

WORKERS' COMPENSATION (AMENDMENT) ACT.

Act No. 41, 1946.

George VI.
No. 41, 1946.

An Act to amend the Workers' Compensation Act, 1926-1945, and the Workers' Compensation (Silicosis) Act, 1942-1945, in certain respects; and for purposes connected therewith. [Assented to, 21st May, 1946.]

BE it enacted by the King'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 and
citation.

1. (1) This Act may be cited as the "Workers' Compensation (Amendment) Act, 1946."

(2) The Workers' Compensation Act, 1926, as amended by subsequent Acts and by this Act, may be cited as the Workers' Compensation Act, 1926-1946.

(3) The Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts and by this Act, may be cited as the Workers' Compensation (Silicosis) Act, 1942-1946.

Amendment of
Act No. 15,
1926.

2. The Workers' Compensation Act, 1926-1945, is amended—

Sec. 6.
(Defini-
tions.)

(a) by inserting in subsection one of section six next after the definition of "Seaman" the following new definition:—

"Self-insurer" means any racing club, association or employer authorised under this Act to undertake the liability to pay compensation to workers employed by it or him.

Sec. 30A.
(Insurance
Premiums
Committee.)

(b) (i) by inserting at the end of subsection one of section 30A the words "and by section six of the Workers' Compensation (Silicosis) Act, 1942-1946";

(ii)

- (ii) by inserting next after subsection thirteen of the same section the following new subsection:—

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(13A) (a) The committee may reconsider any matter which it has dealt with, and rescind, alter, or amend any order, direction or determination, previously made under and for the purpose of this section or section six of the Workers' Compensation (Silicosis) Act, 1942-1946.

(b) The provisions of subsection five of section thirty-two and of subsections one, two and three of section thirty-seven of this Act, shall, mutatis mutandis, apply to and in respect of the committee.

(c) Every insurer shall promptly co-operate with the committee and assist it to carry out its duties under this section and section six of the Workers' Compensation (Silicosis) Act, 1942-1946. Failure to do so shall be deemed to be failure to comply with a material provision of this Act, and thereupon the provisions of section twenty-eight of this Act shall, mutatis mutandis, apply thereto.

- (iii) by omitting from subsections eighteen and nineteen of the same section the words "under this section" wherever occurring and by inserting in lieu thereof the words "order or determination under this section or section six of the Workers' Compensation (Silicosis) Act, 1942-1946."

- (iv) by inserting in paragraph (a) of subsection twenty-one of section 30A after the words "by that committee" the following paragraph:—

The contributions payable by any insurer pursuant to section six of the Workers' Compensation (Silicosis) Act, 1942-1946, and the commission prescribed by the committee

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committee under paragraph (b) of subsection (7B) of section six of the Workers' Compensation (Silicosis) Act, 1942-1946, shall not be taken into account in determining the loss ratio under any scheme made under this section.

Sec. 42.
(Returns
and
reports.)

(c) by inserting at the end of section forty-two the following new subsection:—

(4) The Commission and the Insurance Premiums Committee may prescribe that all or any of the returns and reports required to be furnished pursuant to this section and section forty-four of this Act and any scheme made under section 30A of this Act shall be furnished in such composite form or forms as it may approve to meet the various purposes of such sections and scheme. Any return or report furnished in conformity with the appropriate composite form or forms shall be deemed to have been furnished in compliance with the provisions of any such section or scheme.

**Amendment of
Act No. 14,
1942.**

3. (1) The Workers' Compensation (Silicosis) Act, 1942-1945, is amended—

Sec. 6.
(Constitution
of Fund.)

(a) (i) by omitting paragraph (b) of subsection one of section six and by inserting in lieu thereof the following paragraph:—

(b) all moneys paid by the Insurance Premiums Committee constituted under the Principal Act (hereinafter referred to as the Insurance Premiums Committee) to the committee from contributions paid by insurers under and in accordance with the provisions of this section.

(ii) by omitting from subsection three of the same section the words "the insurers and the Insurance Premiums Committee constituted under the Principal Act" and by inserting in lieu thereof the words "the Insurance Premiums Committee";

(iii)

(iii) by omitting subsections five, six and seven of the same section and by inserting in lieu thereof the following subsections:—

(5) Any such estimate shall—

(a) include particulars of any moneys provided by Parliament for the purposes of the Fund in respect of the relevant period;

(b) be set out in writing in a certificate signed by the chairman of the committee;

(c) be forwarded as soon as practicable after the making thereof to the Insurance Premiums Committee; and

(d) be accompanied by a statement certified by the chairman of the committee setting forth the liability estimated by the committee to be outstanding under awards made by it to or in respect of workers employed in any industry or process employment in which is of such a nature as to expose workers to the risk of contracting a disease caused by silica dust and the basis upon which such liability is estimated.

(6) The amount of such estimate (less the moneys referred to in paragraph (a) of subsection five of this section) shall be paid to the Insurance Premiums Committee by way of contributions by insurers in accordance with the provisions of this section. The contributions to be so paid by any insurer shall be of such amount and shall be made at such times as the Insurance Premiums Committee determines.

(7)

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(7) The Insurance Premiums Committee shall, in respect of any such estimate, determine—

- (a) the insurers or classes of insurers by whom the contributions under this section are to be paid;
- (b) the amount of the contributions to be so paid by such insurers or classes of insurers;
- (c) the times at which such contributions shall be so paid.

The Insurance Premiums Committee may determine different amounts of contributions in respect of different insurers or classes of insurers.

The Insurance Premiums Committee shall make a determination under and in accordance with this section—

- (i) in respect of the estimate made for the year ending on the thirtieth day of June next following the commencement of section three of the Workers' Compensation (Amendment) Act, 1945, as soon as practicable after the commencement of the Workers' Compensation (Amendment) Act, 1946; and
- (ii) in respect of the estimate made for any succeeding year as soon as practicable after the estimate made for such year has been forwarded to the Insurance Premiums Committee.

(7A) (a) Any determination under paragraph (a) of subsection seven of this section may be made so as to apply to insurers or classes of insurers insuring or indemnifying employers against liability under the Principal Act in respect of any class or classes of employment other than a determined class or classes of employment as well as to insurers.

insurers or classes of insurers insuring or indemnifying employers against liability under the Principal Act in respect of any determined class or classes of employment. No. 41, 1948.

(b) Without prejudice to the generality of any power conferred on the Insurance Premiums Committee by this section the Insurance Premiums Committee may determine that the amount of any contribution payable by an insurer in respect of any determined class or classes of employment shall be at the rate which prior to the first day of July, one thousand nine hundred and forty-five, had been levied by the Committee for the purposes of the fund upon the wages paid to workers in such determined class or classes of employment or at such other rate as the Insurance Premiums Committee deems equitable in the circumstances.

(c) In determining the contributions payable by a self-insurer the Insurance Premiums Committee may have regard to the number of workers employed by such self-insurer and to the wages paid to workers so employed and to the premium which such self-insurer would have paid had he insured his liability under the Principal Act respecting workers so employed with the Government Insurance Office of New South Wales.

(7B) The Insurance Premiums Committee shall make such adjustments to the rates of premiums payable in respect of policies referred to in section eighteen of the Principal Act as it may deem necessary to cover—

(a) the amount of the contributions payable by insurers under this section (including contributions to the Silicosis Outstanding Liability Reserve Fund), and

(b)

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(b) such commission as the Insurance Premiums Committee may prescribe to cover overhead expenses of insurers arising out of the payment of contributions by such insurers under this section.

In adjusting such premium rates the Insurance Premiums Committee may vary the premium rates payable by employers in all industries and processes or in such industries and processes or by such employers as it deems equitable in the circumstances.

(7c) There shall be established a Silicosis Contributions Account vested in and administered by the Insurance Premiums Committee into which shall be paid all contributions paid by insurers under this section.

The Insurance Premiums Committee shall as soon as practicable after the time fixed by the Insurance Premiums Committee for payment of contributions under this section out of such Silicosis Contributions Account pay to the committee the amount of the estimate made in accordance with this section.

(7d) The Insurance Premiums Committee may constitute a Silicosis Outstanding Liability Reserve Fund, to meet, in whole or in part, any outstanding liability under awards made under this Act.

Such Reserve Fund shall consist of moneys to be contributed by insurers from their premium income, in accordance with the determinations of the Insurance Premiums Committee.

Contributions under this subsection shall be in addition to contributions payable by insurers under subsection six of this section.

When

When the Insurance Premiums Committee considers that the relevant prevailing circumstances, and the financial stability of such Reserve Fund, warrant such course, it may apply the whole or part of such Reserve Fund towards meeting the whole or part of the amount of any estimate made under this section. No. 41, 1946.

(7E) If any contribution payable under subsection six or subsection (7D) of this section is not paid within the time determined by the Insurance Premiums Committee the amount of such contribution may be recovered by the Insurance Premiums Committee as a debt and the insurer concerned shall be liable to a penalty not exceeding fifty pounds.

Proceedings in respect of the recovery of any such contribution or the enforcement of any such penalty may be instituted by the Registrar of the Insurance Premiums Committee.

(7F) A certificate by the Insurance Premiums Committee setting forth the fact that any determination has been made under and in accordance with subsection seven or subsection (7D) of this section and the amount of contribution payable by any insurer shall in any proceedings for the recovery of any contribution payable under this section or in proceedings for a penalty under subsection (7E) of this section be conclusive evidence of the matters stated in such certificate.

(iv) by omitting from subsection eight of the same section the word "apportionment" and by inserting in lieu thereof the word "determination."

(b) by omitting subsection ten of section six and by inserting in lieu thereof the following subsection:—

(10) The committee shall from time to time furnish to the Insurance Premiums Committee such

Sec. 6.
(Information to be furnished by Committee.)

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such information as the Insurance Premiums Committee may require in regard to employment in any industry or process which is of such a nature as to expose the worker to the risk of contracting a disease caused by silica dust, compensation paid and payable to workers in such employment, the financial position of the Fund, and any other matter arising out of the committee's duties under this Act which the Insurance Premiums Committee considers will assist it in carrying out its duties under this section.

(2) The amendments made by subsection one of this section shall be deemed to have commenced upon the first day of July, one thousand nine hundred and forty-five.
