

Workmen's Compensation (Lead Poisoning—Broken Hill) Act 1922 No 31

[1922-31]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Statute Law \(Miscellaneous Provisions\) Act 2009 No 56](#) (not commenced — to commence on 17.7.2009)
- **Note**
This Act is to be repealed on a day appointed by proclamation under section 16 of this Act.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Workmen's Compensation (Lead Poisoning—Broken Hill) Act 1922 No 31



New South Wales

An Act to extend the provisions for the payment of compensation to persons disabled by lead poisoning in or upon the Broken Hill mines; to establish a Medical Board with jurisdiction in the county of Yancowinna; to amend the *Workmen's Compensation Act 1916*, and certain other Acts; and for purposes connected therewith.

1 Name of Act

This Act may be cited as the *Workmen's Compensation (Lead Poisoning—Broken Hill) Act 1922*, and shall be construed with the *Workmen's Compensation Act 1916*, hereinafter called the Principal Act.

2 Definitions

In this Act, unless the context otherwise requires:

Board means the medical board constituted under this Act.

Broken Hill mine means and includes any metalliferous mine situate in the county of Yancowinna, and any place within the said county in which the product of any mine is stacked, stored, crushed, or otherwise treated.

Lead Poisoning includes the sequelae of lead poisoning.

Mine-owner means an employer who is the immediate proprietor or lessee or occupier of a Broken Hill mine, or of any part thereof, and does not include a person who merely receives a royalty, rent, or fine from such a mine, or is merely the proprietor of such a mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil and not interested in the minerals in the mine.

3 Medical board, constitution

(1) A medical board is hereby constituted, consisting of three legally qualified medical practitioners who shall be appointed by the Governor, one of whom shall be nominated by the mine-owners, one by their workmen, and a chairman who shall be the medical officer in charge of the Bureau of Medical Inspection at Broken Hill, or if

there should be no such officer, a legally qualified medical practitioner nominated by the Minister.

- (2) Nominations may be made in the prescribed manner by the mine-owners and their workmen.

4 Powers: certifying surgeon's

- (1) The board shall within the county of Yancowinna, from a date to be notified by the Governor in the Gazette, exclusively exercise the powers and perform the duties of certifying surgeon or medical referee in respect of workmen disabled by any disease mentioned in Schedule Three of the Principal Act.
- (2) Notwithstanding the provisions of paragraph (f) of subsection one of section twelve of the Principal Act the decision of the board shall be final.
- (3) In addition to the powers conferred on the certifying surgeon by subsection one of section twelve of the Principal Act, the board may certify that any workman:
 - (a) who has been previously certified as suffering from lead poisoning and who has recovered therefrom, and
 - (b) in the opinion of the board is susceptible to the action of lead,should be removed from further exposure to such action and withdrawn from employment in or upon the Broken Hill mines.
- (4) The chairman of the board shall have the powers and perform the duties of medical referee in the county of Yancowinna in all other respects.

5 Appointments and fees

The Governor shall make all necessary appointments to the board. The members of the board may be paid such fees or salaries and allowances as may be prescribed.

6 Compensation

- (1) The provisions of section twelve of the Principal Act shall apply to any workman who was in the employment of a mine-owner for any time during the period of twelve months preceding the thirty-first day of May, one thousand nine hundred and nineteen, and who, prior to that date, had been employed for not less than one thousand two hundred and fifty shifts in or upon Broken Hill mines, notwithstanding that he may not have been employed in any such mine within twelve months previous to the date of his disablement if the board certifies that:
 - (i) the said workman is suffering from lead poisoning, and is thereby disabled from earning full wages at the work at which he was employed, or
 - (ii) the death of such workman has been caused by lead poisoning:

Provided that:

- (a) the compensation shall be recoverable from and notice of death or disablement shall be given to the mine-owner who last employed the workman during the said one thousand two hundred and fifty shifts; and the notice may be given notwithstanding that the workman had voluntarily left his employment,
 - (b) in the case of death or disablement occurring before the commencement of this Act, any such notice shall be valid if given within six months after such commencement.
- (2) In determining the amount of compensation to be paid to any workman entitled to claim under this section:
- (i) subparagraph (a) of paragraph one of Schedule One of the Principal Act shall be read as if the words "prior to the thirty-first day of May, one thousand nine hundred and nineteen" were inserted in lieu of "next preceding the injury", and
 - (ii) subparagraph (b) of paragraph one of Schedule One shall be read as if the words "twelve months prior to the thirty-first day of May, one thousand nine hundred and nineteen" were inserted in lieu of the words "previous twelve months."

7 Medical treatment during disablement

(1)

- (a) A workman who is in receipt of weekly payments for disablement by lead poisoning shall, from time to time at the request of the board, present himself to the board to be medically examined in order that it may be ascertained whether it is necessary for him to undergo or continue to undergo medical treatment, and such workman shall so present himself and submit himself to such medical examination as the board may require.
- (b) Every such workman shall, unless the board declares in writing that it is unnecessary for him so to do, submit himself for treatment by a legally qualified medical practitioner, either as a hospital patient or otherwise, as the board may approve:

Provided that the board may, in its discretion, require him to submit himself to treatment by a legally qualified medical practitioner provided and paid by the mine-owner from whom such compensation is recoverable.

- (c) The medical practitioner by whom any such workman is being treated shall upon a request in writing by the board submit a report in writing to the board as to the method of treatment and the condition of the workman, and a certificate as to his fitness for employment.

A copy of the certificate shall be sent by the board to the mine-owner from whom

the compensation is recoverable and to the workman within six days from receipt thereof.

- (2) If a workman refuse to present himself for medical examination when so requested by the board or to submit himself to examination or to any such treatment or in any way obstructs such examination or treatment, his right to compensation and to take or prosecute any proceeding under this Act in relation to compensation shall be suspended until he undergoes such examination or treatment or continues such treatment to the satisfaction of the board.
- (3) A mine-owner from whom compensation is recoverable as aforesaid shall, at the direction of the board, provide and pay a duly qualified medical practitioner to give such treatment as aforesaid.
- (4) Any person failing to comply with the provisions of this section shall be guilty of an offence against this Act.

8 Compensation until fit

- (1) If the board, after examination, certifies that a workman who has been employed in or upon a Broken Hill mine, and who has been disabled by lead poisoning, is physically fit to return to employment in or upon a Broken Hill mine his right to compensation shall cease unless the mine-owner who last employed him before the commencement of the disablement refuses to re-employ or continue to employ or dismisses the said workman for the reason that the workman has been disabled by lead poisoning.
- (2) Any mine-owner who for the reason that a workman has been disabled by lead poisoning:
 - (a) refuses to employ or continue to employ a workman who has been disabled by lead poisoning, and subsequently certified as fit to return to employment in or upon a Broken Hill mine, or
 - (b) dismisses a workman who has been employed or continued in employment after disablement and subsequent certification of fitness as aforesaid,shall, unless compensation is paid as prescribed by section nine, be guilty of an offence against this Act and be liable to a penalty not exceeding two hundred dollars.
- (3) In every case under this section it shall lie on the mine-owner to satisfy the arbitrator or the court that such workman was refused re-employment or continuance of employment or was dismissed from his employment for some reasonable cause other than that he had been disabled by lead poisoning.

9 Withdrawal or exclusion from employment in BH mines

- (1) A workman who is withdrawn or excluded from employment in or upon the Broken Hill mines either:

- (a) consequent upon the issue of a certificate by the board under subsection three of section four, or
- (b) by the unlawful refusal of a mine-owner to re-employ or to continue to employ or by the unlawful dismissal of such a workman who has been disabled by lead poisoning and subsequently certified as fit to return to employment in or upon a Broken Hill mine,

shall be entitled to compensation not exceeding an amount according to the length of his service in or upon such mines as prescribed in the following scale:

Not more than ten years' service, a sum not exceeding one hundred dollars.

Over ten years and not more than twenty years, a sum not exceeding four hundred dollars.

Over twenty years and not more than thirty years, a sum not exceeding six hundred dollars.

Over thirty years, a sum not exceeding eight hundred dollars.

Any year in which a workman has worked not less than one hundred and seventy-five shifts in or upon a Broken Hill mine shall be deemed to be a year's service by such workman for the purpose of this section.

The compensation shall be recoverable by the workman from the mine-owner who last employed such workman.

- (2) The amount payable under this section shall in default of agreement be settled by arbitration under the Principal Act as reasonable compensation for his withdrawal from the industry, and to enable him to proceed elsewhere and obtain a new occupation.
- (3) Upon payment of compensation to a workman under this section any claim which he may have to compensation under section eight shall cease.
- (4) A workman:
 - (a) who has been excluded or withdrawn from employment in or upon the Broken Hill mines consequent upon the issue of a certificate by the board under subsection three of section four, and
 - (b) who has not subsequently thereto been certified as fit to return to work in or upon a Broken Hill mine,shall, if he returns to employment in or upon any such mine,:
 - (i) forfeit any right to compensation for any subsequent disablement by lead poisoning, and

- (ii) be guilty of an offence against this Act and be liable to a penalty not exceeding fifty dollars, and a further penalty not exceeding two dollars for every day on which he works in or upon any such mine.

10 Contribution to compensation

- (1) Any mine-owner from whom compensation for lead poisoning including compensation recoverable under the last preceding section is recoverable shall be entitled to contribution towards such compensation from any other mine-owner who, during the period of ten years preceding the date of disablement, employed the workman to whom compensation is payable, upon a basis agreed upon by the mine-owners and notified to the Minister; and unless and until such agreement is so notified the rate of such contribution shall be proportionate to the number of shifts such workman was employed by each such mine-owner during the said period.
- (2) Proviso (iii) to subsection one paragraph (c), of section twelve of the Principal Act shall not apply to compensation recoverable under this Act.
- (3) A mine-owner shall be liable to contribute under subsection one of this section in respect of the employment of any such workman by any predecessor in title in or upon the Broken Hill mine of which such mine-owner is the proprietor, lessee, or occupier.

11 Notification of lead poisoning

- (1) Any workman who has reasonable grounds for believing that he is suffering from lead poisoning contracted in or upon a Broken Hill mine shall forthwith give notice thereof to the board in the prescribed form.
- (2) Any workman who omits to give notice as aforesaid shall not be entitled to compensation under this Act.
- (3) Any medical practitioner attending any workman whom he has reasonable grounds for believing is suffering from lead poisoning contracted as aforesaid shall forthwith give notice thereof to the board in the prescribed form.
- (4) The board may require any workman notified as suffering or as suspected to be suffering from lead poisoning to present himself to the board for the purpose of being medically examined, and the workman shall so present himself and submit to medical examination.
- (5) The board shall furnish to the workman a certificate of the result of the examination and shall forward to the mine-owner who last employed the workman a duplicate of the certificate.
- (6) Any person failing to comply with the provisions of this section shall be guilty of an offence against this Act.

12 Notices to be posted on mines

- (1) Notices embodying precautions which should be observed by workmen employed in or upon the Broken Hill mines shall be posted as prescribed in conspicuous places in or near the mines where they may be conveniently read by the workmen employed therein; and so often as any notice becomes defaced, obliterated, or destroyed, it shall be renewed with all reasonable despatch.
- (2) In the event of any non-compliance with the provisions of this section the mine-owner shall be guilty of an offence against this Act unless it is proved that all reasonable means have been taken to enforce the observance of this section.
- (3) Every person who pulls down, injures, or defaces any notice when posted up in pursuance of this Act shall be guilty of an offence against this Act.

13 Absent beneficiary

In the event of any beneficiary under this Act leaving the State of New South Wales, he shall not forfeit his rights under this Act.

14 General penalty

Every person who is guilty of an offence against this Act for which a penalty is not expressly prescribed shall be liable to a fine not exceeding ten dollars for each offence.

15 Regulations

- (1) The Governor may make regulations for carrying out the provisions of this Act, and may in such regulations impose any penalty not exceeding one hundred dollars for any breach thereof.
- (2) Any such penalty may be recovered in a summary manner before the Local Court.
- (3) (Repealed)

16 Repeal of Act

This Act is repealed on such date as may be appointed by the Governor and notified by proclamation published in the Gazette.

17 Savings and transitional provisions

Schedule 1 has effect.

Schedule 1 Savings and transitional provisions

(Section 17)

1 Transitional provision consequent on enactment of [Workmen's Compensation \(Lead](#)

Poisoning—Broken Hill) Amendment Act 1924

- (1) This Act is to be read as if the amendments made by section 2 of the amending Act had been enacted as part of this Act when it was first enacted.
- (2) This clause is taken to have commenced on 17 November 1924 (the date of assent to the amending Act).
- (3) Subclause (1) re-enacts (with minor modifications) section 2 (2) of the amending Act. Subclause (1) is a transferred provision to which section 30A of the *Interpretation Act 1987* applies.
- (4) In this clause:

amending Act means the *Workmen's Compensation (Lead Poisoning—Broken Hill) Amendment Act 1924*.