

**WORKERS' COMPENSATION (AMENDMENT)
ACT, 1980, No. 79**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 79, 1980.

An Act to amend the Workers' Compensation Act, 1926, otherwise than in respect of rates of weekly compensation. [Assented to, 29th April, 1980.]

Workers' Compensation (Amendment).

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 : —

1. This Act may be cited as the "Workers' Compensation Short title.
(Amendment) Act, 1980".

2. (1) Except as provided by subsections (2), (3) and (4), Commence-
this Act shall commence on the date of assent to this Act. ment.

(2) Schedule 5 (2) (b) shall be deemed to have commenced on 9th December, 1977.

(3) Section 5 shall, in its application to a provision of Schedule 11, commence on the day on which the provision commences.

(4) The several provisions of Schedule 11 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Workers' Compensation Act, 1926, is in this Act Principal
referred to as the Principal Act. Act.

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

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO PART II OF THE
PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO PART IIA OF THE
PRINCIPAL ACT.

SCHEDULE 4.—AMENDMENTS TO PART III OF THE
PRINCIPAL ACT.

Workers' Compensation (Amendment).

SCHEDULE 5.—AMENDMENTS TO PART IIIA OF THE PRINCIPAL ACT.

SCHEDULE 6.—AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

SCHEDULE 7.—AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

SCHEDULE 8.—AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

SCHEDULE 9.—AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

SCHEDULE 10.—AMENDMENT OF PENALTIES IMPOSED BY THE PRINCIPAL ACT.

SCHEDULE 11.—AMENDMENTS TO THE PRINCIPAL ACT TO COMMENCE AFTER DATE OF ASSENT.

SCHEDULE 12.—AMENDMENT TO THE PRINCIPAL ACT AFFECTING DAMAGES.

SCHEDULE 13.—TRANSITIONAL PROVISIONS.

Amendment of Act No. 15, 1925. **5.** The Principal Act is amended in the manner set forth in Schedules 1–12.

Amendment of notification. **6.** (1) Subject to this section, the notification published in Gazette No. 30 of 23rd February, 1979, and made pursuant to section 10 (3) of the Principal Act shall be deemed—

- (a) to be amended by omitting the words “attendance for” and by inserting instead the word “separate”; and
- (b) as so amended, to have been made pursuant to section 10 (3) of that Act, as amended by this Act.

(2) Nothing in subsection (1) applies to or in respect of the notification referred to in that subsection in so far as the notification was made pursuant to the Motor Vehicles (Third Party Insurance) Act, 1942.

Workers' Compensation (Amendment).

7. Where, before the date of assent to this Act, the Commission had made a determination of a lump sum under section 15 (1) of the Principal Act and the worker to whom the determination related had agreed that payment of the lump sum would redeem any liability under section 10 or 16 of the Principal Act, payment of the lump sum—

(a) where it was made before that date—shall be deemed to have redeemed; or

(b) where it is made on or after that date—redeems, any liability to which the agreement of the worker related.

8. Schedule 13 has effect.

Transi-
tional
provision.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

(1) (a) Section 1A, matter relating to Part IIA—

Omit “17I”, insert instead “17J”.

(b) Section 1A, matter relating to Part VI—

Omit “52”, insert instead “52A”.

(c) Section 1A, matter relating to Part VII—

Omit “62A”, insert instead “62B”.

(2) (a) Section 6 (1), definition of “Dependants”—

After “includes” where secondly occurring, insert “a divorced spouse of the worker so dependent and”.

(b) Section 6 (1), definition of “Place of employment”—

Omit “and”, insert instead “or”.

Workers' Compensation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

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

After the definition of "Prescribed", insert :—

"Registrar" means the Registrar of the Commission.

(d) Section 6 (14E)—

After section 6 (14D), insert :—

(14E) Where, by order published in the Gazette at the request of a religious body or organisation specified in the order as having made the request, the Minister declares that persons within a specified class are ministers of religion for that body or organisation, a person within that class shall be deemed to be a worker employed by a person specified in the order as the employer of persons within that class.

SCHEDULE 2.

AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

(1) (a) Section 7 (1) (e) (i)—

After "recess", insert "or authorised absence"

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 7 (1) (f)—

After “journey.”, insert :—

For the purposes of this subsection and of sections 10A (1A) and 10B (2), where a worker is journeying from his place of employment with one employer to his place of employment with another employer, he shall be deemed to be journeying from his place of abode to his place of employment with that other employer.

(c) Section 7 (1) (h)—

At the end of section 7 (1), insert :—

(h) Where a worker is an accredited representative of a trade union of employees, or other organisation of employees, of which any person employed by his employer is a member, he shall, for the purposes of this Act, be deemed to be acting in the course of his employment where—

- (i) with the consent of or at the request of that employer; or
- (ii) pursuant to an award as defined in section 9 (13),

he is carrying out his duties as such a representative, whether at his place of employment or elsewhere, or is on an associated journey.

(d) Section 7 (1A)—

Omit “receives” where firstly occurring, insert instead “received before the date of assent to the Workers’ Compensation (Amendment) Act, 1980,”.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(e) Section 7 (1B)—

After section 7 (1A), insert :—

(1B) In respect of an injury received on or after the date of assent to the Workers' Compensation (Amendment) Act, 1980, subsection (1A) applies as if it had been amended—

- (a) by omitting the words “received before” and by inserting instead the words “receives on or after”;
- (b) by omitting from paragraph (a) of the proviso the word “if” and by inserting instead the words “to the extent to which”;
- (c) by omitting from paragraph (b) of the proviso the words “the amount of the compensation paid by him pursuant to this subsection.” and by inserting instead the following words :—

an amount equal to the lesser of—

- (i) the amount of compensation paid by him pursuant to this subsection; and
- (ii) the amount of workers' compensation received by the worker, or of the judgment obtained by the worker, otherwise than under this Act.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(f) Section 7 (5B)—

After section 7 (5A), insert :—

(5B) Subsection (5A) applies to and in respect of—

- (a) a person who is deemed by section 6 (5) to be a worker and is entitled to compensation under this Act; and
- (b) all the principals by whom he was at the time of the injury deemed by section 6 (5) to be employed,

in the same way as it applies to and in respect of—

- (c) a salesman or other person referred to in section 6 (6) who is entitled to compensation under this Act; and
- (d) all the employers by whom the salesman or other person was engaged at the time of the injury.

(2) Sections 7A, 7B—

After section 7, insert :—

7A. (1) Where the death or incapacity of a worker results from more than one injury, liability to pay compensation under this Act shall, in default of agreement, be apportioned in such manner as the Commission determines. Compensation to be apportioned in certain cases.

(2) Where a liability to make a payment under section 10 or 16 results from more than one injury to a worker, liability to make the payment shall, in default of agreement, be apportioned in such manner as the Commission determines.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*Interim
awards.

7B. (1) This section applies where—

- (a) there is a dispute between employers or insurers, or between an employer and an insurer, as to whether incapacity or death has been caused by more than one injury;
- (b) an employer has at any time or from time to time been a self-insurer under this Act and at another time or at other times has been insured by an insurer against his liability to pay compensation under this Act, and a dispute arises as to whether an insurer is liable to indemnify the employer in respect of compensation payable under this Act for a particular injury;
- (c) an insurer is, pursuant to section 18C (7A), joined as a party to proceedings; or
- (d) a person is, by the operation of section 6 (5) or (6), deemed to be a worker employed by more than one principal, or by more than one person paying commission, and there is a dispute as to which principal or person is liable to pay compensation under this Act.

(2) Where this section applies, and the Commission is satisfied that compensation is payable under this Act, the Commission may—

- (a) make such interim awards for compensation or for indemnity by an insurer or self-insurer or for payment under the Uninsured Liability Scheme, and such interim orders for contribution on the part of an insurer, employer, principal or person paying commission, or under the Uninsured Liability Scheme, as it thinks fit;

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

- (b) make such final awards and orders as it thinks fit with respect to any of the matters the subject of an interim award or order under paragraph (a); and
- (c) where it makes an award or order under paragraph (b), make such orders as it thinks fit with respect to adjustments to be made between persons against whom orders have been made under paragraphs (a) and (b) or between any such persons and the Uninsured Liability Scheme.

(3) (a) Section 8 (2), (3)—

Omit the subsections, insert instead :—

- (2) Where death results from the injury and the worker does not leave any dependants wholly dependent upon him for support, but leaves dependants in part so dependent, the compensation payable by the employer under this Act shall be—
 - (a) if the employer so agrees—the amount that would have been payable under subsection (1) if those dependants had been wholly dependent on the worker;
 - (b) where agreement is reached for the payment of an amount less than the amount provided by paragraph (a) and the amount agreed upon is approved by the Commission as reasonable and proportionate to the injury to those dependants—the amount so approved; or
 - (c) in default of agreement as to the amount to be paid or in default of approval by the Commission for payment of an agreed

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

amount under paragraph (b)—such amount, not exceeding the amount provided by paragraph (a), as is determined by the Commission to be reasonable and proportionate to the injury to those dependants.

(3) Where death results from the injury and the worker, being under the age of 21 years, leaves no dependants but during a period of 6 months preceding the injury has contributed the major portion of his earnings towards the maintenance of the home of the members of his family, those members of his family shall be deemed to be dependants of the worker, and the compensation payable by the employer under this Act shall be—

- (a) if the employer so agrees—\$7,000;
- (b) where agreement is reached for the payment of less than \$7,000 and the amount agreed upon is approved by the Commission as reasonable and proportionate to the injury to those dependants—the amount so approved; or
- (c) in default of agreement as to the amount to be paid or in default of approval by the Commission for payment of an agreed amount under paragraph (b)—such amount, not exceeding \$7,000, as is determined by the Commission to be reasonable and proportionate to the injury to those dependants.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 8 (4A)—

After section 8 (4), insert :—

(4A) Where compensation is payable under subsection (1), (2), (3) or (4) and the usual place of residence of the worker was, at the time of his death, in Australia, the employer shall pay additional compensation equal to the reasonable cost of transporting the body of the worker to—

(a) what would, in the circumstances, be an appropriate place for its preparation for burial or cremation; or

(b) that usual place of residence,

whichever is the lesser cost.

(4) Section 9A (4)—

Omit “of the Commission”.

(5) (a) Section 10 (1)—

After “service” where lastly occurring, insert “and the expenses specified in subsection (1A)”.

(b) Section 10 (1A)—

After section 10 (1), insert :—

(1A) Where it is necessary for a worker to travel in order to receive any treatment referred to in subsection (1), the expenses that, pursuant to that subsection, his employer is liable to pay are—

(a) the cost to the worker of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in obtaining any such treatment; and

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

- (b) where the worker is not reasonably able to travel unescorted, the amount of the fares, travelling expenses and maintenance necessarily and reasonably incurred by an escort provided to enable the worker to be afforded the treatment so referred to.
- (c) Section 10 (2), definition of "Medical practitioner"—
 After the definition of "Dental prosthetist" insert—
 "Medical practitioner" means a person registered under the Medical Practitioners Act, 1938, or under any law of another State or a Territory of the Commonwealth for the registration of persons practising the profession of medicine.
- (d) Section 10 (2), definition of "Medical treatment"—
- (i) Omit "legally qualified" wherever occurring.
 - (ii) After paragraph (a2), insert :—
 (a3) treatment prescribed by the regulations as medical treatment;
 - (iii) From paragraph (b), omit "and" where lastly occurring.
 - (iv) From paragraph (c), omit "a patient at a hospital: and". insert instead "hospital treatment,".
 - (v) Omit paragraph (d).
 - (vi) After paragraph (d), insert :—
 (e) care (other than nursing care) of a worker in his home directed by a medical practitioner having regard to the nature of the worker's incapacity,
- (e) Section 10 (2). definition of "Hospital treatment"—
 Omit "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,".

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(f) Section 10 (2), definition of “Public hospital”—

Omit the definition, insert instead :—

“Public hospital” means a hospital specified in the Second or Fifth Schedule to the Public Hospitals Act, 1929, or a separate institution specified in the Third Schedule to that Act.

(g) Section 10 (2A)—

After section 10 (2), insert :—

(2A) Where, at a public hospital, a person receives, otherwise than as an in-patient, treatments of different kinds or at different places, each treatment shall, for the purposes of subsection (3) (b2), be counted as a separate treatment.

(h) Section 10 (3) (b2)—

- (i) Omit “as an out-patient”, insert instead “otherwise than as an in-patient”.
- (ii) Omit “attendance for treatment”, insert instead “separate treatment of the worker”.
- (iii) Omit “attendance for” where secondly occurring, insert instead “separate”.
- (iv) Omit “out-patients”, insert instead “persons otherwise than as in-patients”.

(i) Section 10 (5A)—

After section 10 (5), insert :—

(5A) Subject to subsection (4) (b), the sum for which an employer shall be liable for the care of a worker as referred to in paragraph (c) of the definition of “Medical treatment” in subsection (2)

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

shall be the reasonable cost of providing that care having regard to the extent to which care might be expected to be provided by the worker's spouse or other person residing with him.

(j) Section 10 (6) (b)—

- (i) After "afforded", insert "or directed".
- (ii) Omit "legally qualified".

(6) Section 11 (2)—

Omit the subsection, insert instead :—

(2) An employer shall provide suitable employment for his injured worker during the worker's partial incapacity for work but, if the employer fails to do so, the worker shall be compensated as if his incapacity for work were total, unless—

- (a) where the employer is an employer referred to in section 18c (2)—the Registrar;
- (b) where the compensation is payable under Part IIA—the Registrar; or
- (c) in any other case—the insurer,

provides, or arranges for, such suitable employment having regard to the worker's incapacity and place of abode.

(7) Section 12A—

Omit "immediate and".

(8) (a) Section 14 (1) (f)—

Omit the paragraph.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 14 (1A)—

After section 14 (1), insert :—

(1A) An employer shall, at the request of his injured worker, supply to the worker, in writing—

- (a) such details of the relevant award (as defined in section 9 (13) for the purposes of section 9) and such classification details, as will enable the worker to determine his current weekly wage rate for the purposes of this Act;
- (b) such details of the earnings of the worker as will enable the worker to determine his weekly earnings for the purposes of this Act; or
- (c) such details of the earnings of at least 2 persons employed by the employer at the same or a comparable grade and work as the worker as will enable the worker to determine, for the purposes of section 11 (1) or 60 (2), the amount which the worker would probably have been earning if he had remained uninjured and continued to be employed in the same or some comparable employment.

(9) (a) Section 15 (1)—

After “regard to”, insert “any dispute as to liability to pay compensation under this Act and”.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 15 (1A), (1B)—

After section 15 (1), insert :—

(1A) Where the Commission determines a lump sum under subsection (1) and the worker agrees that payment of the lump sum should also redeem any liability to make a payment under section 10 or 16 in respect of the injury, payment of the lump sum also redeems any liability to which the agreement of the worker relates.

(1B) The consent or agreement of a worker to a redemption under subsection (1) or (1A) may be dispensed with if, in the opinion of the Commission—

- (a) the worker is unable, by reason of infirmity of mind or body, properly to consent or agree to the redemption; and
- (b) the redemption would be in the best interests of the worker.

(c) Section 15 (2)—

Omit “weekly” where firstly and secondly occurring.

(d) Section 15 (2)—

Omit “liability to continue to make that weekly payment”, insert instead “any liability under this Act”.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(10) (a) Section 16 (1AA)—

After section 16 (1A), insert :—

(1AA) Where the injury to a worker is a loss, or further loss, of hearing due to boilermaker's deafness or any deafness of a like origin and the extent of the loss or further loss is disputed, the worker shall apply under section 51 (4) for reference of the matter to a medical board.

(b) Section 16 (1B) (a)—

Omit "\$1,850", insert instead "\$6,850".

(c) Section 16 (1B) (a2)—

After section 16 (1B) (a1), insert :—

(a2) A worker who has received an injury resulting in total or partial loss of sexual organs shall be entitled to receive by way of compensation for that injury, in addition to any other compensation prescribed by this Act—

(i) such amount (not exceeding \$12,750) in respect of total or partial loss of sexual organs; and

(ii) in the case of a woman, such amount (not exceeding \$12,750) in respect of total or partial loss of one or both breasts,

as may be agreed upon or, in default of agreement, as may be assessed by the Commission as appropriate.

(d) Section 16 (1B) (d)—

After "(a1)", insert "or (a2)".

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(e) Section 16 (1B) (d)—

After “total”, insert “or, as the case may require, whether any loss referred to in paragraph (a2) exists and, if so, the nature and extent of the loss”.

(f) Section 16 (1B) (e)—

After “(a1)”, insert “or (a2)”.

(g) Section 16 (1c) (a)—

Omit “legally qualified”.

(h) Section 16 (3)—

Omit the subsection.

SCHEDULE 3.

AMENDMENTS TO PART IIA OF THE PRINCIPAL ACT.

(1) Section 17B (1), definition of “Fire fighter”—

From paragraph (c), omit “Commission”. insert instead “Registrar”.

Workers' Compensation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IIA OF THE PRINCIPAL ACT—*continued.*

(2) Section 17BB—

After section 17BA, insert :—

17BB. (1) Subject to subsection (2), claims for Claims. compensation under this Part shall be decided by the Registrar.

(2) A claimant dissatisfied with a decision of the Registrar under subsection (1) may apply to the Commission for a determination of the claim and the Registrar shall give effect to the determination of the Commission.

(3) (a) Section 17c (1)—

Omit “to an award from the Commission, and”.

(b) Section 17c (2)—

Omit the subsection, insert instead :—

(2) The compensation payable under this Part shall be—

- (a) where death results from the injury—the compensation payments prescribed by section 8;
- (b) where total or partial incapacity for work results from the injury—the weekly compensation payments prescribed by section 9 or 11, as the case may be; and
- (c) where medical or hospital treatment, or ambulance service, becomes necessary as a result of the injury—the benefits prescribed by section 10.

Workers' Compensation (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IIA OF THE PRINCIPAL ACT—*continued.*

(c) Section 17c (3)—

Omit section 17c (3), insert instead :—

(3) With such modifications as may be necessary, the provisions of sections 7 (2B), (2c) and (3), 8–10, 11–16, 55 and 57–62 have effect as if included in this Part and so have effect as if, in those provisions—

- (a) a reference to a worker were a reference to a fire fighter;
- (b) a reference to compensation, or an amount of money, paid or payable, or paid or payable by an employer, or for which an employer is liable or which an employer agrees to pay, or which a person is entitled to receive, were a reference to compensation, or an amount of money, paid, payable or receivable from the Bush Fire Fighters Compensation Fund; and
- (c) a reference to recovery of an amount of money from an employer were a reference to entitlement to receive that amount from the Bush Fire Fighters Compensation Fund.

(d) Section 17c (3A)—

After section 17c (3), insert :—

(3A) Where a fire fighter was not working under a contract of service immediately prior to fighting the bush fire or carrying out the bush fire preventive operations or preparatory work at which he has received the injury his “average weekly earnings” or “current weekly wage rate” for the purposes of this Part shall be such amount as is fair and reasonable in the circumstances.

Workers' Compensation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IIA OF THE PRINCIPAL ACT—*continued.*

(e) Section 17c (4)—

Omit “of the Commission”.

(f) Section 17c (5)—

Omit “of the Commission”.

(g) Section 17c (6)—

Omit “awards”, insert instead “compensation”.

(h) Section 17c (7)—

Omit “claim under this Part the Registrar of the Commission”, insert instead “application under subsection (1B), the Registrar”.

(i) Section 17c (7)—

Omit “such claim”, insert instead “the application”.

(j) Section 17c (8)—

Omit “Commission”, insert instead “Registrar”.

(4) (a) Section 17D (1)—

Omit “Commission” wherever occurring, insert instead “Registrar”.

(b) Section 17D (1A)—

Omit “Commission”, insert instead “Registrar”.

(c) Section 17D (2)—

Omit “Commission” wherever occurring, insert instead “Registrar”.

Workers' Compensation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IIA OF THE PRINCIPAL ACT—*continued.*

(d) Section 17D (2) (b)—

Omit “its”, insert instead “his”.

(5) Section 17E (2)—

Omit “of the Commission”.

(6) Section 17J—

After section 17I, insert :—

Action, etc.,
does not
lie against
Registrar.

17J. No matter or thing done, or omitted to be done, by the Registrar in good faith for the purposes of this Part subjects him to any action, liability, claim or demand.

Sec. 5.

SCHEDULE 4.

AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

(1) Section 18 (1)—

Omit “amount of at least \$100,000”, insert instead “unlimited amount”.

(2) (a) Section 18 (8) (a)—

Omit “such records”.

(b) Section 18 (8) (a)—

Omit “for a period of at least three years”, insert instead “until they are at least 7 years old such of those records as are less than 7 years old”.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(c) Section 18 (10)—

After section 18 (9), insert :—

(10) In this section, “wages”, in relation to a worker—

- (a) except to the extent provided by paragraph (c), includes salary, overtime, shift and other allowances, over-award payments, bonuses, commissions, payments to working directors, payments for public and annual holidays (including loadings), payments for sick leave, value of board and lodging provided by the employer for the worker and any other consideration in money or money's worth moving to the worker under a contract of service or apprenticeship;
- (b) includes payment (whether by way of commission, fee, reward or otherwise) under a contract (whether referred to as a contract, agreement, arrangement or engagement) by reason of which the person paid is deemed by section 6 (3A), (5), (6), (6A), (9), (10), (11), (12), (14), (14B), (14C) or (14E) to be a worker after deducting such amount for costs necessarily incurred by that person in performing that contract as may be agreed upon or, in default of agreement, as may be determined by the Insurance Premiums Committee; and
- (c) does not include special expenses referred to in section 14 (1) (d), any allowance to reimburse costs arising out of an obligation incurred under a contract, any amount expended on behalf of the worker, director's fees, compensation under this Act, any

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

payment for long service leave, a lump sum payment instead of long service leave or any payment under the Building and Construction Industry Long Service Payments Act, 1974.

(3) (a) Section 18A (1B)–(1E)—

After section 18A (1A), insert :—

(1B) An officer authorised by the Commission for the purpose (in this section referred to as an “authorised officer”) may—

- (a) on production of his authority, enter at any reasonable hour a place or premises (not in either case being a dwelling-house) used, or that he reasonably suspects to be used, by an employer, insurance broker or commission agent engaged in the business of insurance for the storage or custody of any record (including any book, account, document, paper or other source of information) compiled, recorded or stored in written form, or on microfilm, or by electronic process or in any other manner or by any other means;
- (b) on production of his authority, enter at any reasonable hour a place or premises (not in either case being a dwelling-house) in or on which he knows, or reasonably suspects, an employer, worker or insurance broker, or such a commission agent, to be;
- (c) remain in or on a place or premises while exercising any power conferred by this subsection;

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- (d) require an employer, insurance broker, commission agent or any other person in or on that place or those premises to produce any such record that is in his possession or under his control and is capable of being produced;
 - (e) require an employer, insurance broker, commission agent or any other person having possession or control of any such record that is not written, or is not written in the English language, or is indecipherable on sight, to produce a statement, written in the English language and decipherable on sight, of the information contained in the record;
 - (f) make copies of or extracts from a record produced pursuant to paragraph (d) or a statement produced pursuant to paragraph (e), or retain such a statement; and
 - (g) require an employer, insurance broker, commission agent or any other person in or on that place or those premises to answer questions relating to an injury to, or incapacity of, a worker or to the observance of this Act or the regulations.
- (1c) A person who—
- (a) refuses or fails to permit an authorised officer to enter a place or premises under subsection (1B) (a);
 - (b) wilfully obstructs or delays an authorised officer in the exercise of his powers under subsection (1B); or

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- (c) unreasonably refuses or fails to comply with a requirement of an authorised officer under subsection (1B) (d) or (e),

is guilty of an offence against this Act.

(1D) Where an authorised officer informs an employer, insurance broker, commission agent or other person referred to in subsection (1B) (g) that by virtue of this Act he is obliged to answer questions relating to an injury to, or incapacity of, a worker or to the observance of this Act or the regulations, that employer, insurance broker, commission agent or other person is guilty of an offence against this Act if he—

- (a) refuses or fails to answer such a question;
or
(b) gives a false or misleading answer to such a question.

(1E) An employer, insurance broker, commission agent or other person referred to in subsection (1B) (g) may not refuse to answer a question so referred to on the ground that his so doing might tend to incriminate him or render him liable to a penalty but neither such question nor his answer is admissible in any civil or criminal proceedings against him other than proceedings for an offence under subsection (1D).

(b) Section 18A (2) (a)—

Omit “for at least three years thereafter”, insert instead “, where the policy is less than 7 years old, until it is at least 7 years old”.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(c) Section 18A (2A)–(2E)—

After section 18A (2), insert :—

(2A) An insurer shall, not later than 3 months after the date of assent to the Workers' Compensation (Amendment) Act, 1980, establish and shall thereafter, unless his license under this Act expires or is discontinued or cancelled, at all times maintain and retain in his possession in good order and condition a register containing prescribed details of—

- (a) all policies issued by the insurer under this Act that were in force on that date of assent; and
- (b) all policies issued by the insurer under this Act after that date of assent,

and shall, if his license under this Act expires or is discontinued or cancelled, deliver the register to the Commission.

(2B) In addition to complying with subsection (2A), an insurer shall retain in his possession in good order and condition until they are at least 7 years old all his records that are less than 7 years old and relate to the issue, renewal or discontinuance of policies under this Act and the receipt, administration and payment of claims under this Act.

(2c) A self-insurer shall retain in his possession in good order and condition until they are at least 7 years old all his records that are less than 7 years old and relate to the receipt, administration and payment of claims under this Act.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(2D) An officer authorised by the Commission for the purpose may exercise the powers conferred on an authorised officer by the provisions of subsection (1B) (a), (c), (d) and (e) as if a reference in those provisions—

- (a) to an employer—were a reference to an insurer or self-insurer; and
- (b) to a record—were a reference to the register required to be kept under subsection (2A) and the records to be retained under subsections (2B) and (2C).

(2E) A person shall be guilty of an offence against this Act—

- (a) if he is an insurer who fails to comply with subsection (2B);
- (b) if he is a self-insurer who fails to comply with subsection (2C);
- (c) if he refuses or fails to permit an officer authorised under subsection (2D) to enter a place or premises in the exercise of the powers conferred on him by that subsection; or
- (d) if he wilfully obstructs or delays such an officer in the exercise of those powers.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(4) Section 18BA—

After section 18B, insert :—

18BA. (1) An employer is guilty of an offence under this Part if—

Action by
employer
in respect
of claims.

- (a) where he receives notice of a claim for compensation under this Act—he fails for 7 days after receiving the notice to notify the insurer liable to indemnify him in respect of the claim of his receipt of the notice;
- (b) where he receives any documentation in respect of such a claim—he fails for 7 days after receipt of the documentation to forward it to that insurer;
- (c) where that insurer requests the employer to furnish further specified information in respect of the claim or documentation—he fails for 7 days after receipt of the request to furnish the insurer with such of the specified information as is in his possession or reasonably obtainable by him; or
- (d) where he has received compensation money under this Act from an insurer—he fails to pay the money forthwith to the person entitled to the compensation.

(2) A person is not guilty of an offence referred to in subsection (1) if there was a reasonable excuse for the failure that, but for this subsection, would have constituted the offence.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(5) (a) Section 18C (2A), (2B)—

After section 18C (2), insert :—

(2A) A claim for compensation may, with the leave of the Commission, be made under the Scheme where the person claiming the compensation has been unable, after due search and inquiry, to identify the employer.

(2B) Where an award is made pursuant to a claim under subsection (2A) and the employer is subsequently identified, the Commission may, on the application of the Registrar, amend the award to include the employer.

(b) Section 18C (3A)–(3C)—

After section 18C (3), insert :—

(3A) Subject to subsections (3B) and (3C), a liability to make a weekly payment of compensation in respect of an injury suffered before, on or after the date of assent to the Workers' Compensation (Amendment) Act, 1980, or a liability to make such a weekly payment and any payment under section 10 or 16 pursuant to the Scheme in respect of the injury may, if the Registrar and the worker so agree, be redeemed.

(3B) Section 15 applies to and in respect of a redemption agreed upon under subsection (3A) in the same way as it applies to and in respect of other redemptions.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(3C) On the application of an employer, the Commission may, if it thinks fit, refuse to make the determination referred to in section 15 (1) in respect of an agreement made under subsection (3A) but the making of such an application in no way fetters the discretion of the Commission to make such a determination, and a redemption made in consequence of such a determination is binding on the employer whether or not he has made such an application.

(c) Section 18C (6)—

Omit “Any employer”, insert instead “Except to the extent that his liability is waived by an order of the Commission under subsection (6A), any employer”.

(d) Section 18C (6A)—

After section 18C (6), insert :—

(6A) The Commission may make an order waiving wholly or partly the liability of an employer under subsection (6) if it is satisfied that—

- (a) the amount of the compensation awarded is beyond the capacity of the employer to pay;
- (b) the employer could not reasonably have been expected to regard himself as an employer;
- (c) the employer, not being a corporation, is bankrupt and his liability under subsection (6) is not provable in the bankruptcy;

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- (d) the employer, being a corporation, is being wound up and its liability under subsection (6) is not provable in the winding up; or
- (e) the employer, being a corporation, has been dissolved.

(e) Section 18C (7) (a)—

Omit "Public", insert instead "Unless the Commission otherwise directs, public".

(f) Section 18C (7) (b)—

Omit "Any insurer", insert instead "Where public notice of a claim is given under paragraph (a), any insurer".

(6) Section 30A (8), (8A), (8B)—

Omit section 30A (8), insert instead :—

(8) The Governor may appoint a deputy for each appointed member and each such deputy may, during the absence from a meeting of the committee of the member for whom he is the deputy, act as a member of the committee and, while so acting, shall be deemed to be such a member.

(8A) Subsections (4) and (7) apply to the appointment of a deputy for the member referred to in subsection (2) (b) in the same way as they apply to the appointment of that member.

(8B) During the absence of the chairman from a meeting of the committee—

- (a) a person appointed by the Minister as acting chairman; or

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(b) where no such appointment has been made—a person elected by the members present from among their number,

shall be deemed to be the chairman for the purposes of that meeting.

SCHEDULE 5.

Sec. 5.

AMENDMENTS TO PART IIIA OF THE PRINCIPAL ACT.

(1) Section 30G (2)—

After section 30G (1), insert :—

(2) A reference in this Part to a self-insurer does not include a reference to a self-insurer who was a self-insurer immediately before a day appointed by the Governor for the purposes of this subsection and notified by proclamation published in the Gazette.

(2) (a) Section 30J (1)—

After “insurer”, insert “and self-insurer”.

(b) Section 30J (2)—

Omit “30K (1)”, insert instead “30K”.

(c) Section 30J (2A)—

After section 30J (2), insert :—

(2A) The prescribed contribution to be paid by a self-insurer pursuant to subsection (1) for the purposes of section 30K (1) is, in respect of a prescribed

Workers' Compensation (Amendment).

 SCHEDULE 5—*continued.*

 AMENDMENTS TO PART IIIA OF THE PRINCIPAL ACT—*continued.*

financial year referred to in subsection (2) (b) during the whole or part of which he was a self-insurer, the prescribed percentage of the total of—

- (a) the amount the self-insurer would have been liable to pay to a licensed insurer during that financial year for the period during which he was a self-insurer if he had obtained from that insurer in respect of that period such policies of insurance or indemnity, at the rate of premium recommended pursuant to section 30AB (2) (a), as he would have been required by section 18 (1) to obtain if he had not been a self-insurer during that period; and
- (b) an amount calculated in such manner as may be prescribed for the purposes of this paragraph in respect of that period.

(d) Section 30J (3) (a)—

Omit “and”.

(e) Section 30J (3) (b)—

Omit “prescribed.”, insert instead :—
prescribed; and

- (c) in subsection (2A)—within the periods referred to in paragraph (b).

(f) Section 30J (4)—

After “insurer”, insert “and self-insurer”.

(g) Section 30J (5)—

After “insurer” wherever occurring, insert “or self-insurer”.

Workers' Compensation (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART IIIA OF THE PRINCIPAL ACT—*continued.*

(h) Section 30J (6)—

Omit the subsection, insert instead :—

(6) A certificate signed by the Registrar certifying that an amount specified in the certificate—

(a) was the deemed premium income of an insurer so specified for a financial year so specified; or

(b) was the amount payable under subsection (2A) by a self-insurer so specified for a financial year so specified,

is admissible in any proceedings for the purposes of subsection (5) and is evidence of the matters specified in the certificate.

(3) (a) Section 30K (1B)—

After section 30K (1A), insert :—

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

(a) the difference between—

(i) the weekly compensation payable and paid by him (whether before or after the commencement of this subsection) on or after 1st April, 1978, pursuant to a policy in respect of an injury received by a worker on or after 9th December, 1977; **and**

Workers' Compensation (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART IIIA OF THE PRINCIPAL ACT—*continued.*

(ii) where, after the occurrence of the injury, there have been any increases under section 9A in the rate of that weekly compensation—the weekly compensation that would have been so payable by him in respect of that injury if there had been no increases under that section after the occurrence of the injury; and

(b) where a lump sum has been paid by him (whether before or after the commencement of this subsection) pursuant to a policy, in redemption wholly or in part of the liability to pay weekly compensation in respect of an injury received by a worker on or after 9th December, 1977, and there have been any increases under section 9A in the rate of that weekly compensation between the occurrence of the injury and payment of the lump sum—the prescribed proportion of the lump sum.

(b) Section 30K (2C)—

After section 30K (2B), insert :—

(2C) The prescribed proportion referred to in subsection (1B) (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

Workers' Compensation (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART IIIA OF THE PRINCIPAL ACT—*continued.*

(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 there had been no increases therein under section 9A after the occurrence of the injury,

bears to the rate of weekly compensation referred to in subparagraph (i).

(c) Section 30K (3)—

Omit “or (1A)” wherever occurring, insert instead “, (1A) or (1B)”.

(d) Section 30K (4) (b)—

Omit “or (1A) (a)”, insert instead “, (1A) (a) or (1B) (a)”.

(e) Section 30K (5) (a)—

Omit “or (1A) (a)”, insert instead “, (1A) (a) or (1B) (a)”.

(f) Section 30N (1)—

Omit “of the Commission”.

Workers' Compensation (Amendment).

Sec. 5.

SCHEDULE 6.

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

(1) (a) Section 33 (2)—

Omit "The staff", insert instead "The Registrar and staff".

(b) Section 33 (3)—

Omit "registrar" where secondly occurring, insert instead "Registrar".

(2) (a) Section 36 (4) (a)—

After "worker", insert ", or a fire fighter within the meaning of Part II A,".

(b) Section 36 (5) (a)—

Omit "registrar of the Commission", insert instead "Registrar".

(c) Section 36 (5) (b)—

Omit "in any district court having jurisdiction within the district where the debtor resides, when the", insert instead "with the registrar under the District Court Act, 1973, at the proclaimed place under that Act which is nearest the debtor's place of residence or business, when that";

(d) Section 36 (5) (b)—

Omit "registrar" where secondly occurring, insert instead "Registrar".

(3) Section 38 (g)—

Omit the paragraph.

Workers' Compensation (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(4) Section 38A—

After section 38, insert :—

38A. (1) Subject to this section, the Commission may ~~Costs.~~ make such order as to the payment of costs as it thinks just and may assess the amount of those costs.

(2) The Commission shall not order the payment of costs by a worker unless it is satisfied that his application was frivolous or vexatious or was made fraudulently or without proper justification.

(3) Without prejudice to the generality of subsection (1), an order for payment of costs may include—

- (a) the fees and costs actually incurred or to be incurred by a worker;
- (b) where an employer denies liability but later admits liability without recourse to the Commission—the reasonable expenses incurred by the worker in pursuing his claim;
- (c) costs of and incidental to an application under section 51 (4); and
- (d) costs incurred in relation to any proceedings under this Act (including proceedings under section 29).

(4) The amount allowable for costs in respect of the attendance of any medical witness is the lesser of—

- (a) the actual cost of the attendance to the party who calls the witness; and

Workers' Compensation (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

- (b) an amount calculated according to the scale of costs applicable to proceedings in the Supreme Court of New South Wales in the Common Law Division or, where the regulations provide for some other amount, that other amount.

(5) Fees and costs included in an order or assessment under subsection (1) shall not, where provision is made for the like fees and costs in the scales applicable to proceedings in the Supreme Court of New South Wales in the Common Law Division, exceed the fees and costs provided for in the highest of those scales.

- (5) Section 41 (13)—

Omit “registrar of the Commission”, insert instead “Registrar”.

SCHEDULE 7.

Sec. 5.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

- (1) Section 44 (5) (a)—

After “wages”, insert “, as defined in section 18 (10),”.

- (2) Section 49—

Omit the section.

Workers' Compensation (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(3) (a) Section 49A (1) (c)—

Omit “law.”, insert instead “law; or”.

(b) Section 49A (1) (d)—

After section 49A (1) (c), insert :—

(d) being a company, has commenced to be wound up after entering into the contract with the insurer.

(c) Section 49A (1)—

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

(d) Section 49A (2)—

Omit the subsection, insert instead :—

(2) Where the Commission makes a declaration under subsection (1), it may make an award of compensation for an injury to the worker (being, in the case referred to in subsection (1) (d), an injury that took place before the commencement of the winding up of the employer) and such an award shall, for the purposes of section 18 (3), be deemed to be an award against an employer of the worker with whom the insurer referred to in the declaration entered into a contract with respect to any liability under this Act to that worker.

Workers' Compensation (Amendment).

Sec. 5.

SCHEDULE 8.

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

(1) Section 50 (1)—

Omit "legally qualified".

(2) (a) Section 51 (1)—

Omit "legally qualified".

(b) Section 51 (2)—

Omit "legally qualified".

(c) Section 51 (4)—

Omit "registrar", insert instead "Registrar".

(d) Section 51 (4)—

Omit "on payment by the applicant of such fee, not exceeding two dollars, as may be prescribed by rules,".

(e) Section 51 (5)—

Omit "paragraph (d) of subsection (1B) of section 16", insert instead "section 16 (1B) (d) and except in relation to the fitness of the worker for employment".

(f) Section 51 (10)—

Omit ", and as to the fee to be paid under this section".

(g) Section 51 (13)—

After section 51 (12), insert :—

(13) Where it is necessary for a worker to travel in order to submit himself to a medical referee or a medical board pursuant to this section but he is not

Workers' Compensation (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

reasonably able to travel unescorted, the fares, travelling expenses and maintenance referred to in subsection (12) include fares, travelling expenses and maintenance necessarily and reasonably incurred by an escort for the worker provided to enable the worker to submit himself to the medical referee or medical board.

SCHEDULE 9.

Sec. 5.

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

(1) Section 53B—

Omit “or used”, insert instead “if tendered by the employer or insurer or used by the employer or insurer”.

(2) Section 53E—

After section 53D, insert :—

53E. (1) Where an employer or insurer has in his possession a copy of a report relating to an injured worker, being a report by—

- Copies of certain medical reports to be furnished.
- (a) a medical practitioner by whom the worker has been referred to another medical practitioner for treatment or tests related to the injury;
 - (b) a medical practitioner who has treated the injury;
or
 - (c) a medical practitioner who has been consulted by a medical practitioner referred to in paragraph (a) or (b) in connection with treatment of, or tests related to, the injury,

Workers' Compensation (Amendment).

SCHEDULE 9—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

and the worker's claim is disputed, the employer or insurer shall, at the request of the worker and within the period prescribed by subsection (5), supply the worker with a copy of the report.

(2) Subject to notice being given in accordance with the rules, a written report by a medical practitioner is, on the application of a worker, admissible in evidence.

(3) Subject to subsection (4), subsection (2) does not operate to prevent a medical practitioner whose written report is, pursuant to subsection (2), admissible in evidence, from being required, in accordance with the rules, to attend and be cross-examined on the contents of the report subject to the costs of his attendance being met by the party who requires him so to attend.

(4) In proceedings to which section 7B applies, a medical practitioner whose written report is, pursuant to subsection (2), admissible in evidence may not, without the leave of the Commission given upon the Commission being satisfied that there is a real issue as to whether the worker is entitled to receive compensation from any of the parties, be required to attend and be cross-examined on the contents of the report.

(5) The prescribed period in relation to a request referred to in subsection (1) is—

- (a) the period of 10 days that next succeeds the making of the request; or
- (b) where the regulations prescribe some other period—the period so prescribed.

(3) (a) Section 54—

After "receiving", insert ", or entitled to receive,".

Workers' Compensation (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

- (b) Section 54—
Omit “certifies” where firstly occurring, insert “or medical board certifies, or the Commission determines.”.
- (c) Section 54—
Omit “If the medical referee so certifies”, insert instead “(2) If the medical referee or board so certifies, or the Commission determines.”.
- (4) Section 55 (2)—
At the end of section 55, insert :—
(2) Subsection (1) has no effect to the extent to which, but for this subsection, it would operate to prevent the satisfaction of an obligation by the worker to maintain another person pursuant to an order of a court of competent jurisdiction.
- (5) Section 56 (4)—
Omit “registrar of the Commission”, insert instead “Registrar”.
- (6) Section 57 (3)—
Omit “registrar of the Commission”, insert instead “Registrar”.
- (7) Section 58 (2)—
Omit “registrar”, insert instead “Registrar”.

Workers' Compensation (Amendment).

 SCHEDULE 9—*continued.*

 AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(8) Section 62—

Omit the section, insert instead :—

 Money may
be invested
as part of
common
fund.

62. (1) A power conferred by a provision of this Act other than this section to invest money for the benefit of a person includes a power to invest the money as the Commission thinks fit as part of a common fund which shall comprise—

- (a) all money that, immediately before the date of assent to the Workers' Compensation (Amendment) Act, 1980, was held by the Commission, for the benefit of injured workers and the dependants of deceased workers;
- (b) any amount that has been invested by the Commission pursuant to this Act for the benefit of a person;
- (c) any amount that is to be invested by the Commission pursuant to this Act for the benefit of a person; and
- (d) such of the money paid to the Income Suspense Account referred to in subsection (2) as is not required for immediate payment as provided by this section.

(2) Income earned from the investment of the common fund shall be credited to an Income Suspense Account from which shall be paid—

- (a) interest, at such times and at such rate or rates as the Commission determines, on each of the amounts referred to in subsection (1) that together constitute the common fund; and
- (b) the amounts referred to in subsection (3) (a).

Workers' Compensation (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(3) The Commission shall establish an Investment Guarantee Account to the credit of which shall be paid—

- (a) such amounts from the Income Suspense Account as the Commission thinks fit; and
- (b) any capital profit made upon realisation of any investment made from the common fund.

(4) The Commission may apply the funds in the Investment Guarantee Account—

- (a) in payment to the credit of the common fund of an amount equivalent to the amount of any loss suffered upon realisation of an investment made from the common fund;
- (b) in payment of any costs incurred in protecting investments made from the common fund; and
- (c) in payment of such other charges and expenses relating to the operation of the common fund as the Commission thinks fit.

(5) The Commission may realise any investment made from the common fund and the proceeds of the realisation shall, unless otherwise dealt with pursuant to this section, form part of the common fund.

(6) The Commission may withdraw from the common fund any amount that it was authorised to invest for the benefit of a person, or any part of that amount, and may apply or otherwise deal with the amount withdrawn as it thinks fit for the benefit of that person.

(7) After an amount has been withdrawn under subsection (6), interest under subsection (2) shall not be paid thereon.

Workers' Compensation (Amendment).

SCHEDULE 9—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(9) (a) Section 62A—

Omit “five”, insert instead “10”.

(b) Section 62A—

After “annum”, insert “or, where some other rate of interest is prescribed, that other rate”.

(10) Section 62B—

After section 62A, insert :—

**Unclaimed
money.**

62B. (1) Where any money paid at any time into the office of the Commission has been invested by the Commission for the benefit of a person entitled thereto under this Act and the whereabouts of the beneficiary have not been known to the Commission during any succeeding period of 10 years, the Commission may order that the investment be realised and that the proceeds, together with accrued income from the investment, be paid to the credit of the fund established under section 41.

(2) Money credited under subsection (1) to the fund, together with accrued interest, shall—

- (a) be paid out upon the application of any person who would have been entitled to have it paid out if it had not been credited to the fund; and
 - (b) at the request of the person for whose benefit it was invested before being credited to the fund, or the legal personal representative of that person, again be so invested.
-

Workers' Compensation (Amendment).

SCHEDULE 10.

Sec. 5.

AMENDMENT OF PENALTIES IMPOSED BY THE PRINCIPAL ACT.

- (1) Section 18 (8) (e)—
Omit “four hundred dollars”, insert instead “\$2,000”.
- (2) Section 18c (7) (b) (iii)—
Omit “one thousand dollars”, insert instead “\$2,000”.
- (3) Section 30A (20)—
Omit “one thousand dollars”, insert instead “\$2,000”.
- (4) (a) Section 30D (1) (b)—
Omit “one thousand dollars”, insert instead “\$1,000”.
(b) Section 30D (2)—
Omit “four hundred dollars”, insert instead “\$2,000”.
(c) Section 30D (2)—
Omit “one hundred dollars”, insert instead “\$500”.
- (5) (a) Section 41 (7)—
Omit “one thousand dollars”, insert instead “\$2,000”.
(b) Section 41 (12) (a)—
Omit “one hundred dollars”, insert instead “\$200”.
- (6) (a) Section 42 (2)—
Omit “one hundred dollars”, insert instead “\$200”.
(b) Section 42 (3)—
Omit “two hundred dollars”, insert instead “\$1,000”.
- (7) Section 66 (1)—
Omit “one hundred dollars”, insert instead “\$1,000”.

Workers' Compensation (Amendment).

SCHEDULE 10—*continued.*

AMENDMENT OF PENALTIES IMPOSED BY THE
PRINCIPAL ACT—*continued.*

(8) Section 67—

Omit “ten dollars” wherever occurring, insert instead
“\$100”.

Sec. 5.

SCHEDULE 11.

AMENDMENTS TO THE PRINCIPAL ACT TO COMMENCE AFTER
DATE OF ASSENT.

(1) (a) Section 18 (7)—

Omit the subsection, insert instead :—

(7) Where an insurer issues to an employer a cover note or a policy of insurance or indemnity or renews such a policy so issued, the employer shall—

- (a) not later than 1 month after the issue of the cover note or policy, whichever is the earlier, and not later than 1 month after the renewal of the policy, supply the insurer with a statement giving a proper estimate of the wages that will be payable by the employer during the indemnity period to workers in respect of whom the employer would be entitled to claim under the policy and such other information as may be prescribed: and

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT TO COMMENCE AFTER
DATE OF ASSENT—*continued.***

- (b) not later than 2 months after the expiration of the indemnity period, supply the insurer with a full and correct statement of such amounts in respect of which he was required by paragraph (a) to supply an estimate as were actually paid by him during the period relevant to the determination of the premium payable by him for the policy.

(b) Section 18 (7B), (7C)—

After section 18 (7A), insert :—

(7B) Where, in respect of a policy of insurance or indemnity under this Act—

- (a) the indemnity period is 1 year; and
- (b) the premium payable is at least \$500 or, where some other amount is prescribed, that other amount,

the employer may, in such manner as may be agreed upon between the employer and the insurer or, in default of agreement, as may be prescribed, elect to pay the premium by 4 instalments, the several instalments being payable on dates that are 1, 3, 5 and 7 months after service on the employer of a demand or request for payment of the premium, each instalment being equal to one-fourth of the premium disregarding any remainder together with, in the case of the first instalment, that remainder.

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.*AMENDMENTS TO THE PRINCIPAL ACT TO COMMENCE AFTER
DATE OF ASSENT—*continued.*

(7C) Where—

- (a) an employer has not elected under subsection (7B) to pay a premium by instalments and fails to pay the full amount of the premium within 1 month after service on him of a notice that payment of the premium is due;
- (b) an employer who has elected under subsection (7B) to pay a premium by instalments fails to pay an instalment by the due date; or
- (c) an employer has failed to pay an adjustment of premium within 1 month after service on him of a notice that payment of the amount of the adjustment is due,

the full amount of the premium in the case referred to in paragraph (a), the balance of the premium unpaid or, where no instalment has been paid, the full amount of the premium, in the case referred to in paragraph (b) or the amount of the adjustment referred to in paragraph (c) bears interest until payment (except to the extent that payment of interest is waived by the insurer) at the rate of 10 per centum per annum (or, where some other rate of interest is prescribed, that other rate) and is recoverable with interest as a debt in a court of competent jurisdiction.

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT TO COMMENCE AFTER
DATE OF ASSENT—*continued.*

(2) Section 52A—

After section 52, insert :—

52A. (1) An insurer or a self-insurer shall, not later than the expiration of the prescribed period, give to the Commission in writing the prescribed particulars with respect to a worker whose period of incapacity the insurer or self-insurer knows to exceed 12 weeks. Notification of period of incapacity exceeding 12 weeks.

(2) In subsection (1), “prescribed period” means—

- (a) where the period of 12 weeks’ incapacity expired before the commencement of this section—the period of 21 days that next succeeds that commencement;
- (b) where the period of 12 weeks’ incapacity expires after the commencement of this section but before the expiration of the period of 21 days that next succeeds that commencement—the period of 1 month that next succeeds that commencement; and
- (c) where the period of 12 weeks’ incapacity expires more than 21 days after the commencement of this section—the period of 7 days that next succeeds that period of 12 weeks.

(3) An insurer or a self-insurer who fails to comply with subsection (1) is liable to a penalty not exceeding \$1,000.

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT TO COMMENCE AFTER
DATE OF ASSENT—*continued.*

(3) Section 54A—

After section 54, insert :—

Notice
required
before
termination
of payment
of compen-
sation.

54A. (1) Where a worker has received weekly payments of compensation under this Act for a continuous period of at least 12 weeks and has provided his employer, or his employer's insurer, with a certificate by a medical practitioner specifying the expected duration of his incapacity, the person paying the compensation shall not discontinue payment, or reduce the amount, of the compensation during the period of incapacity so specified without giving, in the prescribed form and manner, the prescribed period of notice of his intention to discontinue payment of the compensation or, as the case may be, to reduce the amount thereof.

Penalty : \$2,000.

(2) Where the payment of compensation to a worker is discontinued, or the amount thereof is reduced, by a person in circumstances involving the commission by that person of an offence under subsection (1), the worker may, whether or not that person has been prosecuted for the offence, recover from him before the Commission an amount of compensation that—

(a) where no period of notice of intention to discontinue payment of the compensation or reduce the amount thereof has been given—is equal to the amount of compensation, or additional compensation, that would have been payable during the prescribed period of notice if payment of the compensation had not been discontinued or, as the case may be, if the amount thereof had not been reduced; or

Workers' Compensation (Amendment).

SCHEDULE 11—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT TO COMMENCE AFTER
DATE OF ASSENT—*continued.*

- (b) where less than the prescribed period of notice of intention to discontinue payment of the compensation or reduce the amount thereof has been given—is equal to the amount of compensation that would have been payable during the balance of the prescribed period of notice if payment of the compensation had not been discontinued or, as the case may be, if the amount thereof had not been reduced.

(3) The prescribed period of notice referred to in subsections (1) and (2) is—

- (a) where the worker has been receiving compensation for a continuous period of at least 12 weeks but less than 1 year—2 weeks; or
- (b) where the worker has been receiving compensation for a continuous period of 1 year or more—6 weeks.

SCHEDULE 12.

AMENDMENT TO THE PRINCIPAL ACT AFFECTING DAMAGES.

Section 64A—

After section 64, insert :—

64A. (1) This section applies to and in respect of an injury compensable under this Act suffered at any time after the commencement of this Act other than an injury in

Liability
of con-
current
tortfeasors.

Workers' Compensation (Amendment).

SCHEDULE 12—*continued.*AMENDMENT TO THE PRINCIPAL ACT AFFECTING DAMAGES—
continued.

respect of which judgment for damages has been given independently of this Act before the date of assent to the Workers' Compensation (Amendment) Act, 1980.

(2) Where, in respect of an injury to which this section applies, a worker is entitled to recover damages independently of this Act both from his employer and from another person and—

- (a) he recovers damages against the other person but does not seek to recover damages from, or does not proceed to judgment against, the employer; or
- (b) judgment in an action by the worker for damages is given against both the employer and a person other than the employer but the worker refuses to accept satisfaction of the judgment against the employer,

section 64 applies to the case as if the worker had not been entitled to recover the damages from the employer, except that—

- (c) where the compensation paid by the employer exceeds the amount of the contribution that could be recovered from him as a concurrent tortfeasor—the indemnity referred to in section 64 (1) (b) is for the amount of the excess only;
- (d) where the compensation paid by the employer is equal to the amount of that contribution—section 64 (1) (b) does not apply; and
- (e) where the compensation paid by the employer is less than the amount of the contribution that, but for this paragraph, could be recovered from him

Workers' Compensation (Amendment).

SCHEDULE 12—*continued.*

AMENDMENT TO THE PRINCIPAL ACT AFFECTING DAMAGES—
continued.

as a concurrent tortfeasor, section 64 (1) (b) does not apply and the employer has, to the extent of the amount of the compensation so paid, a defence to an action for such a contribution.

SCHEDULE 13.

Sec. 8.

TRANSITIONAL PROVISIONS.

1. The compensation prescribed by section 16 (1B) (a) of the Principal Act, as amended by this Act, for an injury to which it is applicable is payable for—

- (a) such an injury received on or after the date of assent to this Act; and
- (b) such an injury received before the date of assent to this Act by a worker who has not before that date been awarded or agreed to receive, or has not received, the compensation prescribed for that injury by the Principal Act as in force immediately before the date of assent to this Act.

2. (1) A policy of insurance or indemnity against liability under the Principal Act being maintained in force on the date of assent to this Act shall be deemed to insure, and always to have insured, the employer against any additional liability to which he may become subject during the currency of the policy by reason of an amendment made by this Act.

(2) Where a policy of insurance or indemnity against liability under the Principal Act that is being maintained in force on the date of assent to this Act does not insure the employer for an unlimited amount against his liability independently of the Principal Act, it shall be deemed to insure the employer during the currency of the policy for an unlimited amount against his liability independently of the Principal Act in respect of an injury to a worker that occurs on or after the date of assent to this Act.

Workers' Compensation (Amendment).

SCHEDULE 13—*continued.*TRANSITIONAL PROVISIONS—*continued.*

(3) Where a policy of insurance or indemnity against liability under the Principal Act—

(a) was in force at the time of an injury that occurred before the date of assent to this Act; and

(b) was not being maintained in force on that date,

the policy shall be deemed always to have insured the employer against any additional liability to which he may become subject on or after that date in respect of that injury by reason of any amendment made by this Act.
