

**WORKERS' COMPENSATION (AMENDMENT) ACT, 1981,
No. 73**

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 73, 1981.

An Act to amend the Workers' Compensation Act, 1926, and the Workers' Compensation (Amendment) Act, 1980. [Assented to, 28th May, 1981.]

See also Workers' Compensation (Dust Diseases) Amendment Act, 1981; Workmen's Compensation (Broken Hill) Amendment Act, 1981.

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:—

Short title.

1. This Act may be cited as the "Workers' Compensation (Amendment) Act, 1981".

Commencement.

2. (1) Except as provided in subsections (2)–(7), this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–4, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

(3) Section 6, Schedule 2 (5), Schedule 3 (10) (b), (d) and (e) and Schedule 5 shall be deemed to have commenced on 29th April, 1980.

(4) Schedule 1 (3) 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.

(5) Schedule 2 (1) and (4) (a), (b) and (h) and Schedule 3 (1) (e) 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.

(6) Schedule 3 (9) shall be deemed to have commenced on 15th April, 1977.

(7) Schedule 3 (11) (b) shall be deemed to have commenced on 2nd January, 1976.

Workers' Compensation (Amendment).

Principal Act.

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

Schedules.

4. This Act contains the following Schedules:—

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

SCHEDULE 2.—AMENDMENTS TO PARTS II AND IIA OF THE PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO PARTS III AND IIIA OF THE PRINCIPAL ACT.

SCHEDULE 4.—AMENDMENTS TO PARTS IV AND VI–VIII OF THE PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENT TO THE WORKERS' COMPENSATION (AMENDMENT) ACT, 1980.

SCHEDULE 6.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment of Act No. 15, 1926.

5. The Principal Act is amended in the manner set forth in Schedules 1–4.

Amendment of Act No. 79, 1980.

6. The Workers' Compensation (Amendment) Act, 1980, is amended in the manner set forth in Schedule 5.

Savings and transitional provisions.

7. Schedule 6 has effect.

Workers' Compensation (Amendment).

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

- (1) Section 6 (1), definition of "Dependants"—
- (a) Omit "a woman so dependent who for not less than three years immediately before the worker's death", insert instead "a person so dependent who".
 - (b) Omit "him, lived with him as his wife", insert instead "the worker, lived with the worker as the worker's husband or wife".
- (2) Section 6 (1), definition of "Employer"—
- (a) Omit "Public Transport Commission of New South Wales", insert instead "State Rail Authority of New South Wales, the Urban Transit Authority of New South Wales".
 - (b) Omit "the Sydney Harbour Trust, the Metropolitan Water, Sewerage", insert instead "The Maritime Services Board of New South Wales, The Metropolitan Water Sewerage".
 - (c) Omit "Conservation and Irrigation", insert instead "Resources".
 - (d) Omit "Metropolitan Meat Industry Board", insert instead "Homebush Abattoir Corporation".
- (3) Section 6 (1), definition of "Worker"—
- Omit paragraph (d).
- (4) Section 6 (3) (a)—
- Omit "be liable to pay to any worker employed in the execution of the work", insert instead " , if the contractor does not have a policy of insurance or indemnity or is not a self-insurer at the time a worker employed in the execution of the work receives an injury, be liable to pay".

Workers' Compensation (Amendment).

SCHEDULE 1—*continued.*

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

(5) Section 6 (3) (a)—

After “against the principal”, insert “in respect of the injury”.

(6) Section 6 (3) (f)–(j)—

After section 6 (3) (c), insert:—

(f) Where—

- (i) a principal under a contract referred to in paragraph (a) is, at the time of an injury to a worker employed in the execution of the work under the contract, insured or indemnified under a policy of insurance or indemnity in respect of workers other than the workers employed in the execution of the work under the contract;
- (ii) compensation payable by the principal under paragraph (a) in respect of the injury is paid by the principal's insurer; and
- (iii) the principal has not, in respect of the policy, paid to the insurer a premium in respect of his liability under paragraph (a),

the principal shall be liable to pay to the insurer, in addition to the premium payable or paid by him in respect of the policy, a premium calculated having regard to—

- (iv) the recommended annual rates of premiums fixed pursuant to section 30AB and in force as at the commencement of the policy; and
- (v) the wages paid to the workers employed in the execution of the work under the contract during the term of the policy.

Workers' Compensation (Amendment).

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

(g) A principal under a contract referred to in paragraph (a) shall not, under paragraph (f), be liable to pay in respect of a policy of insurance or indemnity more than one additional premium in respect of the workers employed in the execution of the work under the contract.

(h) In the event of a disagreement between a principal and insurer as to whether or not an additional premium is payable under paragraph (f) or as to the amount of an additional premium payable under that paragraph, the Registrar may, on the request of either party, determine the matter.

(i) A determination by the Registrar under paragraph (h) shall have effect according to its tenor and, subject to paragraph (j), shall not be subject to review or appeal.

(j) The Commission may determine any matter or question arising under paragraph (h) which is referred to it by the Registrar.

(7) Section 6 (9A), (9B)—

After section 6 (9), insert:—

(9A) For the purposes of this Act—

(a) a person—

(i) acting with a permanent rescue corps under the Mines Rescue Act, 1925, when summoned to do so; or

(ii) attending training with such a permanent rescue corps when required to do so,

as referred to in section 14 (2) of that Act shall, while so acting or so attending, be deemed to be a worker employed by the district committee for the district in which is situated the central rescue station at which the rescue corps is established; and

(b) a place at which such a person so acts or so attends training shall be deemed to be a place at which he is employed.

Workers' Compensation (Amendment).

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

(9B) A person referred to in subsection (9A) (a) who receives an injury in the course of journeying between the place from which he was summoned as referred to in section 14 (2) of the Mines Rescue Act, 1925, and a place referred to in subsection (9A) (b), shall, if the journeying was exclusively and bona fide for a purpose referred to in subsection (9A) (a) (i) or (ii), receive compensation in accordance with this Act from the district committee deemed, under subsection (9A) (a), to be his employer.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO PARTS II AND IIA OF THE PRINCIPAL ACT.

(1) (a) Section 7 (4), (4A)—

After "possess." wherever occurring, insert:—

This subsection does not apply to an injury to which subsection (4B) applies.

(b) Section 7 (4B), (4BB)—

Omit section 7 (4B), insert instead:—

(4B) Where the injury is a loss, or further loss, of hearing which is of such a nature as to be caused by a gradual process (not being an injury in respect of which a claim for compensation was made before the commencement of Schedule 2 (1) to the Workers' Compensation (Amendment) Act, 1981), the following provisions have effect:—

- (a) subject to paragraph (a) of the proviso to section 53 (1), notice of the injury shall be given in the prescribed manner and shall contain such particulars as are prescribed;

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PARTS II AND IIIA OF THE PRINCIPAL ACT—*continued.*

- (b) for the purposes of this Act the injury shall be deemed to have happened—
- (i) where the worker was, at the time when he gave notice of the injury in accordance with paragraph (a), employed in an employment to the nature of which the injury was due—at the time when the notice was given; or
 - (ii) where the worker was not so employed at the time when he gave notice of the injury—on the last day on which he was employed in an employment to the nature of which the injury was due before he gave the notice;
- (c) the provisions of—
- (i) section 53 (1) shall apply to or in respect of the injury as if the words “as soon as practicable after the happening thereof, and before the worker has voluntarily left the employment in which he was at the time of the injury,” were omitted therefrom; and
 - (ii) section 53 (2)–(8) shall not apply to or in respect of the injury;
- (d) compensation shall be payable by—
- (i) where the worker was employed by an employer in an employment to the nature of which the injury was due at the time he gave notice of the injury—that employer; or
 - (ii) where the worker was not so employed—the last employer by whom he was employed in an employment to the nature of which the injury was due before he gave the notice;

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PARTS II AND IIIA OF THE PRINCIPAL ACT—*continued.*

- (e) an employer (not being an employer referred to in paragraph (d) (i) or (ii)) by whom the worker was employed in an employment to the nature of which the injury was due during the relevant period (as defined in paragraph (f)) shall be liable to make to an employer referred to in paragraph (d) (i) or (ii) a contribution which bears to the amount of compensation payable the same proportion as the period of that employment during the relevant period bears to the total period of employment of that worker in an employment to the nature of which the injury was due during the relevant period;

- (f) in paragraph (e), the “relevant period” means—
 - (i) where the worker has not had a prior injury (being a loss of hearing or a further loss of hearing)—in relation to an injury, the period of 5 years immediately preceding the date when a notice is given under paragraph (a) in respect of the injury;

 - (ii) where the worker has had one or more prior injuries (being losses of hearing or further losses of hearing) which or all of which, as the case may be, are deemed under this Act to have happened at a time more than 5 years before the date when a notice is given under paragraph (a) in respect of a further injury—in relation to the further injury, the period of 5 years immediately preceding the date when that notice was given; and

 - (iii) where the worker has had not more than one, or more than one, prior injury (being a loss of hearing or a further loss of hearing) which

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PARTS II AND IIA OF THE PRINCIPAL ACT—*continued.*

or the last of which, as the case may be, is deemed under this Act to have happened at a time during the 5 years immediately preceding the date when a notice is given under paragraph (a) in respect of a further injury—in relation to the further injury, the period between the time when that prior injury is deemed to have happened and the date when that notice was given,

whether or not the period referred to in subparagraph (i), (ii) or (iii) commenced before or after the commencement of Schedule 2 (1) to the Workers' Compensation (Amendment) Act, 1981;

- (g) where the Commission is satisfied that a contribution required to be made under paragraph (e) cannot be recovered by an employer referred to in paragraph (d) (i) or (ii), it may, out of the Uninsured Liability Scheme, pay to that employer such amount as it considers appropriate, not exceeding the amount of the contribution;
- (h) without limiting the generality of section 36 (1), where there is a dispute as to the amount of a contribution required to be made under paragraph (e) that dispute shall be deemed to be a matter or question arising under this Act for the purposes of section 36 (1).

(4BB) Without limiting the generality of subsection (4B), the condition known as "boilermaker's deafness" and any deafness of a like origin shall, for the purposes of that subsection, be deemed to be losses of hearing which are of such a nature as to be caused by a gradual process.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PARTS II AND IIA OF THE PRINCIPAL ACT—*continued.*

(2) (a) Section 9 (1) (c) (i)—

Omit "female", insert instead "person".

(b) Section 9 (1) (c) (ii)—

After "student", insert "(not being a student who is a person in respect of whom a weekly payment is claimed under subparagraph (i))".

(c) Section 9 (1) (e)—

Omit "female" wherever occurring, insert instead "person".

(d) Section 9 (1) (e)—

Omit "her", insert instead "the person".

(e) Section 9 (6)—

Omit "female", insert instead "person".

(f) Section 9 (6) (c)—

Omit "has for not less than three years immediately before the date of the injury,".

(g) Section 9 (6) (c)—

Omit "lived with him as his wife", insert instead "lives with the worker as the worker's husband or wife".

(h) Section 9 (7) (a)—

Omit "a wife or a female", insert instead "a person".

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PARTS II AND IIA OF THE PRINCIPAL ACT—*continued.*

- (i) Section 9 (7) (a)—
Omit “she”, insert instead “the person”.
- (j) Section 9 (7) (a)—
Omit “such wife or female” wherever occurring, insert instead “the person”.
- (k) Section 9 (7) (a)—
Omit “him”, insert instead “the worker”.
- (l) Section 9 (8) (a)—
After “period”, insert “(not being a worker who belongs to a class of workers prescribed for the purposes of paragraph (c))”.
- (m) Section 9 (8) (b)—
Omit “incapacitated; or”, insert instead “incapacitated;”.
- (n) Section 9 (8) (c), (d)—
Omit section 9 (8) (c), insert instead:—
(c) belonged to a class of workers prescribed for the purposes of this paragraph—is a reference to a rate calculated in accordance with a formula prescribed in respect of that class of workers for the purposes of this paragraph; or
(d) was not a worker or an employee to whom paragraph (a), (b) or (c) applies—is a reference to an amount prescribed for the purposes of this paragraph.
- (o) Section 9 (10)—
Omit “of a worker’s”, insert instead “of a part-time worker’s”.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PARTS II AND IIA OF THE PRINCIPAL ACT—*continued.*

(p) Section 9 (10A)—

After section 9 (10), insert:—

(10A) In subsection (10), the reference to a part-time worker—

- (a) includes a reference to a worker belonging to a class of workers prescribed for the purposes of this paragraph; and
- (b) does not include a reference to a worker belonging to a class of workers prescribed for the purposes of this paragraph.

(q) Section 9 (13) (b)—

Omit “1969; or”, insert instead “1969;”.

(r) Section 9 (13) (c)—

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

(s) Section 9 (13) (d)—

After section 9 (13) (c), insert:—

- (d) an award made by the Coal Industry Tribunal under the Coal Industry Act, 1946,

(3) (a) Section 10 (1A) (a)—

Before “the cost”, insert “subject to subsection (1B),”.

(b) Section 10 (1A) (b)—

After “the amount”, insert “, subject to subsection (1B),”.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PARTS II AND IIIA OF THE PRINCIPAL ACT—*continued.*

(c) Section 10 (1B)—

After section 10 (1A), insert:—

(1B) Where the cost referred to in subsection (1A) (a) or the amount referred to in subsection (1A) (b) includes the cost of, or an amount for, travel by private motor vehicle, that cost or amount shall be calculated at such rate as is prescribed for the purposes of this subsection.

(d) Section 10 (2), definition of “Medical treatment”—

From paragraph (c), omit “treatment,” insert instead “treatment; and”.

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

Omit the definition, insert instead:—

“Public hospital” means—

- (a) a hospital specified in the Second or Fifth Schedule to the Public Hospitals Act, 1929;
- (b) a separate institution specified in the Third Schedule to that Act; or
- (c) a hospital or other institution in another State or a Territory of the Commonwealth, being a hospital or institution that—
 - (i) is prescribed; or
 - (ii) belongs to a class of hospitals or institutions prescribed,

for the purposes of this paragraph.

Workers' Compensation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PARTS II AND IIA OF THE PRINCIPAL ACT—*continued.*

(4) (a) Section 16 (1A)—

Omit “Where”, insert instead “Except in respect of an injury to which section 7 (4B) applies, where”.

(b) Section 16 (1A)—

Omit “the condition known as ‘boilermaker’s deafness’ and any deafness of the like origin and”.

(c) Section 16 (1B) (a)—

Omit “\$6,850”, insert instead “\$7,900”.

(d) Section 16 (1B) (a1)—

Omit “\$3,950” wherever occurring, insert instead “\$5,150”.

(e) Section 16 (1B) (a1)—

Omit “\$2,650”, insert instead “\$3,450”.

(f) Section 16 (1B) (a2)—

Omit “\$12,750” wherever occurring, insert instead “\$14,650”.

(g) Section 16 (1BA) (b)—

Omit “\$5,250” wherever occurring, insert instead “\$6,900”.

(h) Section 16 (5A) (b)—

After “further injury which”, insert “, except in respect of an injury to which section 7 (4B) applies,”.

*Workers' Compensation (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PARTS II AND IIA OF THE PRINCIPAL ACT—*continued.*

(i) Section 16, table—

Omit the table, insert instead:—

TABLE.

Nature of Injury.	Amount Payable.
	\$
Loss of either arm, or of the greater part thereof	24,100
Loss of the lower part of either arm, either hand, or 5 fingers of either hand ..	20,650
Loss of a leg or of the greater part thereof	22,000
Loss of the lower part of a leg	18,950
Loss of a foot	18,350
Loss of sight of 1 eye, with serious diminution of the sight of the other ..	22,000
Loss of sight of both eyes	31,000
*Loss of sight of 1 eye	12,850
Loss of hearing of both ears	18,950
†Loss of hearing of 1 ear	8,950
‡Loss of power of speech	18,950
Loss of a thumb	8,950
Loss of a forefinger	5,950
Loss of a joint of a thumb	5,500
Loss of a little finger, middle finger or ring finger	3,150
Loss of a toe or a joint of a finger	2,750
Loss of a joint of a toe	1,750
Loss of a great toe	5,950
Loss of a joint of a forefinger or of a joint of a great toe	3,150

* For the partial loss of sight of 1 eye there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

† For the partial loss of hearing of 1 ear there shall be payable such percentage of the amount that would be payable for the total loss of the hearing thereof as is equal to the percentage of the diminution of hearing.

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

(5) Section 17c (7)—

Omit "subsection (1B)", insert instead "section 17BB (2)".

Workers' Compensation (Amendment).

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO PARTS III AND IIIA OF THE PRINCIPAL ACT.

(1) (a) Section 18 (3) (a)—

Omit “this provision”, insert instead “this paragraph or paragraph (a1)”.

(b) Section 18 (3) (a)—

Omit “not exceeding the amount for which the employer has obtained a policy of insurance or indemnity in respect of his liability”, insert instead “which the insured person is liable to pay”.

(c) Section 18 (3) (a1)—

After section 18 (3) (a), insert:—

(a1) Every policy of insurance or indemnity issued to a person shall, in addition to containing the provisions referred to in paragraph (a), contain such provisions as are prescribed for, or in relation to—

- (i) the insurance or indemnification of the person, in the event of his being, or becoming, a principal under a contract as referred to in section 6 (3) (a), against a liability arising under section 6 (3);
- (ii) providing that the insurer, as well as the person, shall, while that person is a principal under a contract as referred to in section 6 (3) (a), be directly liable to pay to a worker employed by a contractor under that contract and, in the event of the worker's death, his dependants, the compensation for which that person is liable under section 6 (3) (a); and
- (iii) providing that the insurer shall be bound by, and subject to, any judgment, order, decision or award given or made against the person in respect of any liability arising under section 6 (3).

Workers' Compensation (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PARTS III AND IIIA OF THE PRINCIPAL ACT—*continued.*

(d) Section 18 (3C) (a)—

After “(3) (a)”, insert “or pursuant to subsection (3) (a1) (ii) or (iii)”.

(e) Section 18 (6C)—

After section 18 (6B), insert:—

(6C) Where—

(a) an employer (hereinafter in this subsection referred to as “the contributor”) has become liable under this Act to make a contribution to another employer towards compensation payable by that other employer in respect of an injury to a worker (being an injury referred to in section 7 (4), (4A) or (4B)); and

(b) on the last day of the period in respect of which the contributor was liable to make the contribution he was maintaining in force a policy of insurance or indemnity,

the insurer under that policy shall—

(c) be directly liable, with the contributor, to pay the contribution to the employer who is liable to pay the compensation; and

(d) be liable to indemnify the contributor to the extent that he pays the contribution.

(f) Section 18 (7B)—

Omit “forth”. insert instead “fourth”.

(g) Section 18 (8) (b)—

After “order the employer”, insert “or, where the employer is or was a principal under a contract as referred to in section 6 (3) (a), order a person who is or was a contractor (within the meaning of section 6 (3) (a)) under that contract”.

Workers' Compensation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PARTS III AND IIIA OF THE PRINCIPAL ACT—*continued.*

(h) Section 18 (8) (b) (i)—

After "employer", insert "or contractor, as the case may be".

(i) Section 18 (8) (b) (ii)—

After "employer", insert "or contractor, as the case may be,".

(j) Section 18 (8) (d)—

Omit "on whose application an order has been made against an employer under paragraph (b) may order the employer", insert instead "who has issued a policy of insurance or indemnity to an employer and obtained an order under paragraph (b) against the employer or a contractor may order the employer to whom the policy was issued".

(k) Section 18 (8) (e)—

After "employer" wherever occurring, insert "or contractor".

(2) (a) Section 18A (1A)—

Omit "the employer", insert instead "an employer or, where section 6 (3) (a) applies, a principal within the meaning of section 6 (3) (a)".

(b) Section 18A (2) (a)—

After "while he", insert "or (where he is a principal under a contract as referred to in section 6 (3) (a)) a contractor under the contract".

(3) (a) Section 18B—

After "his employer", insert "the employer's name and address for the service of documents upon him for the purposes of this Act and".

Workers' Compensation (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PARTS III AND IIIA OF THE PRINCIPAL ACT—*continued.*

(b) Section 18B (2)—

At the end of section 18B, insert:—

(2) In subsection (1), “employer”, in relation to a worker, includes, where there is a principal within the meaning of section 6 (3) (a) who is liable to pay compensation to the worker, that principal.

(4) (a) Section 18C (2C), (2D)—

After section 18C (2B), insert:—

(2C) Subject to subsection (2D), a claim for compensation shall not be made under the Scheme where the worker claiming the compensation is entitled under section 6 (3) (a) to claim compensation against a principal within the meaning of section 6 (3) (a).

(2D) Where a worker is entitled to claim compensation against a principal within the meaning of section 6 (3) (a) and the principal was not maintaining in force a policy of insurance or indemnity for the full amount of his liability under this Act at the time of the happening of the worker's injury—

- (a) the worker may make to the Commission a claim for compensation against his employer, the principal and the Scheme jointly; and
- (b) the Commission may hear and determine any such claim.

(b) Section 18C (6A)—

Omit “make an order waiving”, insert instead “, at a meeting, waive”.

Workers' Compensation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PARTS III AND IIIA OF THE PRINCIPAL ACT—*continued.*

(c) Section 18C (7A)—

Omit “an employer whose worker”, insert instead “a person who is liable under this Act to pay compensation to a worker who”.

(5) (a) Section 21 (1)—

Omit “New South Wales stock of such currency and bearing interest at such rate as are in force for the time being in respect of such stock issued to ordinary investors”, insert instead “securities issued or guaranteed by the State or the Commonwealth”.

(b) Section 21 (2)—

Omit “all such stock”, insert instead “any investment authorised by subsection (1)”.

(6) Section 22 (1)—

After “issued”, insert “or guaranteed”.

(7) (a) Section 29 (1) (c) (v)—

After “that”, insert “, subject to subsection (4),”.

(b) Section 29 (4)—

After section 29 (3), insert:—

(4) A licensee is not required, for the purposes of this or any other Act, to make provision for any accrued, continuing, future or contingent liability which will be offset by a payment from the Contribution Fund under section 30K.

Workers' Compensation (Amendment).

SCHEDULE 3—continued.**AMENDMENTS TO PARTS III AND IIIA OF THE PRINCIPAL ACT—continued.**

(8) Section 30A (18)—

Omit “as amended by subsequent Acts,”.

(9) Section 30H (3)—

Omit “5A (3)”, insert instead “5C (1)”.

(10) (a) Section 30J (2) (b)—

Omit “a prescribed financial year”, insert instead “the last financial year before the period prescribed under subsection (3) (b) in respect of the contributions, being a financial year for which the Commission has, under section 44 (4), compiled and published workers' compensation statistics”.

(b) Section 30J (2A)—

Omit “30K (1)”, insert instead “30K”.

(c) Section 30J (2A)—

Omit “prescribed financial year”, insert instead “financial year”.

(d) Section 30J (2A)—

Omit “prescribed percentage”, insert instead “percentage prescribed under subsection (2) (b) for that financial year”.

(e) Section 30J (3) (c)—

Before “within”, insert “shall be paid”.

(f) Section 30J (3A)—

Omit the subsection.

(g) Section 30J (4)—

Omit “its”, insert instead “his”.

Workers' Compensation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PARTS III AND IIIA OF THE PRINCIPAL ACT—*continued.*

(11) (a) Section 30K (1C)—

After section 30K (1B), insert:—

(1C) On and from the date of payment by a self-insurer of the first of the contributions required to be paid by him under section 30J, whether the payment was made before or after the date of assent to the Workers' Compensation (Amendment) Act, 1981, the reference in subsection (1B) to an insurer shall be deemed to have included or to include, as the case may require, a reference to the self-insurer.

(b) Section 30K (4)—

Omit the subsection.

SCHEDULE 4.

(Sec. 5.)

AMENDMENTS TO PARTS IV AND VI–VIII OF THE PRINCIPAL ACT.

(1) Section 38 (f1)—

Omit “as poor persons”.

(2) Section 38A (5)—

After “those scales”, insert “except with the approval of the member of the Commission hearing the application or the officer of the Commission taxing the fees and costs”.

(3) (a) Section 51 (12)—

After “together with”, insert “, subject to subsection (14),”.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PARTS IV AND VI–VIII OF THE PRINCIPAL ACT—
continued.

(b) Section 51 (14)—

After section 51 (13), insert:—

(14) Where the cost of fares, travelling expenses and maintenance referred to in subsection (12) includes the cost of travel by private motor vehicle, that cost shall be calculated at such rate as is prescribed for the purposes of this subsection.

(4) Section 53F—

After section 53E, insert:—

Privileged communications.

53F. Evidence of any communication between a worker and a person employed by the Commission and acting in the capacity of a rehabilitation counsellor is not admissible in any proceedings before the Commission unless, during the course of the proceedings, the worker consents to the evidence being so admitted.

(5) (a) Section 57 (2)—

After “widow” where firstly occurring, insert “or widower”.

(b) Section 57 (2)—

After “her” where firstly occurring, insert “or him”.

(c) Section 57 (2)—

After “her” where secondly occurring, insert “or his”.

(d) Section 57 (2)—

Omit “widow” where secondly occurring, insert instead “person”.

Workers' Compensation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PARTS IV AND VI-VIII OF THE PRINCIPAL ACT—
continued.

(e) Section 57 (2)—

Omit “she”, insert instead “the person”.

(6) Section 60 (2A)—

Omit the subsection.

(7) Section 61—

Omit “on account of neglect of children on the part of a widow, or”.

(8) Section 63 (4)—

Omit the subsection.

SCHEDULE 5.

(Sec. 6.)

AMENDMENT TO THE WORKERS' COMPENSATION (AMENDMENT)
ACT, 1980.

Schedule 5 (1)—

Omit “After section 30G (1)”, insert instead “At the end of section
30G”.

Workers' Compensation (Amendment).

SCHEDULE 6.

(Sec. 7.)

SAVINGS AND TRANSITIONAL PROVISIONS.

Insurance against a liability arising under section 6 (3) of the Principal Act.

1. (1) A policy of insurance or indemnity (as defined in section 18 (1) of the Principal Act) obtained, whether before or after the date of assent to this Act, by a person who is, or becomes, a principal under a contract referred to in section 6 (3) (a) of the Principal Act shall, if it does not insure that person against a liability arising under section 6 (3) of the Principal Act, be deemed to insure that person against a liability arising under section 6 (3) of the Principal Act in respect of an injury to a worker which occurs on or after that date and during the term of the policy.

- (2) Where a liability is imposed upon an insurer under subclause (1)—
- (a) the insurer, as well as the person insured, shall be directly liable to pay to—
- (i) a worker employed by a contractor under a contract referred to in section 6 (3) (a) of the Principal Act to which the person insured is a party; and
 - (ii) in the event of the worker's death, his dependants,
- the compensation for which the person insured is liable under section 6 (3) (a) of the Principal Act;
- (b) the liability shall be enforceable as if the worker were a party to the policy of insurance or indemnity; and
- (c) the insurer shall be bound by, and subject to, any judgment, order, decision or award given or made against the person insured in respect of any liability arising under section 6 (3) of the Principal Act.

Prescribed amount under section 9 (8) (c) (ii) of the Principal Act.

2. The amount prescribed for the purposes of section 9 (8) (c) (ii) of the Principal Act immediately before the date of assent to this Act shall be deemed to have been prescribed for the purposes of section 9 (8) (d) of the Principal Act as in force after the date of assent to this Act.

Compensation payments.

3. (1) In this clause, "loss of function" means permanent diminution or permanent and total deprivation of the full efficient use of a part of the body referred to in the table in section 16 of the Principal Act.

Workers' Compensation (Amendment).

SCHEDULE 6—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(2) Except as provided in this clause, the compensation payable under section 16 of the Principal Act, as amended by this Act, for an injury of a particular kind shall be payable for an injury of that kind whether the injury was received before or after the date of assent to this Act.

(3) Subject to subclause (4), the compensation payable under section 16 of the Principal Act, as amended by this Act, for an injury of a particular kind shall not be payable for an injury of that kind received by a worker who has before the date of assent to this Act been awarded, or has received or agreed to receive, for that injury the compensation prescribed by section 16 of the Principal Act, as in force immediately before that date.

(4) Except as provided in subclause (5), the compensation payable under section 16 of the Principal Act, as amended by this Act, for a further loss of function suffered in respect of an injury of a particular kind shall be payable for a further loss of function suffered in respect of an injury of that kind whether the further loss of function was suffered before or after the date of assent to this Act.

(5) The compensation payable under section 16 of the Principal Act, as amended by this Act, for a further loss of function suffered by a worker in respect of an injury of a particular kind shall not be payable for a further loss of function suffered before the date of assent to this Act in respect of an injury of that kind if the worker has before that date been awarded, or has received or agreed to receive, for the further loss of function the compensation payable under section 16 of the Principal Act, as in force immediately before that date.

(6) Where, on or after the date of assent to this Act, compensation is payable under section 8 or 9 of the Principal Act in respect of an injury to a worker which occurred before that date, that compensation shall be payable in accordance with that section as affected by amendments made by this Act.

(7) 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.

(8) 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.

Workers' Compensation (Amendment).

SCHEDULE 6—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.***Prescribed financial year under section 30J of the Principal Act.**

4. The amendments made to section 30J (2) (b) and (2A) of the Principal Act by Schedule 3 (10) (a) and (c) do not affect any liability arising under the Principal Act or the regulations under that Act as in force immediately before the amendments were made.

Payments under section 30K (4) of the Principal Act.

5. On and after the date of assent to this Act any claim for a payment under section 30K (4) of the Principal Act as in force before that date shall be deemed to have been withdrawn.