act, regulations made thereunder, and those provisions of the Principal Act which are applicable to awards under this Act, and such information as to dust diseases, employment in dust occupations, and applications for awards under this Act, as may be prescribed.

Prescribed information to be posted up. cf. Act No. 15, 1926, s. 43.

In the event of any non-compliance with the provisions of this section, the owner, agent, or manager of the mine or quarry, or the occupier of the

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the factory or workshop, shall be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred dollars.

Proceedings.

8G. (1) Proceedings for an offence against this Act or the regulations made under this Act, other than an offence under subsection (7E) of section six of this Act, may be taken and prosecuted by any person acting with the authority of the Minister.

In a prosecution for any such offence, an authority to prosecute, purporting to have been signed by the Minister, shall be prima facie proof of such authority without proof of the Minister's signature.

(2) All proceedings for offences against this Act or the regulations made under this Act may be disposed of summarily before a stipendiary magistrate.

Inspectors.

8H. (1) The Governor may appoint inspectors under this Act.

(2) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises or place which he is empowered by this section to enter, shall, if required, produce such certificate to the occupier.

(3) The duties of inspectors shall be to obtain and furnish to the Chairman of the board information in relation to—

(a) the payment of the contributions referred to in subsection six of section six of this Act, and matters affecting the liability of any insurer to pay such contributions;

(b) matters arising under any application to the board or relevant to the payment of compensation under this Act.

In

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In the exercise of such duties inspectors shall be **No. 98, 1967**  
subject to direction by the Chairman of the board. —

(4) For the purpose of obtaining any information referred to in subsection three of this section an inspector may, subject to this section, at any reasonable times—

- (a) inspect any premises of an employer;
- (b) require an employer to produce for his examination, and may examine, any records required by subsection eight of section eighteen of the Principal Act to be kept by that employer;
- (c) examine any worker as to the duties, wages, and hours of work of the worker and other matters related to his employment;
- (d) require an insurer to produce for his examination, and may examine, books, returns, proposals, other documents and records relating to the issue or renewal of policies of insurance or indemnity under section eighteen of the Principal Act, and to the receipt by the insurer of premiums for such issue or renewal; and
- (e) exercise the powers conferred on the Commission or an authorised officer by section 18A of the Principal Act.

(5) No inspector shall have any authority under this section to enter a private dwelling-house, or the land used in connection therewith, unless some manufacture or trade is carried on therein or thereon.

(6) Every person who wilfully delays or obstructs an inspector in the exercise of any power conferred on him by this section, or who fails to produce to an inspector any record, policy, book, return,

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return, proposal, or document which he is required pursuant to this section to produce, or who conceals or prevents any person from appearing before or being examined by an inspector, shall be guilty of an offence against this Act and be liable to a penalty not exceeding two hundred dollars.

Sec. 10.  
(Regulations.)

(g) (i) by inserting next after paragraph (b) of subsection two of section ten the following new paragraphs :—

(b1) requiring persons to furnish to the board such information as may be specified in the regulations and such other information as the board may require, in relation to the employment and remuneration of applicants for awards of compensation under this Act, of persons receiving compensation under such awards, of persons claimed to be dependent on any such applicant or person receiving compensation, and of persons in respect of whose death application is made for such awards;

(b2) prescribing as a dust occupation any industry or process (other than an industry or process carried on in Broken Hill mines or mines to which the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, applies) that is of such a nature that workers engaged therein are exposed to the risk of contracting a dust disease;

(ii) by omitting subsection three of the same section.

(2) Every certificate of the medical authority under subparagraph (ii) of paragraph (a) or subparagraph (ii) of paragraph (b), or subparagraph (ii) of paragraph (b) of subparagraph

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subparagraph (ii) of paragraph (c), of subsection one of section eight of the Silicosis Act shall be deemed to be a finding by the Workers' Compensation (Dust Diseases) Board on the report of the medical authority. No. 98, 1967

(3) Where, on or after the twenty-first day of May, one thousand nine hundred and forty-six and before the commencement of this Part of this Act, any payment referred to in subsection (7C) of section six of the Silicosis Act was made to the Workers' Compensation (Silicosis) Committee otherwise than in accordance with the provisions of that subsection, such a payment shall, notwithstanding anything contained in that subsection, be deemed to have been duly made if it was made in the manner prescribed by that subsection, as amended by this Act, for payments to the Workers' Compensation (Dust Diseases) Board.

(4) This Part of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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PART III.

AMENDMENT OF THE PRINCIPAL ACT.

6. (1) In this Part "dust injury" means any injury, as defined in section six of the Principal Act immediately before the commencement of this Part of this Act, not being an injury as defined in that section immediately after that commencement. Amendment  
of Act No.  
15, 1926.

(2) The Principal Act is amended—

(a) (i) by omitting from subsection one of section six the definition of "Disease caused by silica dust"; Sec. 6.  
(Defini-  
tions.)

(ii) by omitting from the definition of "Injury" in the same subsection the words "disease caused by silica dust" where firstly occurring and

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—

and by inserting in lieu thereof the words "dust disease, as defined by the Workers' Compensation (Dust Diseases) Act, 1942-1967, or any Act amending or replacing that Act";

(iii) by omitting from the same definition the words "disease caused by silica dust" where secondly occurring and by inserting in lieu thereof the words "dust disease, as so defined";

Sec. 18.  
(Compul-  
sory in-  
surance.)

(b) (i) by omitting from subsection one of section eighteen the words "forty thousand dollars" and by inserting in lieu thereof the words "fifty thousand dollars";

(ii) by inserting in the same subsection after the words "in force :—" the following words :—

In its application to this section the definition of "Injury" in subsection one of section six of this Act shall be deemed to be amended by the omission therefrom of the words "but does not, save in the case of a worker employed in or about a mine to which the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, applies, include a dust disease, as defined by the Workers' Compensation (Dust Diseases) Act, 1942-1967, or any Act amending or replacing that Act, or the aggravation, acceleration, exacerbation or deterioration of a dust disease, as so defined.";

(iii) by inserting next after subsection (6A) of the same section the following new subsection :—

(6B) For the purposes of any contract of insurance or indemnity obtained by an employer after the commencement of Part III of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, or obtained by him before and being maintained in force after such



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such commencement, the liability of the employer, independently of this Act, for an injury, being an occupational disease, to a worker shall be deemed to have arisen when the worker was last employed by the employer in an employment to the nature of which the disease was due. No. 98, 1967

In this paragraph "occupational disease" means a disease which is of such a nature as to be contracted by a gradual process, and includes the condition known as boilermaker's deafness, or any deafness of the like origin, and total or partial loss of sight which is of gradual onset.

(3) (a) A person who, immediately before the commencement of this Part of this Act, was in receipt of continuing payments of compensation under the Principal Act in respect of a dust injury or who is entitled to obtain compensation under the Principal Act in respect of the death, before that commencement, of any person as a result of a dust injury or who is entitled under an award of the Workers' Compensation Commission of New South Wales to compensation in respect of a dust injury shall, if the injury was—

- (i) to himself or another person, have in respect of that injury the same entitlement to compensation under the Principal Act and the same rights and powers, and be subject in respect thereof to the same duties and liabilities as he would have had, or been subject to, if this Act had not been enacted;
- (ii) to himself, not be entitled to compensation under the Silicosis Act or any amendment thereof in respect of his total or partial disablement from the injury.

(b) Subject to paragraph (a) of this subsection, on and from the commencement of this Part of this Act—

- (i) no person shall be entitled under the Principal Act to compensation in respect of a dust injury received before or after such commencement;

(ii)

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(ii) for the purposes of every application, award, certificate, finding and report made or given under the Silicosis Act, as amended by this Act, in respect of the total or partial disablement for work, or the death, of any person from a dust disease, the Workers' Compensation (Dust Diseases) Board and the medical authority constituted under that Act, as so amended, shall, whether or not the disease was one to which the Silicosis Act applied before such commencement, have regard to any occupations in which that person was engaged before such commencement as well as to those, if any, in which he was engaged after such commencement.

(4) Subject to paragraph (b) of subsection three of this section, no amendment made by this Act shall affect the operation of any award made under the Principal Act before or after the commencement of this Part of this Act or any jurisdiction, right, power, duty or liability of the Workers' Compensation Commission of New South Wales or any person in relation to any such award.

(5) (a) On the death, after the commencement of this Part of this Act, of a worker who, immediately before his death, was receiving, or entitled under an award of the Workers' Compensation Commission of New South Wales to receive, continuing weekly payments of compensation in respect of his total or partial disablement for work from a dust injury, he shall, for the purposes of section eight of the Silicosis Act, as amended by this Act, be deemed to have been receiving, immediately before his death, continuing payments of compensation at the prescribed rates from the Fund constituted under that Act, as so amended, in respect of his disablement for work from a dust disease.

(b) Where the disablement for work of a worker referred to in paragraph (a) of this subsection was partial, the percentage referred to in subparagraph (ii) of paragraph (c) of subsection two of section eight of the Silicosis Act, as amended by this Act, shall be deemed to be the proportion, expressed

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expressed as a percentage, that the weekly payment of compensation received by him immediately before his death bore to the weekly compensation that, had his disablement been total, would have been payable to him at that time under the Principal Act or any amendment thereof. No. 98, 1967

(c) No person shall be entitled under the Principal Act or any amendment thereof to compensation in respect of the death of a worker referred to in paragraph (a) of this subsection.

(6) (a) In every policy of insurance or indemnity obtained pursuant to section eighteen of the Principal Act before the commencement of this Part of this Act and being maintained in force at such commencement the word "injury" shall have the extended meaning to be ascribed thereto in that section pursuant to the amendment made by paragraph (b) of subsection two of this section.

(b) Any such policy so obtained, and being so maintained in force shall, where such policy does not insure the employer against his liability independently of the Principal Act for an amount of at least fifty thousand dollars for any injury to any worker employed by him, be deemed to insure the employer against his liability independently of that Act to the extent of fifty thousand dollars in respect of any injury to any worker employed by him.

(c) This subsection shall apply only to and in respect of injuries received or deemed to have been received after the commencement of this Part of this Act.

(7) The Principal Act, as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1967.

(8) This Part of this Act shall commence upon the day upon which Part II of this Act commences.