

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

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 104, 1975.

An Act relating to the rates of premiums payable in respect of policies of insurance or indemnity under the Workers' Compensation Act, 1926; to establish an Insurers' Contribution Fund; to increase the membership of the Insurance Premiums Committee; and for these and other purposes to amend the Workers' Compensation Act, 1926, and the Workers' Compensation (Dust Diseases) Act, 1942. [Assented to, 18th December, 1975.]

BE

Workers' Compensation (Further Amendment).

No. 104, 1975 **BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. **1.** This Act may be cited as the "Workers' Compensation (Further Amendment) Act, 1975".

Commencement. **2.** (1) This section and sections 1, 3 and 9 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act. **3.** This Act shall be read and construed with, and as if it formed part of, the Workers' Compensation Act, 1926, which is referred to in this Act as the Principal Act.

Schedules. **4.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE INSURERS' CONTRIBUTION FUND.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE RATES OF PREMIUM SCHEME.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO RATES OF PREMIUM AND THE ASSIGNMENT OF CERTAIN POLICIES.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE COMPOSITION OF THE INSURANCE PREMIUMS COMMITTEE.

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SCHEDULE 5.—AMENDMENT TO THE PRINCIPAL ACT, RELATING TO REINSURANCE. PRINCIPAL No. 104, 1975

SCHEDULE 6.—AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO CONTRACTS IN CONNECTION WITH CERTAIN RURAL WORK.

SCHEDULE 7.—AMENDMENTS TO THE PRINCIPAL ACT, BY WAY OF STATUTE LAW REVISION.

SCHEDULE 8.—AMENDMENT TO THE WORKERS' COMPENSATION (DUST DISEASES) ACT, 1942.

5. (1) The Principal Act is amended in the manner set forth in Schedules 1–7. Amendment of Act No. 15, 1926.

(2) The Workers' Compensation (Dust Diseases) Act, 1942, is amended in the manner set forth in Schedule 8. Amendment of Act No. 14, 1942.

6. A reference in any Act enacted before the commencement of this section, or a rule, by-law, regulation or ordinance, or any other instrument or document whatever, of the same or a different kind or nature, made, issued or proclaimed before that commencement, to a scheme under section 30A (21) of the Principal Act shall be construed as including a reference to a scheme under section 30AB of that Act, as amended by this Act. References to scheme.

7. (1) In this section—

Saving.

“policy” means a policy of insurance or indemnity, as defined in section 18 (1) of the Principal Act;

“term”

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“term”, in relation to a policy, means—

- (a) the period in respect of which the insurer has by the terms of the policy; or
- (b) where the policy has been renewed, the further period in respect of which the insurer has by the terms of the renewal,

accepted liability to indemnify, in respect of any matters, the employer who obtained the policy.

(2) The premium in respect of a policy and payable for a term that is wholly or partly before the commencement of this section shall, subject to section 10, be ascertained and payable as if—

- (a) sections 30A (21) and 30AA of the Principal Act had not been repealed by this Act; and
- (b) any scheme under section 30A of the Principal Act applicable to or in respect of that term were in force.

Reference to Government Insurance Act, 1927.

8. The reference in section 30H (3) of the Principal Act, as amended by this Act, to the Government Insurance Act, 1927, includes a reference to the Government Insurance (Enabling and Validating) Act, 1927.

Appointment of additional members of Insurance Premiums Committee.

9. During the period commencing on and including the date of assent to this Act and ending on and including the day before the day appointed and notified under section 2 (2), an appointment of a person as a member of the Insurance Premiums Committee under the provisions of section 30A (2) (d) or (e) of the Principal Act, as amended by this Act, may be made as if those provisions were in force, but the appointment does not take effect until the day so appointed and notified.

10.

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“agreed premium”, in relation to the issue or renewal of a policy, means the premium in respect of the issue or renewal—

Reduction of premiums.

- (a) as calculated at the rate agreed upon between the parties to the policy in accordance with any relevant scheme under section 30A of the Principal Act as in force before the commencement of this section; and
- (b) as varied by any such scheme;

“policy” means a policy of insurance or indemnity, as defined in section 18 (1) of the Principal Act;

“premium” does not include any amount in respect of any contribution or commission referred to in section 6 (7B) of the Workers' Compensation (Dust Diseases) Act, 1942, as in force before the commencement of this section;

“term”, in relation to a policy, means—

- (a) the period in respect of which the insurer has by the terms of the policy; or
 - (b) where the policy has been renewed, the further period in respect of which the insurer has by the terms of the renewal,
- accepted liability to indemnify, in respect of any matters, the employer who obtained the policy.

(2) Where a policy has been issued for a term which comprises or includes the whole or any part of the period commencing on and including 1st July, 1975, and ending on and including the day before the date of commencement of this section, the premium payable shall be the agreed premium as reduced by this section.

(3)

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(3) Where the term of a policy referred to in subsection (2) commenced on or after 1st July, 1975, the agreed premium shall be reduced by 10 per centum.

(4) Where the term of a policy referred to in subsection (2) commenced before 1st July, 1975, the agreed premium shall be reduced by an amount ascertained in accordance with the following formula :—

$$R = \frac{10}{100} \times \frac{P}{T} \times A$$

where—

R represents the amount of the reduction (expressed in dollars);

P represents that part of the term that is after 30th June, 1975 (expressed in whole days);

T represents the whole of the term (expressed in whole days);

A represents the agreed premium (expressed in dollars).

(5) Where, before the commencement of this section, an employer has paid to an insurer, by way of premium for the issue or renewal of a policy, an amount that exceeds the premium payable in respect of that issue or renewal, as reduced by this section, the insurer shall refund that excess to the employer.

(6) Where, before the commencement of this section, an employer has paid to an insurer an amount (referred to in this subsection as "the advance premium") by way of premium in respect of the issue or renewal of a policy for a term referred to in subsection (2), pending the final ascertainment of the amount of the premium due in respect of the issue or renewal, and a refund is not payable to the employer under subsection (5)—

(a) the insurer shall refund to the employer an amount equal to the amount which he would be required by subsection (5) to refund if the advance premium were the premium payable in respect of the issue or renewal; and

(b)

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- (b) the amount so refunded shall, for the purpose of ^{No. 104, 1975} finally ascertaining the amount of the premium due in respect of the issue or renewal, be deemed not to have been included in the advance premium.

(7) Nothing in subsection (6) requires an insurer to refund to an employer an amount that is less than \$5.

(8) For the purpose of calculating a refund under this section, amounts of less than one cent shall be disregarded.

(9) The amount of a refund under this section—

- (a) becomes due and payable one month after the commencement of this section; and
- (b) may be recovered by the employer as a debt in any court of competent jurisdiction.

SCHEDULE 1.

Sec. 5 (1).

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE
INSURERS' CONTRIBUTION FUND.

- (1) (a) Section 6 (1), definition of "Contribution Fund"—

After the definition of "Compensation",
insert :—

"Contribution Fund" means the Insurers'
Contribution Fund established under
section 30H.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE
INSURERS' CONTRIBUTION FUND—*continued.*

- (b) Section 6 (1), definition of "Financial year"—
After the definition of "Employer", insert :—
"Financial year" means a year commencing
on 1st July.
- (c) Section 6 (1), definition of "Fund"—
Omit "this Act", insert instead "section 41".
- (d) Section 6 (1), definition of "Government Insurance
Office"—
After the definition of "Fund", insert :—
"Government Insurance Office" means the
Government Insurance Office of New
South Wales.

(2) Part IIIA—

After Part III, insert :—

PART IIIA.

INSURERS' CONTRIBUTION FUND.

30G. In this Part, except in so far as the context
or subject-matter otherwise indicates or requires—

"compensation" includes an amount payable by
an insurer to an employer pursuant to an
obligation to indemnify the employer for
compensation paid by the employer;

Interpreta-
tion:
Part IIIA.

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“deemed premium income”, in relation to the contribution payable by an insurer under section 30J for a financial year, means the amount the insurer would have received as premiums in respect of policies (other than policies issued by the Government Insurance Office in respect of Government workers) issued or renewed by the insurer during that financial year, had those premiums been paid immediately upon their becoming due and payable and had those premiums been payable at the rates fixed as at that time pursuant to section 30A (as in force before the commencement of this Part) or section 30AB, as the case may require, and—

(a) in relation to the contribution payable for the financial year that commenced on 1st July, 1974—

(i) includes the gross amount of any reinsurance premiums received by the insurer from any other insurer; and

(ii) does not include the gross amount of any reinsurance premiums paid to any other insurer by the insurer,

being reinsurance premiums in respect of policies of insurance or indemnity; and

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INSURERS' CONTRIBUTION FUND—*continued.*

(b) in relation to the contribution payable for any subsequent financial year—

(i) includes any amount calculated in such manner as may be prescribed for the purposes of this subparagraph in relation to that year; and

(ii) does not include any amount calculated in such manner as may be prescribed for the purposes of this subparagraph in relation to that year;

“Government employer” means the Crown, an employer referred to in the third paragraph of the definition of “Employer” in section 6 (1), or a prescribed employer;

“Government worker” means a worker whose employer is a Government employer;

“insurer” means a person who is or has been licensed under section 27, but does not include—

(a) the Joint Coal Board;

(b) any company referred to in The Standard Insurance Company Limited and Certain Other Insurance Companies Act, 1963, or the Riverina Insurance Company Limited and Another Insurance Company Act, 1971;

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(c) Northumberland Insurance Company
Limited; or

(d) a prescribed person;

“policy” means a policy of insurance or
indemnity as defined in section 18 (1);

“weekly compensation” means the compensation
prescribed by section 9 or, in the case of
partial incapacity, provided for by section
11.

30H. (1) There shall be established a fund to be
known as the “Insurers' Contribution Fund”.

Establish-
ment of
Insurers'
Contribution
Fund.

(2) The Contribution Fund shall, subject to
this Act, be under the direction, control and
management of the Government Insurance Office.

(3) The Government Insurance Office may
invest and re-invest any money in the Contribution
Fund in all or any one or more of the securities and
investments mentioned in section 5A (3) of the
Government Insurance Act, 1927, and any such
securities and investments held by that Office pursuant
to this subsection may at any time be realised, hypo-
thecated or otherwise disposed of as that Office may
from time to time determine.

(4) Full and accurate accounts shall be kept
by the Government Insurance Office in respect of the
Contribution Fund.

(5) The accounts relating to the Contribution
Fund shall be audited by the Auditor-General.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE
INSURERS' CONTRIBUTION FUND—*continued.*Payments
into the
Contribution
Fund.30I. The Government Insurance Office shall pay
into the Contribution Fund—

- (a) all contributions and other amounts paid to that Office pursuant to this Part (sections 30K (6) and 30M excepted);
- (b) the contributions and other amounts payable by that Office as an insurer pursuant to this Part; and
- (c) all income accruing from the investment or re-investment of money under section 30H (3), or otherwise accruing to the Contribution Fund.

Contri-
butions.30J. (1) Each insurer shall pay, in accordance
with this Part, the prescribed contributions.(2) The prescribed contributions to be paid
by an insurer pursuant to subsection (1) are—

- (a) an amount equal to 2.5 per centum of the deemed premium income of the insurer for the financial year that commenced on 1st July, 1974; and
- (b) an amount equal to a prescribed percentage of the deemed premium income of the insurer for a prescribed financial year.

(3) The prescribed contributions referred
to—

- (a) in subsection (2) (a)—shall be paid within 2 months after the commencement of this Part; and

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(b) in subsection (2) (b)—shall be paid within such periods as are prescribed.

(4) Each insurer, other than the Government Insurance Office, shall pay its prescribed contributions to the Government Insurance Office for payment into the Contribution Fund.

(5) Where a contribution payable by an insurer pursuant to this section has not been paid within the time prescribed by or under this section—

(a) the amount of that contribution together with interest thereon calculated at the rate of 10 per centum per annum (or, where another rate is prescribed, that other rate) compounded quarterly may be recovered by the Government Insurance Office as a debt in any court of competent jurisdiction; and

(b) until the contribution together with interest thereon as prescribed by paragraph (a) is paid, any right of the insurer to receive payments from the Contribution Fund is suspended, but without prejudice to his right to receive, after payment of the contribution and interest, any amounts that have accrued during the period of suspension.

(6) A certificate signed by the Registrar of the Commission certifying that an amount specified in the certificate was the deemed premium income of an insurer so specified for a financial year so specified is admissible in any proceedings for the purposes of subsection (5) and shall be prima facie evidence of that deemed premium income.

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(7) More than one percentage may be prescribed for a financial year (including the financial year that commenced on 1st July, 1974) for the purposes of subsection (2) (b).

Payments
from the
Contribu-
tion Fund.

30k. (1) Subject to subsection (3), there shall be payable from the Contribution Fund to an insurer—

- (a) the difference between the weekly compensation payable and paid by him (whether before or after the commencement of this Part) pursuant to a policy in respect of an injury received by a worker before 1st May, 1975, and the weekly compensation that would have been so payable by him in respect of that injury if the Workers' Compensation (Amendment) Act, 1975, had not been enacted; and
- (b) the prescribed proportion of any lump sum paid by him (whether before or after the commencement of this Part) pursuant to a policy, in redemption in whole or in part of the liability to pay weekly compensation in respect of an injury received by the worker before 1st May, 1975.

(2) The prescribed proportion referred to in subsection (1) (b) is—

- (a) except as provided in paragraph (b)—the proportion agreed upon between the insurer referred to in that subsection and the Government Insurance Office; or

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- (b) in the absence of agreement, or where that insurer is the Government Insurance Office—the proportion that the difference between—
- (i) the rate of weekly compensation that was payable, immediately before the redemption, in respect of the injury; and
 - (ii) the rate of weekly compensation that would then have been so payable if the Workers' Compensation (Amendment) Act, 1975, had not been enacted,

bears to the rate of weekly compensation then so payable.

(3) Payments under subsection (1) shall be made at such times or intervals as are prescribed or, in the absence of prescription, at such times or intervals as the Government Insurance Office determines.

(4) Where—

- (a) an insurer is or has been liable under a policy to pay weekly compensation in respect of an injury received by a worker;
- (b) the insurer has been paid or is entitled to, or would, had any such compensation been paid by him, be entitled to a payment under subsection (1) (a) in respect of the compensation;

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- (c) the worker has (whether before or after the commencement of this Part) taken proceedings independently of this Act against a person mentioned in section 63 (1) for the recovery of damages in respect of the injury;
- (d) the worker has in those proceedings (whether before or after the commencement of this Part) accepted money brought into court by his employer or obtained judgment against his employer; and
- (e) the money so brought into court, or the amount for which judgment was obtained, has (whether before or after the commencement of this Part) been paid by the insurer by way of indemnity or otherwise,

there shall be payable from the Contribution Fund to the insurer, in addition to any other amounts paid or payable to him pursuant to this Part, the redemption value of the liability to which the Contribution Fund would, but for the payment into court or the judgment, have been subject under this Part, and that value shall be as agreed upon between the Government Insurance Office and the insurer or, in the absence of agreement or where the insurer is the Government Insurance Office, as assessed by the Commission.

(5) No amount shall be paid—

- (a) under subsection (1) (a)—in respect of compensation paid for any period of total or partial incapacity from an injury if the period was within 6 months after the happening of the injury;

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- (b) under this section—in respect of any compensation paid or payable by the Government Insurance Office for an injury received by a Government worker; or
- (c) under this section (subsection (6) excepted)—in respect of any costs or expenses incurred or payable by an insurer in connection with—
 - (i) claims for compensation; or
 - (ii) claims for payments under this Part.

(6) The Government Insurance Office is entitled—

- (a) to be re-imbursed, from the Contribution Fund, the costs of administration of that Fund; and
- (b) to be indemnified, from that Fund, against all costs, expenses and liabilities that it may incur in or in connection with the exercise or purported exercise or performance of its powers, authorities, duties and functions under this Part.

30L. (1) Where an insurer who has received any payment or payments (in this subsection referred to as "the prescribed refund") from the Contribution Fund in respect of any compensation paid by him

Repayments
to the
Contribution
Fund.

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(whether before or after the commencement of this Part) receives from another person, pursuant to section 64 or otherwise, the whole or any part of the compensation he has paid, he shall forthwith repay to the Government Insurance Office for payment into that Fund (or, if the insurer is the Government Insurance Office, that Office shall forthwith repay into that Fund)—

- (a) if he has received the whole of that compensation—the whole of the prescribed refund; or
- (b) if he has received a part only of that compensation—so much of the prescribed refund as bears to the whole of that refund the same proportion as that part of that compensation bears to the whole of that compensation.

(2) Any amount payable by an insurer to the Government Insurance Office under subsection (1) may be recovered by that Office as a debt in any court of competent jurisdiction.

Provisions
affecting
Government
employers.

30M. (1) Where a Government employer—

- (a) was, on the date of commencement of this Part, the holder of a policy issued by the Government Insurance Office; and

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(b) obtains, on a subsequent day, a policy from another insurer, or becomes a self-insurer, that employer is liable to pay to that Office any amount which, if the employer had not been a Government employer, would have been payable from the Contribution Fund to that Office in respect of compensation payable on or after that subsequent day to a worker employed by that employer.

(2) An amount which an employer is liable to pay under subsection (1)—

(a) may be recovered by the Government Insurance Office from the employer as a debt in any court of competent jurisdiction; and

(b) is not payable into the Contribution Fund.

30N. (1) The Insurance Premiums Committee and the Registrar of the Commission shall furnish to the Government Insurance Office such information in its or his possession as to the premium income or deemed premium income of insurers as the Government Insurance Office may from time to time request. Miscellaneous provisions.

(2) For the purposes of this Part, the Government Insurance Office may assume, but is not required to assume, that compensation paid by an insurer and appearing to that Office to have been paid pursuant to an obligation was so paid.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE
INSURERS' CONTRIBUTION FUND—*continued.*

(3) The Government Insurance Office, in its capacity as the body having the direction, control and management of the Contribution Fund, is entitled to be a party to any application for the determination by the Commission of any lump sum under section 15 if the whole or any part of the lump sum is to be or may be payable from that Fund.

Sec. 5 (1).

SCHEDULE 2.

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE
RATES OF PREMIUM SCHEME.

(1) (a) Section 30A (21)—

Omit the subsection.

(b) Section 30A (22)—

At the end of section 30A, insert :—

(22) The committee may hold such investigation as it thinks fit for the purpose of the exercise of its functions under this Act or the Workers' Compensation (Dust Diseases) Act, 1942.

(2) Section 30AA—

Omit the section.

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AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE
RATES OF PREMIUM SCHEME—*continued.*

(3) Section 30AB—

Before section 30B, insert :—

30AB. (1) In this section—

Schemes.

“committee” means the Insurance Premiums Committee constituted by section 30A;

“loss ratio” means the proportion which the cost of claims under policies of insurance or indemnity as calculated in a manner from time to time determined, subject to this section, by the committee, bears to the premium income of insurers as calculated in a manner from time to time determined by the committee.

(2) It is the duty of the committee to prepare and present to the Governor, as soon as practicable after the commencement of this section, a scheme setting forth—

(a) recommended annual rates of premiums in respect of policies of insurance or indemnity; and

(b) any adjustments to those rates, determined by the committee as being necessary to cover—

(i) the amount of contributions payable by insurers under section 6 of the Workers' Compensation (Dust Diseases) Act, 1942, including contributions to the Dust Diseases Outstanding Liability Reserve Fund; and

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AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE
RATES OF PREMIUM SCHEME—*continued.*

- (ii) such commission as the committee may prescribe to cover overhead expenses of insurers arising out of the payment of contributions by them under that section.

(3) The recommended annual rates of premium to be set forth in the scheme shall be determined by ascertaining the rates of premium that would make the loss ratio, to the extent to which it can reasonably be ascertained by the committee, a percentage determined by the committee.

(4) The percentage referred to in subsection (3) shall—

- (a) be the same in respect of all insurers;
- (b) be such as the committee, having due regard to the interests of insurers, employers and workers, considers to be fair and reasonable; and
- (c) until a different percentage is determined by the committee, be 70 per centum.

(5) The committee may, from time to time, alter the percentage referred to in subsection (3).

(6) The cost of claims, referred to in the definition of "loss ratio" in subsection (1)—

- (a) does not include any contributions or commissions referred to in subsection (2) (b);
- (b) does not include any payments made by insurers to the Contribution Fund; and

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RATES OF PREMIUM SCHEME—*continued.*

(c) includes any amount which an insurer is entitled to receive by way of reimbursement from the Contribution Fund in respect of the cost of claims.

(7) The scheme may—

- (a) fix (by reference to a percentage of premiums or in any other manner) the highest amounts which insurance brokers and other persons acting as agents or intermediaries in relation to the issue or renewal of policies of insurance or indemnity may accept by way of commission or other remuneration for their services in relation to policies of insurance or indemnity;
- (b) subject to subsection (8), provide for all matters for which provision is necessary or convenient to be made for the purpose of carrying out or enforcing the provisions of the scheme, including, but without prejudice to the foregoing provisions of this paragraph, provision for the imposition and recovery of penalties and the recovery and distribution of money required to be paid and distributed by any insurer or other person under the scheme;
- (c) contain provisions for the exemption of any person or class of persons from the operation of all or any of the provisions of the scheme, either absolutely or subject to terms and conditions, and either generally or for a limited time or from time to time; and

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RATES OF PREMIUM SCHEME—*continued.*

(d) contain provisions that apply differently according to such factors as are specified in the scheme.

(8) The scheme shall not make provision for the imposition of a penalty for the payment or acceptance of any amount by way of premium for the issue or renewal of a policy of insurance or indemnity.

(9) A scheme may be revoked or amended from time to time by a subsequent scheme prepared by the committee and presented to the Governor.

(10) A scheme prepared by the committee and presented to the Governor under this section shall—

- (a) be published in the Gazette;
- (b) take effect on the date of publication or a later date specified in the scheme; and
- (c) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

(11) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a scheme referred to in subsection (10) has been laid before it, disallowing the scheme or any part thereof, the scheme or part thereupon ceases to have effect.

(12) For the purposes of subsections (10) and (11), sitting days shall be counted, whether or not they occur during the same session.

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SCHEDULE 3.

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AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO RATES
OF PREMIUM AND THE ASSIGNMENT OF CERTAIN
POLICIES. Sec. 5 (1).

(1) Section 18 (2)—

Omit “who has complied with the prescribed conditions”, insert instead “, or to effect the renewal of such a policy issued to the employer, unless conditions are prescribed in respect of the issue or renewal of such a policy and the employer has not complied with those conditions”.

(2) Section 18AA—

After section 18A, insert :—

18AA. (1) In this section—

“committee” means the Insurance Premiums
Committee constituted by section 30A;

Issue,
renewal
and assign-
ment of
certain
policies.

“employer” includes a person who proposes to
become an employer;

“policy” means a policy of insurance or indemnity
as defined in section 18 (1);

“prescribed rates” means—

- (a) where recommended annual rates of
premium are fixed pursuant to
section 30AB—those rates as for the
time being so fixed, subject to any
adjustments pursuant to section 30AB
(2) (b); or

SCHEDULE

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO RATES OF PREMIUM AND THE ASSIGNMENT OF CERTAIN POLICIES—*continued.*

- (b) until those rates are so fixed—the highest rates of premium last fixed pursuant to section 30A (as in force immediately before the commencement of this section) and reduced by 10 per centum, subject to any adjustments last made by the committee under section 6 (7B) of the Workers' Compensation (Dust Diseases) Act, 1942.

(2) Where an insurer demands for the issue of a policy to an employer, or for the renewal of a policy issued to an employer, a premium exceeding an amount calculated at the prescribed rates, and the case is not one to which subsection (11) applies, the employer may apply to the committee for a recommendation as to the rate of premium to be charged for the issue or renewal of the policy.

(3) An application referred to in subsection (2) shall be made—

- (a) where the employer sought the issue of a policy—within one month after the date of the demand mentioned in subsection (2); or
- (b) where the employer sought the renewal of a policy—before or within one month after—
 - (i) the date of expiry of the period for which premiums have been paid in respect of the policy; or

SCHEDULE

*Workers' Compensation (Further Amendment).*SCHEDULE 3—*continued.*

No. 104, 1975

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO RATES
OF PREMIUM AND THE ASSIGNMENT OF CERTAIN
POLICIES—*continued.*

(ii) the date of the demand mentioned in subsection (2),

whichever is the later,

or within such further period as the committee may, in special circumstances, approve in relation to that application.

(4) Where such an application is made, the committee—

- (a) shall notify the insurer of the making of the application;
- (b) shall consider the application and may have regard to such oral or written evidence or representations as it thinks fit;
- (c) shall recommend in respect of the issue or renewal of the policy a rate of premium not less than the appropriate prescribed rate; and
- (d) shall, in such manner as it thinks fit, inform the employer and the insurer of its recommendation.

(5) Where—

- (a) the committee makes such a recommendation;
- (b) the insurer does not, within one month after the date of the decision of the committee—
 - (i) if the employer sought the issue of a policy—issue to the employer a policy having effect for the period of

SCHEDULE

Workers' Compensation (Further Amendment).

No. 104, 1975

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO RATES OF PREMIUM AND THE ASSIGNMENT OF CERTAIN POLICIES—*continued.*

one year from the date of the demand mentioned in subsection (2); or

- (ii) if the employer sought the renewal of a policy—effect the renewal of the policy for the period of one year from the date of expiry mentioned in subsection (3) (b),

at the rate of premium recommended by the committee; and

- (c) the employer does not otherwise agree or request,

the insurer shall be deemed to have issued to the employer a policy at the rate of premium so recommended and having effect for the period of one year from the date referred to in paragraph (b) (i) or (ii), as the case may require, and shall forthwith furnish the employer with a document setting out the provisions of that policy.

(6) An insurer, other than the Government Insurance Office, may at any time, by notice in writing served on that Office in accordance with subsection (7), assign to that Office the policy deemed to have been issued by the insurer under subsection (5), and—

- (a) the assignment shall take effect as on and from the day immediately following the day of service of the notice; and

SCHEDULE

*Workers' Compensation (Further Amendment).*SCHEDULE 3—*continued.*

No. 104, 1975

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO RATES OF PREMIUM AND THE ASSIGNMENT OF CERTAIN POLICIES—*continued.*

- (b) the assigned policy shall thereafter have effect for the balance of the period mentioned in subsection (5) or—
- (i) for such other period as may be agreed upon between that Office and the employer; or
 - (ii) for such period, being less than that balance, as the employer may, within 14 days after being notified of the assignment, request by notice in writing so served.

(7) A notice under subsection (6) shall be served by leaving it at the principal office of the Government Insurance Office with a person apparently employed by that Office.

(8) An insurer, on assigning a policy under subsection (6), shall forthwith notify, by post, the employer to whom the policy is deemed to have been issued of the fact and date of the assignment.

(9) Where a policy is assigned under subsection (6)—

- (a) the assignor is entitled, as under the terms of the policy, to so much of the premium payable in respect of the policy as bears to the whole premium the same proportion as the period (in whole days) of the policy that has elapsed at the date of the assignment bears to the period of 365 days; and

SCHEDULE

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO RATES OF PREMIUM AND THE ASSIGNMENT OF CERTAIN POLICIES—*continued.*

(b) the Government Insurance Office is entitled—

- (i) to recover from the assignor, as a debt in any court of competent jurisdiction, so much of any of the premium paid to him in respect of the policy as exceeds the amount to which he is entitled under paragraph (a); and
- (ii) to be paid by the employer, as under the terms of the policy, the premium payable in respect of the period of the policy subsequent to the assignment, less any amount which that Office is entitled to recover under subparagraph (i) or would be so entitled to recover had it not been paid by the assignor to that Office.

(10) The Government Insurance Office is not liable to pay any amount by way of brokerage, commission or other consideration in respect of the assignment of a policy under subsection (6), unless it has expressly agreed to pay that amount.

(11) Before or after the expiry of the period of a policy deemed by subsection (5) to have been issued by the Government Insurance Office, or assigned to that Office under subsection (6), or issued or renewed pursuant to subsection (12), that Office may apply to the committee for a review of the rate of premium to be paid for the renewal of the policy.

SCHEDULE

*Workers' Compensation (Further Amendment).*SCHEDULE 3—*continued.*

No. 104, 1975

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO RATES OF PREMIUM AND THE ASSIGNMENT OF CERTAIN POLICIES—*continued.*

(12) Where an application is made under subsection (11), the committee—

- (a) shall notify the employer of the making of the application;
- (b) shall consider the application and may have regard to such oral or written evidence or representations as it thinks fit;
- (c) shall either—
 - (i) recommend in respect of the renewal of the policy a rate of premium not less than the appropriate prescribed rate; or
 - (ii) if it is satisfied that special circumstances warrant the giving of such an authorisation, authorise the Government Insurance Office to renew the policy in consideration of the payment by the employer of the actual cost of claims together with a percentage of that cost, to be determined by the committee, in respect of expenses of administration; and

(d) shall, in such manner as it thinks fit, inform the employer and that Office of its decision, and that Office, if so requested by the employer, shall forthwith renew the policy, or issue a new policy to the employer, in accordance with the decision of the committee, or on such other terms as may be agreed upon, and for a period of one year or such other period as may be agreed upon.

SCHEDULE

Workers' Compensation (Further Amendment).

No. 104, 1975

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO RATES
OF PREMIUM AND THE ASSIGNMENT OF CERTAIN
POLICIES—*continued.*

(13) An insurer who fails to observe any requirements of this section is guilty of an offence against this Act.

Sec. 5 (1).

SCHEDULE 4.

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE
COMPOSITION OF THE INSURANCE PREMIUMS
COMMITTEE.

(1) (a) Section 30A (2)—

Omit "three", insert instead "five".

(b) Section 30A (2)(c)—

Omit "1902, as amended by subsequent Acts.",
insert instead "1902;".

(c) Section 30A (2) (d), (e)—

After section 30A (2) (c), insert :—

(d) one member who shall be appointed by the Governor by notification published in the Gazette to represent the interests of employers;

(e) one member who shall be appointed by the Governor by notification published in the Gazette to represent the interests of workers.

SCHEDULE

*Workers' Compensation (Further Amendment).***SCHEDULE 4—continued.**

No. 104, 1975.

**AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO THE
COMPOSITION OF THE INSURANCE PREMIUMS
COMMITTEE—continued.**

(d) Section 30A (2)—

Omit "paragraph (b) and paragraph (c)", insert
instead "paragraphs (b), (c), (d) and (e)".

(2) Section 30A (11)—

Omit "two", insert instead "3".

(3) Section 30A (13)—

Omit "either", insert instead "one or two".

SCHEDULE 5.

Sec. 5 (1).

**AMENDMENT TO THE PRINCIPAL ACT, RELATING TO
REINSURANCE.**

Section 19 (3), (4), (5)—

Omit the subsections.

SCHEDULE

Workers' Compensation (Further Amendment).

No. 104, 1975

SCHEDULE 6.

Sec. 5 (1).

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO
CONTRACTS IN CONNECTION WITH CERTAIN RURAL
WORK.

(1) (a) Section 6 (5) (a)—

Omit "Where any person", insert instead "Subject to this subsection, where any person".

(b) Section 6 (5) (a)—

After "employed by the principal", insert ", and a worker so employed by the contractor shall, for the purposes of this Act, other than this subsection and sections 18 (3B), 43A and 53 (8), be deemed not to be a worker employed by the contractor".

(c) Section 6 (5) (a1)—

After section 6 (5) (a), insert :—

(a1) Paragraph (a) does not apply to or in respect of a contract, agreement or arrangement to haul or load timber, or haul and load timber, if the timber has been subjected to a manufacturing process as defined by the Factories, Shops and Industries Act, 1962, in a factory as defined by that Act.

(2) Section 18 (3B), (3C)—

After section 18 (3A), insert :—

(3B) A policy of insurance or indemnity obtained, whether before or after the commencement of this subsection, by a principal referred to in section 6 (5) (a) shall to the extent to which it insures that principal against liability independently of this Act in

*Workers' Compensation (Further Amendment).*SCHEDULE 6—*continued.*

No. 104, 1975

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO
CONTRACTS IN CONNECTION WITH CERTAIN RURAL
WORK—*continued.*

respect of an injury to a worker employed by a contractor referred to in section 6 (5) (a) be deemed also to insure that contractor against liability independently of this Act in respect of an injury to that worker.

(3C) A liability, under a policy of insurance or indemnity, of an insurer—

- (a) to a worker under a provision inserted in the policy pursuant to the third paragraph of subsection (3) (a) shall be enforceable, and shall be deemed always to have been enforceable, as if the worker were a party to the policy; and
- (b) to a contractor by virtue of subsection (3B) shall be enforceable, and the same rights (including subrogation) and obligations shall apply as between the insurer and the contractor, as if the contractor were a party to the policy.

(3) Section 43A—

After section 43, insert :—

43A. A contractor referred to in section 6 (5) (a), ^{Information} whenever requested by a worker who is or has been ^{to be} employed by him to inform the worker of the name ^{supplied} and address of the person deemed by that paragraph to be the employer of the worker as at a time specified by the worker (being a time when he was employed by the contractor), shall not fail to do so. ^{to worker.}

Penalty : \$500.

SCHEDULE

Workers' Compensation (Further Amendment).

No. 104, 1975

SCHEDULE 6—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO
CONTRACTS IN CONNECTION WITH CERTAIN RURAL
WORK—*continued.*

(4) Section 53 (8)—

After section 53 (7), insert :—

(8) For the purposes of this section, a notice given by a person employed by a contractor and deemed by section 6 (5) (a) to be a worker employed by a principal shall be deemed to be given to the employer if it is given either to that contractor or to that principal.

Sec. 5 (1).

SCHEDULE 7.

AMENDMENTS TO THE PRINCIPAL ACT, BY WAY OF STATUTE
LAW REVISION.

(1) Long title—

Omit "Colonial Treasurer", insert instead
"Treasurer".

(2) Part I, heading—

Before section 1, insert "PRELIMINARY".

(3) Section 1A—

After section 1, insert :—

1A. This Act is divided as follows :—

PART I.—PRELIMINARY—*ss.* 1–6.PART II.—COMPENSATION—*ss.* 7–17.

SCHEDULE

Division
of Act.

*Workers' Compensation (Further Amendment).*SCHEDULE 7—*continued.*

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AMENDMENTS TO THE PRINCIPAL ACT, BY WAY OF STATUTE
LAW REVISION—*continued.*PART IIA.—BUSH FIRE FIGHTERS
COMPENSATION—*ss.* 17A–17I.PART III.—INSURANCE—*ss.* 18–30F.PART IIIA.—INSURERS' CONTRIBUTION
FUND—*ss.* 30G–30N.PART IV.—WORKERS' COMPENSATION
COMMISSION—*ss.* 31–42A.PART V.—GENERAL PROVISIONS—*ss.* 43–
49A.PART VI.—MEDICAL PROVISIONS—*ss.* 50–
52.PART VII.—PROCEEDINGS RESPECTING
COMPENSATION—*ss.* 53–62A.PART VIII.—REMEDIES AT COMMON
LAW—*ss.* 63–65.PART IX.—MISCELLANEOUS—*ss.* 66–72.

(4) Section 4—

Omit the section.

(5) Section 5—

Omit "Workmen's Compensation (Silicosis) Act, 1920, as amended by this Act", insert instead "Workers' Compensation (Dust Diseases) Act, 1942".

SCHEDULE

Workers' Compensation (Further Amendment).

No. 104, 1975

SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, BY WAY OF STATUTE
LAW REVISION—*continued.*

(6) (a) Section 6 (1), definition of "Employer"—

- (i) Omit "Railway Commissioners for New South Wales", insert instead "Public Transport Commission of New South Wales".
- (ii) Omit "the Hunter District Board of Water Supply and Sewerage", insert instead "The Hunter District Water Board".

(b) Section 6 (1), definition of "Incapacity"—

Omit "shall include", insert instead "includes".

(c) Section 6 (1), definition of "Injury"—

- (i) Omit "as amended by subsequent Acts".
- (ii) Omit "1942–1967, or any Act amending or replacing that Act", insert instead "1942".

(d) Section 6 (1), definition of "Place of Employment"—

Omit "Employment", insert instead "employment".

(e) Section 6 (1), definition of "Worker", paragraph (g)—

Omit the paragraph.

(f) Section 6 (5)—

Omit :—

"Timber" includes sleepers, piles, poles, girders, logs, or pit timber.

SCHEDULE

*Workers' Compensation (Further Amendment).*SCHEDULE 7—*continued.*

No. 104, 1975

AMENDMENTS TO THE PRINCIPAL ACT, BY WAY OF STATUTE
LAW REVISION—*continued.*

“Cutting” includes felling, sawing, obtaining, preparing, or doing any work in connection with timber, and “cut” has a corresponding meaning.

(g) Section 6 (5) (c)—

At the end of section 6 (5), insert :—

(c) In this subsection—

Definitions.

“cutting” includes felling, sawing, obtaining, preparing, or doing any work in connection with timber;

“timber” includes sleepers, piles, poles, girders, logs or pit timber.

(h) Section 6 (6A)—

Omit “Mining Act, 1906, as amended by subsequent Acts”, insert instead “Mining Act, 1973, or the Coal Mining Act, 1973”.

(i) Section 6 (14A) (a)—

Omit “1909–1944”, insert instead “1909”.

(j) Section 6 (14c)—

Omit “, as amended by subsequent Acts” wherever occurring.

(k) Section 6 (14c)—

Omit “1934–1941”, insert instead “1934”.

SCHEDULE

Workers' Compensation (Further Amendment).

No. 104, 1975

SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, BY WAY OF STATUTE
LAW REVISION—*continued.*

- (7) Section 7 (1) (c)—
Omit “be”, insert instead “be—”.
- (8) Section 14 (2)—
Omit “as amended by subsequent Acts,”.
- (9) Section 17A (1) (a)—
Omit “, as amended by subsequent Acts”.
- (10) Section 17G—
Omit “, as amended by subsequent Acts” wherever occurring.
- (11) Section 17H—
Omit “Colonial Treasurer”, insert instead “Treasurer”.
- (12) (a) Section 18 (1)—
Omit “as amended by subsequent Acts,”.
- (b) Section 18 (1)—
Omit “1942–1967, or any Act amending or replacing that Act”, insert instead “1942”.
- (c) Section 18 (6B)—
Omit “contract”, insert instead “policy”.
- (d) Section 18 (8) (e)—
Omit “as amended by subsequent Acts,”.

SCHEDULE

*Workers' Compensation (Further Amendment).*SCHEDULE 7—*continued.*

No. 104, 1975

AMENDMENTS TO THE PRINCIPAL ACT, BY WAY OF STATUTE
LAW REVISION—*continued.*

- (e) Section 18A (3)—
Omit “as amended by subsequent Acts.”
- (f) Section 18A (3)—
Omit “the said Act, as so amended,” insert
instead “that Act”.
- (13) Section 18C (2) (a)—
Omit “Colonial Treasurer”, insert instead
“Treasurer”.
- (14) (a) Section 18D—
Omit “as amended by subsequent Acts.”
- (b) Section 18D—
Omit “, as so amended”.
- (15) Section 19 (1)—
Omit “Colonial Treasurer” wherever occurring,
insert instead “Treasurer”.
- (16) Section 21 (1)—
Omit “Colonial Treasurer”, insert instead
“Treasurer”.

SCHEDULE

AMENDMENTS TO THE PRINCIPAL ACT, BY WAY OF STATUTE
LAW REVISION—*continued.*

(17) Section 22—

Omit "Colonial Treasurer" wherever occurring,
insert instead "Treasurer".

(18) Section 23 (1)—

Omit "Colonial Treasurer" wherever occurring,
insert instead "Treasurer".

(19) (a) Section 24—

Omit "Colonial Treasurer" wherever occurring,
insert instead "Treasurer".

(b) Section 24 (2)—

Omit "the next preceding subsection", insert
instead "subsection (1)".

(20) Section 25—

Omit "Colonial Treasurer" wherever occurring,
insert instead "Treasurer".

(21) Section 28 (1A)—

Omit "as amended by subsequent Acts,".

(22) Section 29A—

Omit "as amended by subsequent Acts,".

*Workers' Compensation (Further Amendment).*SCHEDULE 7—*continued.*

No. 104, 1975

AMENDMENTS TO THE PRINCIPAL ACT, BY WAY OF STATUTE
LAW REVISION—*continued.*

(23) (a) Section 30A (1), (13A), (18), (19)—

Omit "Workers' Compensation (Silicosis) Act, 1942-1946" wherever occurring, insert instead "Workers' Compensation (Dust Diseases) Act, 1942".

(b) Section 30A (2) (a)—

Omit "The chairman", insert instead "the chairman".

(c) Section 30A (3)—

Omit "or of any Act amending that Act,".

(d) Section 30A (3)—

Omit "any such Act", insert instead "that Act".

(e) Section 30A (6) (b), (c)—

Omit the paragraphs, insert instead :—

(b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or

SCHEDULE

AMENDMENTS TO THE PRINCIPAL ACT, BY WAY OF STATUTE
LAW REVISION—*continued.*

(f) Section 30A (16)—

After "notice", insert "or".

(24) Section 33 (2)—

Omit "the said Act and any Act amending the same", insert instead "that Act".

(25) Section 41—

Omit "Government Insurance Office of New South Wales" wherever occurring, insert instead "Government Insurance Office".

(26) Section 42A (2)—

Omit "Colonial Treasurer", insert instead "Treasurer".

(27) Section 63 (6)—

Omit "as amended by subsequent Acts,".

(28) Section 64 (2)—

Omit "as amended by subsequent Acts,".

*Workers' Compensation (Further Amendment).***SCHEDULE 7—continued.**

No. 104, 1975

**AMENDMENTS TO THE PRINCIPAL ACT, BY WAY OF STATUTE
LAW REVISION—continued.****(29) Section 66 (2)—**

Omit the subsection, insert instead :—

(2) Section 41 applies in respect of such a regulation or a rule made by the Commission in the same way as it applies to a regulation made by the Governor under an Act passed after the commencement of the Interpretation (Amendment) Act, 1969.

(30) Section 68 (1)—

Omit "or police".

SCHEDULE 8.

Sec. 5 (2).

**AMENDMENT TO THE WORKERS' COMPENSATION (DUST
DISEASES) ACT, 1942.****Section 6 (7B)—**

Omit the subsection.

COMMERCIAL