

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

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 67, 1970.

An Act to increase rates of workers' compensation and otherwise to amend the law relating to workers' compensation; for these purposes to amend the Workers' Compensation Act, 1926, the Workers' Compensation (Dust Diseases) Act, 1942-1967, and the Workmen's Compensation (Broken Hill) Act, 1920; and for purposes connected therewith. [Assented to, 24th November, 1970.]

BE

Workers' Compensation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 67, 1970 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:—

1. (1) This Act may be cited as the "Workers' Compensation (Amendment) Act, 1970". Short title, commencement and construction.

(2) This Act, sections fifteen and eighteen excepted, shall commence upon a day (in this Act referred to as the appointed day) to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) In this Act the Workers' Compensation Act, 1926, is referred to as the Principal Act.

2. (1) The Principal Act is amended—

Amendment of Act No. 15, 1926.

(a) (i) by omitting from paragraph (a) of subsection one of section eight the words "ten thousand dollars" and by inserting in lieu thereof the words "twelve thousand five hundred dollars"; Sec. 8. (Compensation payments (Death).)

(ii) by omitting from paragraph (b) of the same subsection the words "five dollars" and by inserting in lieu thereof the words "six dollars twenty-five cents";

(iii) by omitting from subsection three of the same section the words "two thousand eight hundred dollars" and by inserting in lieu thereof the words "three thousand five hundred dollars";

(iv) by omitting from subsection four of the same section the words "one hundred and twenty dollars" and by inserting in lieu thereof the words "three hundred dollars";

(b)

Workers' Compensation (Amendment).

No. 67, 1970

Sec. 9.
(Total or
partial
incapacity.)

- (b) (i) by omitting from paragraph (a) of subsection one of section nine the words "seventy-five per centum" and by inserting in lieu thereof the words "eighty per centum";
- (ii) by omitting from the same paragraph the words "twenty-six dollars" and by inserting in lieu thereof the words "thirty-two dollars fifty cents";
- (iii) by omitting from the same paragraph the words "seventeen dollars fifty cents" and by inserting in lieu thereof the words "twenty-two dollars";
- (iv) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words "seven dollars" and by inserting in lieu thereof the words "nine dollars";
- (v) by omitting from subparagraph (ii) of the same paragraph the words "three dollars" and by inserting in lieu thereof the words "four dollars";
- (vi) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words "seven dollars" and by inserting in lieu thereof the words "nine dollars";
- (vii) by omitting from subparagraph (ii) of the same paragraph the words "three dollars" and by inserting in lieu thereof the words "four dollars";
- (viii) by omitting from paragraph (a) of subsection (1A) of the same section the figures "1967" and by inserting in lieu thereof the figures "1970";
- (ix) by omitting from the same paragraph the words "or the State basic wage" and by inserting in lieu thereof the words ", the State basic wage or the wage basis";

(x)

Workers' Compensation (Amendment).

-
- (x) by omitting from the same paragraph the words "the State basic wage" where secondly occurring and by inserting in lieu thereof the words "the wage basis";
- (xi) by omitting from paragraph (c) of the same subsection the words "this subsection" where firstly occurring and by inserting in lieu thereof the words "paragraph (a) of this subsection";
- (xii) by omitting from the definition of "State basic wage" in the same paragraph the figures "1967." and by inserting in lieu thereof the figures "1967;"
- (xiii) by inserting at the end of the same paragraph the following new definition :—
- "wage basis" means the basic wage for adult males, or, as the case may require, adult females, by reference or in relation to which rates of wages are required at the relevant time by Part V of the Industrial Arbitration Act, 1940, as inserted by the Industrial Arbitration (Basic Wage) Amendment Act, 1967, to be fixed by an award that fixes rates of wages by reference or in relation to a basic wage.
- (xiv) by omitting from subsection four of the same section the words "sixteen dollars" and by inserting in lieu thereof the words "twenty dollars";
- (xv) by omitting from the same subsection the word "seventy-five" and by inserting in lieu thereof the word "eighty";
- (xvi) by omitting from the same subsection the words "twelve dollars" and by inserting in lieu thereof the words "sixteen dollars";

*Workers' Compensation (Amendment).*No. 67, 1970

(xvii) by omitting from subsection five of the same section the words "twenty-three dollars fifty cents" and by inserting in lieu thereof the words "twenty-nine dollars";

(xviii) by omitting from the same subsection the word "seventy-five" and by inserting in lieu thereof the word "eighty";

(xix) by omitting from the same subsection the words "seventeen dollars fifty cents" and by inserting in lieu thereof the words "twenty-three dollars";

Sec. 10.
(Medical
and hospital
treatment,
&c.)

(c) (i) by omitting from paragraph (c) of subsection three of section ten the words "three hundred dollars" and by inserting in lieu thereof the words "two thousand dollars";

(ii) by omitting from paragraph (b) of subsection four of the same section the words "three hundred dollars" and by inserting in lieu thereof the words "two thousand dollars";

(iii) by omitting from subsection five of the same section the words "fifty dollars" and by inserting in lieu thereof the words "eight hundred dollars";

Sec. 10A.
(Damages to
artificial
limbs, etc.)

(d) by omitting from subsection one of section 10A the words "fifty dollars" and by inserting in lieu thereof the words "one hundred dollars";

Sec. 10B.
(Damage to
clothing.)

(e) by omitting from subsection one of section 10B the words "fifty dollars" and by inserting in lieu thereof the words "one hundred dollars";

Sec. 16.
(Compensa-
tion for
certain
injuries.)

(f) (i) by omitting from paragraph (a) of subsection (1B) of section sixteen the words "five hundred dollars" and by inserting in lieu thereof the words "six hundred and fifty dollars";

(ii) by omitting from paragraph (a1) of the same subsection the words "six hundred dollars" wherever occurring and by inserting in lieu thereof the words "seven hundred and fifty dollars";

(iii)

Workers' Compensation (Amendment).

-
- (iii) by omitting from the same paragraph the words "a medical board in accordance with the provisions of this subsection" and by inserting in lieu thereof the words "the Commission: Provided that the compensation payable pursuant to this paragraph in respect of any substantial degree of loss of the sense of smell or of the sense of taste shall not be less than five hundred dollars";
- (iv) by inserting in paragraph (b) of the same subsection after the words "compensation under" the words "paragraph (a) of";
- (v) by omitting from paragraph (b) of the same subsection the word "questions" and by inserting in lieu thereof the word "question";
- (vi) by omitting from the same paragraph the words "or, as the case may require, whether any loss of the sense of smell or of the sense of taste";
- (vii) by omitting from the same paragraph the word "decisions" and by inserting in lieu thereof the word "decision";
- (viii) by inserting at the end of the same subsection the following new paragraphs :—
- (d) The Commission or the Registrar shall, on application by a person claiming to be entitled as a worker to compensation under paragraph (a1) of this subsection and on payment by the applicant of such fee, not exceeding two dollars, as may be prescribed by rules, refer to a medical board within the meaning of section fifty-one of this Act the question whether any loss of the sense of smell or of the sense of taste exists, and if so whether the loss is total.
- (e) A medical board to which a question is referred under paragraph (d) of this subsection shall report its findings on the question
- to

Workers' Compensation (Amendment).

No. 67, 1970

to the Commission and the applicant, and may include in its report such further information and such expressions of opinion as, in its opinion, are or may be relevant to the assessment of compensation under paragraph (a1) of this subsection;

- (ix) by omitting the table set forth at the end of the same section and by inserting in lieu thereof the following table :—

TABLE

Nature of Injury.	Amount payable.
	\$
Loss of either arm, or of the greater part thereof	6,600
Loss of lower part of either arm, either hand, or five fingers of either hand	5,600
Loss of a leg or of the greater part thereof	6,000
Loss of the lower part of a leg	5,200
Loss of a foot	5,000
Loss of sight of one eye, with serious diminution of the sight of the other	6,000
*Loss of sight of one eye	3,500
Loss of hearing of both ears	5,000
†Loss of hearing of one ear	2,400
‡Loss of power of speech	5,000
Loss of a thumb	2,400
Loss of a forefinger	1,600
Loss of a joint of a thumb	1,500
Loss of little finger, middle finger or ring finger	850
Loss of a toe or the joint of a finger	750
Loss of a joint of a toe	450
Loss of a great toe	1,600
Loss of joint of forefinger or of joint of great toe	850

* For the partial loss of sight of one eye there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

† For the partial loss of hearing of one ear there shall be payable such percentage of the amount that would be payable for the total loss of the hearing thereof as is equal to the percentage of the diminution of hearing.

‡ For the partial loss of the power of speech there shall be payable such percentage of the amount that would be payable for the total loss of that power as is equal to the percentage of the diminution of that power.

(g)

Workers' Compensation (Amendment).

- (g) by inserting in subsection five of section fifty-one after the word "shall" where secondly occurring the words ", except in relation to a question referred to the board under paragraph (d) of subsection (1B) of section sixteen of this Act,"
- No. 67, 1970
Sec. 51.
(Medical
inspection.)

(2) (a) The amendments made by subparagraph (ii) of paragraph (a) and paragraph (b) of subsection one of this section shall be deemed to extend to and, on and from the appointed day, apply in respect of all persons and institutions who or which immediately before that day were in receipt of or entitled to weekly payments under the provisions of section eight or nine of the Principal Act or under those provisions of the Workers' Compensation (Dust Diseases) Act, 1942-1967, which prescribe weekly payments by reference to the Principal Act, as well as to all persons and institutions becoming entitled to weekly payments under any of such provisions on or after that day.

(b) The compensation prescribed by section eight of the Principal Act, as amended by paragraph (a) of subsection one of this section, shall be payable in accordance with the said section eight in respect of the death of any worker which on or after the appointed day results from an injury whether received before, on or after that day.

(c) The compensation prescribed by section sixteen of the Principal Act, as amended by paragraph (f) of subsection one of this section, for an injury of a particular kind shall be payable for—

- (i) any injury of that kind received on or after the appointed day; and
- (ii) any injury of that kind received before the appointed day by a worker who has not before that day been awarded, or has not received or agreed to receive for that injury the compensation prescribed by section sixteen of the Principal Act, as enacted immediately before that day.

*Workers' Compensation (Amendment).***No. 67, 1970** 3. The Principal Act is further amended—

Further
amendment
of Act No.
15, 1926.

Sec. 6.
(Defini-
tions.)

- (a) by inserting in paragraph (a1) of subsection (14C) of section six after the word "Acts" the words ", or Part IIIA of the Gaming and Betting Act, 1912, as amended by subsequent Acts";
- (b) by omitting from paragraph (b) of the same subsection the word "charge," and by inserting in lieu thereof the words "charge; or";
- (c) by inserting next after the same paragraph the following new paragraph :—
 - (c) as an entertainer in any performance in or upon the premises of a club registered under Part X of the Liquor Act, 1912, as amended by subsequent Acts, or Part IIIA of the Gaming and Betting Act, 1912, as amended by subsequent Acts,;
- (d) by inserting in the same subsection after the word "public" where last occurring the words "or other".

Further
amendment
of Act No.
15, 1926.

Sec. 7.
(Liability
of employers
to workers
for
injuries.)

4. (1) The Principal Act is further amended—

- (a) by omitting subsection (2C) of section seven and by inserting in lieu thereof the following subsection :—
 - (2C) (a) In this subsection "wages" means wages, salary, allowance, or other payment.
 - (b) Compensation shall be payable in accordance with the provisions of this Act to a worker in respect of a period of incapacity notwithstanding that the worker has received or is entitled under any Act, award, industrial agreement or contract of employment to receive any wages for sick leave in respect of that period.

(c)

Workers' Compensation (Amendment).

(c) Where a worker is paid compensation **No. 67, 1970** by his employer in respect of any period of incapacity in respect of which the employer is, or but for this subsection would be, liable under any Act, award, industrial agreement or contract of employment to pay to the worker any wages for sick leave—

- (i) that liability shall, to the extent of the compensation so paid, be deemed to have been satisfied by that payment notwithstanding the terms of that Act, award, agreement or contract; and
- (ii) the amount of that compensation shall, for the purposes of paragraphs (e) and (f) of this subsection, be deemed to have been paid as compensation and not as wages.

(d) Where a worker, in respect of any period of incapacity in respect of which his employer is liable to pay compensation to him, is paid wages for sick leave by the employer and either the Commission afterwards makes an award for the payment of compensation to the worker in respect of that period or the employer agrees that compensation be paid to the worker in respect of that period—

- (i) the employer's liability to pay compensation in respect of that period shall, to the extent of the wages paid, be deemed to have been satisfied by that payment; and
- (ii) the wages shall, to the extent of the compensation, be deemed for the purposes of paragraphs (e) and (f) of this subsection to have been paid as compensation and not as wages.

(e)

Workers' Compensation (Amendment).

No. 67, 1970

(e) Where a worker is paid any compensation in respect of a period of incapacity he shall, in respect of any entitlement to sick leave, or wages for sick leave, accruing after the expiration of that period—

- (i) if he has not also been paid wages for sick leave in respect of that period, be deemed not to have been entitled to or granted, or to have received, any sick leave or wages for sick leave in respect of that period;
- (ii) if he has also been paid wages for sick leave in respect of that period, be deemed not to have been entitled to or granted, or to have received, sick leave or wages for sick leave in respect of the whole of that period, but only in respect of a lesser period calculated as provided by paragraph (f) of this subsection.

(f) The lesser period referred to in paragraph (e) of this subsection is a period which bears to the period of incapacity of the worker the same proportion as the wages paid to the worker in respect of the period of incapacity bear to the total amount of the wages and compensation paid to him in respect of the period of incapacity.

(g) In paragraphs (c), (d), (e) and (f) of this subsection "compensation" means compensation pursuant to section nine or eleven of this Act.

(b) by omitting subsection (2D) of the same section.

(2) The amendments made by subsection one of this section shall apply to and in respect of incapacity, on or after the appointed day, resulting from an injury received whether before, on or after that day.

*Workers' Compensation (Amendment).***5. (1) The Principal Act is further amended—****No. 67, 1970**Further
amendment
of Act No.
15, 1926.

- (a) by omitting subsection one of section ten and by inserting in lieu thereof the following subsection :—

(1) Where as a result of an injury received by a worker—

- (a) it is reasonably necessary that any medical or hospital treatment be afforded, or any ambulance service rendered, to him; or
- (b) it is appropriate that any such treatment, being treatment by way of rehabilitation, be afforded to him,

his employer shall, subject to and to the extent provided by this section, be liable to pay, in addition to any compensation otherwise provided, the cost of that treatment or service.

- (b) by inserting in subsection two of the same section next after the definition of "Ambulance service" the following new definition : —

"Approved" in relation to a person, body, place, or treatment, means designated by the Minister, by order made for the purposes of this section and published in the Gazette, as an approved person, body, place or treatment, respectively.

- (c) by inserting next after paragraph (a) of the definition of "Medical treatment" in the same subsection the following new paragraphs :—

- (a1) therapeutic treatment afforded by direction of a legally qualified medical practitioner ;
- (a2) treatment by way of rehabilitation afforded by an approved person or body or at an approved place ;

(d)

Workers' Compensation (Amendment).

No. 67, 1970

- (d) by omitting from paragraph (d) of the same definition the words "medical treatment" and by inserting in lieu thereof the following words :—

treatment referred to in paragraph (a), (a1) or (a2) of this definition or in connection with the provision or supply of anything referred to in paragraph (b) or (c) of this definition,

but does not include ambulance service or hospital treatment.

- (e) by omitting from the definition of "Hospital treatment" in the same subsection the words "treatment at any hospital" and by inserting in lieu thereof the words "treatment, including treatment by way of rehabilitation, at any hospital or at any rehabilitation centre conducted by a hospital,";

- (f) by inserting in the same definition after the words "at the hospital" the words "or rehabilitation centre";

- (g) by inserting in the same definition after the words "by the hospital" the words ", at the hospital or rehabilitation centre,";

- (h) by inserting in the same definition after the word "service" the words ", and also includes the cost to the worker of any fares and travelling expenses necessarily and reasonably incurred by him in obtaining any such treatment, but does not include ambulance service";

- (i) by inserting at the end of the same subsection the following new definition :—

"Treatment by way of rehabilitation" means—

- (a) treatment of a kind that, immediately before the commencement of the Workers' Compensation (Amendment) Act, 1970, was customarily

Workers' Compensation (Amendment).

customarily and normally afforded at rehabilitation centres conducted by public hospitals; or

(b) an approved treatment.

(j) by inserting in paragraph (d) of subsection three of the same section after the word "treatment" the words "afforded by that hospital".

(2) The amendments made by subsection one of this section shall apply to and in respect of injuries received before the appointed day as well as to and in respect of injuries received on or after that day.

6. (1) The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

(a) by inserting next after subparagraph (i) of paragraph (d) of subsection one of section seven the following new subparagraph :—

Sec. 7.
(Liability of employers to workers for injuries.)

(ia) between the worker's place of abode or place of employment and any other place, where the journey is made for the purpose of having, undergoing or obtaining any consultation, examination or prescription referred to in subsection three of section 10A of this Act;

(b) by inserting at the end of subsection three of section 10A the words "and also to include the amount of any wages lost by the worker by reason of his attendance at any place for the purpose of having, undergoing or obtaining any such consultation, examination or prescription".

Sec. 10A.
(Damages to artificial limbs, etc.)

(2) The amendments made by subsection one of this section shall apply to and in respect of journeys and attendances on or after the appointed day, whether the damage in connection with which the journeys were made or the attendances took place was sustained before, on or after that day.

Workers' Compensation (Amendment).

No. 67, 1970 7. The Principal Act is further amended by inserting
 ————— next after subsection (5A) of section sixteen the following
 Further amendment new subsection :—
 of Act No.

15, 1926.

Sec. 16.

(Compensation for certain injuries.)

Sadler v. The
 Com-
 missioner for
 Railways
 (N.S.W.).

(5B) (a) Subject to this subsection, in ascertaining, for the purposes of this section, the percentage of the diminution of hearing in respect of boilermaker's deafness, or any deafness of the like origin, of a worker who is over the prescribed age, it shall be conclusively presumed that his loss of hearing is, to the extent of the prescribed number of decibels for each complete year of his age in excess of the prescribed age, to be attributed to presbycusis.

(b) For the purposes of this subsection—

(i) the prescribed age is fifty years or, where some other age is prescribed by regulations made under this Act, the age so prescribed;

(ii) the prescribed number of decibels is one half or, where some other number is prescribed by regulations made under this Act, the number so prescribed.

(c) Regulations made under subparagraph (ii) of paragraph (b) of this subsection may prescribe different numbers of decibels in respect of different methods of ascertaining the extent of diminution of hearing, and any number thereby prescribed may be or include a fraction.

(d) Nothing in this subsection applies in a case of total loss of hearing of either ear.

Workers' Compensation (Amendment).

8. (1) The Principal Act is further amended— No. 67, 1970

Further
amendment
of Act No.
15, 1926.

(a) by inserting in subsection one of section eighteen after the word "indemnity" where firstly occurring the words ", conforming to this section,"; Sec. 18.
(Com-
pulsory
insurance.)

(b) by omitting from subsection (1A) of the same section the words "suspend or terminate any such license, or limit or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof" and by inserting in lieu thereof the words "exercise, in relation to the license of that employer, the power specified in subsection one of section 29c of this Act";

(c) by omitting paragraph (b) of subsection seven of the same section;

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

(9) An employer who fails to comply with subsection one or seven, or paragraph (a) of subsection eight, of this section and an insurer who fails to comply with subsection two of this section, shall be guilty of an offence against this Act.

(e) (i) by omitting from subsection three of section nineteen the words "No licensed insurer shall, except with the consent of the Commission, refuse" and by inserting in lieu thereof the words "A licensed insurer who, except with the consent of the Commission, refuses"; Sec. 19.
(Com-
pulsory
reinsur-
ance.)

(ii)

Workers' Compensation (Amendment).

No. 67, 1970

- (ii) by inserting in the same subsection after the word "policy" where secondly occurring the words ", shall be guilty of an offence against this Act";

Sec. 29.
(Termination of licenses.)

- (f) (i) by omitting from paragraph (k) of subsection one of section twenty-nine the words "and the arrangement of his affairs have" and by inserting in lieu thereof the words "or the arrangement of his affairs, has";
- (ii) by omitting from the same paragraph the words "he should not continue to hold a license" and by inserting in lieu thereof the words "the Commission should exercise its power under this subsection in relation to the license";
- (iii) by omitting from the same subsection the words "suspend, or terminate, any license granted under section twenty-seven of this Act, or limit, or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof," and by inserting in lieu thereof the words "exercise, in relation to any license granted under section twenty-seven of this Act, the power specified in subsection one of section 29c of this Act,";
- (iv) by omitting from paragraph (a) of subsection three of the same section the words "on any ground specified in subsection one of this section or subsection seven of section 18c of this Act for the suspension or termination of a license or for limiting or varying the period of a license or attaching any conditions thereto or varying the conditions thereof" and

by

Workers' Compensation (Amendment).

- by inserting in lieu thereof the words "for the exercise by the Commission of its power under subsection one of this section in relation to any license";
- (v) by omitting from the same paragraph the words "his license should not be dealt with as aforesaid" and by inserting in lieu thereof the words "the Commission should not exercise that power in relation to the license";
- (vi) by omitting from paragraph (b) of the same subsection the words "the license should be dealt with" and by inserting in lieu thereof the words "the Commission should exercise its power";
- (vii) by omitting from paragraph (d) of the same subsection the words "dealing with a license as aforesaid" and by inserting in lieu thereof the words "under this section in relation to a license";
- (g) by inserting next after section 29A the following new sections :—

No. 67, 1970

29B. The Commission may, at the request of a licensee, exercise in relation to his license the power specified in subsection one of section 29C of this Act.

29C. (1) The power, referred to in subsection (1A) of section eighteen, subsection one of section twenty-nine, and section 29B of this Act, of the Commission in relation to a license is a power—

- (a) to suspend the license ;
 (b) to terminate the license ;

(c)

Workers' Compensation (Amendment).

No. 67, 1970

- (c) if the license was granted—
 - (i) without limitation of time, to limit the period of the license;
 - (ii) for a period, to vary that period;
- (d) if the license was granted—
 - (i) without conditions, to attach conditions to it;
 - (ii) subject to conditions, to vary those conditions; or
- (e) both—
 - (i) to limit or vary the period of the license as mentioned in paragraph (c) of this subsection; and
 - (ii) to attach conditions to or vary the conditions of the license as mentioned in paragraph (d) of this subsection.

(2) The power of the Commission, under any provisions of this Act, to vary the conditions of a license includes a power to omit any of those conditions and a power to attach new conditions to the license.

Sec. 30.
(Termination, etc., of licenses at request of licensees.)

(h) by omitting section 30;

Sec. 30A.
(Insurance Premiums Committee.)

(i) by omitting from paragraph (c) of subsection (13A) of section 30A the word "twenty-eight" and by inserting in lieu thereof the word "twenty-nine".

(2) Paragraphs (b), (f), (g), (h) and (i) of subsection one of this section shall be deemed to have commenced on the twenty-fourth day of December, one thousand nine hundred and sixty-four.

*Workers' Compensation (Amendment).***9.** The Principal Act is further amended—**No. 67, 1970**Further
amendment
of Act No.
15, 1926.

- (a) by omitting from subparagraph (ii) of paragraph (f) of section thirty-eight the word "proceedings." and by inserting in lieu thereof the word "proceedings;";
- (b) by omitting from the same paragraph the words "The expression 'poor person' means any person who is not worth one hundred dollars, excluding furniture to the value of forty dollars, his wearing apparel, tools of trade, and the subject-matter of the proceedings to which he is a party;".

Sec. 38.
(Pro-
ceedings
of Commis-
sion.)**10.** The Principal Act is further amended by inserting next after subsection two of section sixty the following new subsection :—Further
amendment
of Act No.
15, 1926.
Sec. 60.
(Review.)

(3) Where at the date of an injury received whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1970—

- (a) the worker was over twenty-one years of age; and
- (b) under the terms, applicable to his employment, of an Act, industrial award, industrial agreement or contract of employment, his wage or salary was fixed by or by reference to a scale of wages or salaries related to age or experience,

the amount of the weekly payment payable after that commencement may be increased to such an amount as would have been awarded if the worker had at the time of the injury been earning the wage or salary which, in

accordance

Workers' Compensation (Amendment).

No. 67, 1970
—
accordance with that scale, he would probably have been earning at the date of the review, if he had remained uninjured.

Further amendment of Act No. 15, 1926.

11. (1) The Principal Act is further amended—

Sec. 71.
(Transfer of funds.)

(a) by omitting subsection two of section seventy-one;

New sec. 72.

(b) by inserting next after the same section the following new section :—

Residence.

72. Compensation is payable to a worker or his dependants in accordance with the provisions of this Act notwithstanding that he or they reside, or at any time resided, outside New South Wales.

(2) Where the death of a worker results on or after the appointed day from an injury received before that day, and his dependants would by virtue of the amendments made by subsection one of this section have been entitled to compensation for his death if the injury had been received on or after that day, the dependants shall be entitled to such compensation as though the injury had been received on or after that day.

Further amendment of Act No. 15, 1926.

12. The Principal Act is further amended—

Sec. 17B.
(Interpretation.)

(a) by inserting in the definition of "Bush fire preventive operation" in subsection one of section 17B after the word "occur" the words "and, without limiting the generality of the foregoing provisions of this definition, includes the inspection of fire breaks or other works, and the survey of areas for the purpose of detecting fires or ascertaining the need for precautions against outbreak of fire, where the inspection or survey has been, or is to be, so carried out for such a purpose";

(b)

Workers Compensation (Amendment).

- (b) by omitting from paragraph (c) of subsection two of section 17C the word "Act." and by inserting in lieu thereof the words—
- Act,
- together with such amount as the Commission may award in respect of the costs of the application.
- No. 67, 1970
Sec. 17C.
(Compensation payable to fire fighters for injury received.)
- (c) (i) by inserting in subsection one of section 17D after the words "damage to" where firstly occurring the words "or loss of";
- Sec. 17D.
(Indemnity for destruction of or damage to personal effects, vehicles, etc.)
- (ii) by inserting in the same subsection after the word "damage" where secondly occurring the words "or loss";
- (iii) by inserting in paragraph (i) of the proviso to the same subsection after the words "damage to" wherever occurring the words "and loss of";
- (iv) by omitting paragraph (ii) of the same proviso and by inserting in lieu thereof the following paragraph :—
- (ii) no indemnity shall be payable in respect of any loss—
- (a) occasioned by theft, unless the applicant has taken such action with a view to recovering the property stolen as the Commission thinks reasonable; or
- (b) resulting from reasonable wear and tear;
- (v) by inserting next after the same subsection the following new subsection :—
- (1A) Where, but for this subsection, a person would not be entitled to compensation under subsection one of this section by reason only of the fact that the article destroyed, damaged or lost was not upon him at the time of the destruction, damage or loss, he shall

*Workers' Compensation (Amendment).*No. 67, 1970

shall be entitled to that compensation as if the article had been upon him at that time if, at that time, the article was—

(a) at or near the scene of the bush fire being fought by, or the preventive operations or preparatory work being carried out by, that person (whether or not the article was in or upon a vehicle); or

(b) in or upon a vehicle in the course of the journeying by that person as referred to in paragraph (a) of subsection one of this section,

and the Commission is of the opinion that it was necessary or reasonable for the article to be where it was at the time of the destruction, damage or loss.

Subsisting policies.

13. A policy of insurance against liability under the Principal 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.

Where a person is in receipt of compensation at the commencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

Amendment of Act No. 14, 1942.

14. (1) The Workers' Compensation (Dust Diseases) Act, 1942–1967, is amended—

Sec. 1.
(Short title.)

(a) by omitting from subsection one of section one the word "Silicosis" and by inserting in lieu thereof the words "Dust Diseases";

Sec. 8.
(Certificate of medical authority.)

(b) (i) by omitting from subparagraph (i) of paragraph (b) of subsection (2B) of section eight the words "three thousand dollars" and by inserting in lieu thereof the words "five thousand dollars";
(ii)

Workers' Compensation (Amendment).

- (ii) by omitting from subparagraph (ii) of the same paragraph the words "sixteen dollars" and by inserting in lieu thereof the words "twenty dollars";
- (iii) by omitting from subparagraph (iii) of the same paragraph the words "five dollars" and by inserting in lieu thereof the words "six dollars twenty-five cents".

(2) The amendments made by subparagraphs (ii) and (iii) of paragraph (b) of subsection one of this section shall be deemed to extend to, and, on and from the appointed day, apply in respect of, all persons who, immediately before that day, were in receipt of or entitled to weekly payments under the provisions of the Workers' Compensation (Dust Diseases) Act, 1942–1967, in respect of the death of any person as well as to all persons becoming entitled to weekly payments under any of such provisions on or after that day.

(3) The compensation prescribed by subparagraph (i) of paragraph (b) of subsection (2B) of section eight of the Workers' Compensation (Dust Diseases) Act, 1942–1967, as amended by subsection one of this section, shall be payable in accordance with that paragraph in respect of the death of a person on or after the appointed day, whether or not anything on which entitlement to compensation under that paragraph depends happened, or was done or suffered, before that day.

15. (1) The Workmen's Compensation (Broken Hill) Act, 1920, is amended—

Amendment
of Act No.
36, 1920.

- (a) by omitting from paragraph 6 of Part II of the Schedule the figures "3.00" wherever occurring and by inserting in lieu thereof the figures "4.00";
- (b) by omitting from paragraph (g) of clause (1) of the same paragraph the symbol and figures "\$140" and by inserting in lieu thereof the symbol and figures "\$300";

(c)

Workers' Compensation (Amendment).

No. 67, 1970

- (c) by omitting from subparagraph (b) of paragraph 6A of Part II of the Schedule the figures "14.00" wherever occurring and by inserting in lieu thereof the figures "20.50";
- (d) by omitting from the same subparagraph the figures "2.00" and by inserting in lieu thereof the figures "4.00";
- (e) by omitting from the same subparagraph the figures "6.00" and by inserting in lieu thereof the figures "10.00".

(2) The amendments made by subsection one of this section shall be deemed to extend to, and, from the commencement of this section, apply in respect of all persons who were immediately before that commencement in receipt of compensation under the Workmen's Compensation (Broken Hill) Act, 1920, as well as to all persons becoming entitled to compensation thereunder after that commencement.

(3) This section shall commence upon a day to be appointed by the Governor for the purposes of this section and notified by proclamation published in the Gazette.

Further amendment of Act No. 36, 1920.
Sec. 7A.
(Beneficiaries residing abroad.)

16. The Workmen's Compensation (Broken Hill) Act, 1920, is further amended by omitting section 7A.

Further amendment of Act No. 15, 1926.
Sec. 38.
(Proceedings of Commission.)

17. The Principal Act is further amended by inserting next after paragraph (f) of section thirty-eight the following new paragraph :—

- (f1) pay from the fund such moneys as it thinks proper for or in connection with enabling persons to take or defend, or be a party to, proceedings before the Commission as poor persons;

18.

*Workers' Compensation (Amendment).***18.** (1) The Principal Act is further amended—

No. 67, 1970

Further
amendment
of Act No.
15, 1926.

- (a) by omitting section forty-one and by inserting in lieu thereof the following section :—

Sec. 41.
(Constitu-
tion of
fund.)

41. (1) In this section—

“Employer” includes a racing club or association.

“Financial year” means year commencing on the first day of July.

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

- (a) the amounts which immediately before the first day of July, one thousand nine hundred and seventy, stood to the credit of the fund constituted by this section as then enacted;
- (b) the amounts contributed by insurers and self-insurers pursuant to this section; and
- (c) all other amounts received by the Commission and not otherwise appropriated.

(3) There shall be paid from the fund, in addition to all moneys paid therefrom pursuant to any other provisions of this Act, all moneys required—

- (a) for the salaries of the members of the Commission and its staff; and
- (b) for carrying out the provisions of this Act where moneys are not otherwise provided for that purpose.

(4) The Commission shall, as early as is practicable in each financial year—

- (a) make an estimate of the total of the amounts already paid and the amounts to be paid from the fund during that financial year;

(b)

Workers' Compensation (Amendment).

No. 67, 1970

- (b) determine what amounts, if any, shall be set aside as provision to meet expenditure from the fund in future years, and specify for what purpose or purposes each such provision is being made;
- (c) make an estimate of the total amounts (including the amounts already received) to be received into the fund during that financial year otherwise than by way of contributions from insurers and self-insurers under this section;
- (d) determine the total amount to be contributed to the fund during that financial year by insurers and self-insurers under this section, after having regard to the amounts standing to the credit of the fund at the beginning of the year, including any amounts set aside in earlier years as provisions to meet expenditure in later years, and the amounts estimated to be received into the fund during the year otherwise than from insurers and self-insurers under this section; and
- (e) specify in a document sealed with the seal of the Commission the estimates, provisions and amount to be contributed to the fund by insurers and self-insurers.

(5) Each insurer shall in the year which commenced on the first day of July, one thousand nine hundred and seventy, and in each subsequent financial year, contribute to the fund an amount of money that is equal to a percentage, determined by the Commission in accordance with this section, of the total amount of the premiums (including reinsurance premiums) that fell due for payment to the insurer during the next preceding financial year while he was licensed under section twenty-seven of this Act in respect of insurance of employers
pursuant

Workers' Compensation (Amendment).

pursuant to this Act against their liability to their workers under this Act and independently of this Act, excluding any such part of those premiums as was actually paid by the insurer during that financial year by way of reinsurance to any other insurer who at the time of such payment was licensed under section twenty-seven of this Act. No. 67, 1970

(6) Each employer who at any time during a financial year (including the year which commenced on the first day of July, one thousand nine hundred and sixty-nine) was a self-insurer shall in the next succeeding financial year contribute to the fund an amount of money that is equal to a percentage, determined by the Commission, of the total amount which he would, in the opinion of the Commission, have paid as premiums in respect of a policy of insurance or indemnity had he obtained such a policy from the Government Insurance Office of New South Wales and maintained that policy in force during the first-mentioned financial year or (if he was not a self-insurer during the whole of that financial year) that part thereof during which he was a self-insurer.

(7) The Commission may require an employer, in respect of a specified financial year or part thereof during which, or any part of which, the employer was a self-insurer—

- (a) to furnish to the Commission within a specified time such particulars as to the workers employed by him and the wages paid to those workers as the Commission may specify;
- (b) to make within a specified time such inquiry of the Government Insurance Office of New South Wales as the Commission may specify as to the rates of premium that would have been payable had the employer

held

Workers' Compensation (Amendment).

No. 67, 1970

held a policy of insurance or indemnity, issued by that office, in respect of his workers and to furnish to the Commission, within a specified time after information is received by the employer in response to that inquiry, the information so received,

and an employer who fails to comply with a requirement of the Commission under this section within the time specified by the Commission in respect of that requirement shall be guilty of an offence against this Act and liable to a penalty not exceeding one thousand dollars.

(8) The Government Insurance Office of New South Wales shall promptly furnish any information sought by an employer from it for the purpose of complying with a requirement of the Commission under paragraph (b) of subsection seven of this section.

(9) The percentage determined by the Commission pursuant to subsections five and six of this section—

- (a) shall be such as, in the opinion of the Commission, will be sufficient to yield the total amount to be contributed to the fund by insurers and employers during the then current financial year as determined pursuant to paragraph (d) of subsection four of this section; and
- (b) shall be the same percentage for all insurers, and for all employers liable to contribute as self-insurers.

(10) The amounts required by this section to be contributed by insurers and employers shall be paid by them to the Commission in such instalments and at such times as are determined by the Commission.

(11)

Workers' Compensation (Amendment).

(11) The Commission shall, by such means No. 67, 1970 as it thinks proper, notify each insurer and employer required to make a contribution pursuant to this section of the contribution payable by him and of the amounts of the instalments and the times at which they are payable.

(12) Where an insurer or employer notified pursuant to subsection eleven of this section in respect of an instalment of contribution fails to pay that instalment by the time fixed by the Commission,—

- (a) he shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars for every day upon which that instalment has remained unpaid up to the date of conviction for the offence, and shall from time to time thereafter while that instalment remains unpaid be guilty of a further offence against this Act and liable to the same penalty until the instalment is paid or recovered; and
- (b) the full amount of the contribution, or of the balance then remaining unpaid, shall, if it is not already payable, immediately become payable and may be recovered as a debt by proceedings instituted by the Commission in any court of competent jurisdiction.

(13) In any proceedings against an insurer or employer for the recovery of a contribution or an instalment or part thereof under this section, or for any offence against this Act arising under subsection twelve of this section, a certificate purporting to be signed by the registrar of the Commission as to—

- (a) the amount of the contribution payable, pursuant to this section, by the insurer or employer

*Workers' Compensation (Amendment).*No. 67, 1970

employer and the amounts of the instalments by which, and the times at which, the Commission determined that contribution should be paid; and

- (b) the notification of the insurer or employer pursuant to subsection eleven of this section,

shall without proof of the signature or of the official character of the person by whom the certificate purports to have been signed be evidence of the facts stated in it, and of the due receipt of that notification by the insurer or employer.

Sec. 42.
(Returns by
insurers.)

- (b) (i) by omitting subsection one of section forty-two and by inserting in lieu thereof the following subsection :—

(1) Every insurer shall, in the month of August in each year, or at such later time as the Commission may notify to the insurer, send to the Commission a return showing the total amount of the premiums (including reinsurance premiums) that fell due for payment to the insurer during the year that ended on the next preceding thirtieth day of June while he was licensed under section twenty-seven of this Act, in respect of insurance of employers pursuant to this Act against their liability to their workers under this Act and independently of this Act, excluding any such part of those premiums as was actually paid during that year by the insurer by way of reinsurance to any other insurer who at the time of that payment was licensed under section twenty-seven of this Act, together with a statutory declaration by the insurer, or his manager, secretary or agent in this State that, to the best of his knowledge, information and belief, the return is a true return of that amount.

(ii)

Workers' Compensation (Amendment).

(ii) by omitting from subsection two of the same No. 67, 1970 section the words "shall be liable to a penalty not exceeding ten dollars" and by inserting in lieu thereof the words "shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars".

(2) As from the commencement of this section, references in any Act or any statutory or other instrument or document to the fund constituted by section forty-one of the Principal Act shall be deemed to refer to the fund constituted by that section as substituted by this Act.

(3) This section shall be deemed to have commenced on the first day of July, one thousand nine hundred and seventy.