

**WORKERS' COMPENSATION (BRUCELLOSIS) ACT,
1979, No. 116**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 116, 1979.

An Act to make special provisions with respect to the payment of workers' compensation to certain workers having or suspected of having brucellosis; to establish a Brucellosis Compensation Fund; to provide for the payment of contributions to that Fund by certain employers and for the reimbursement out of

See also Workers' Compensation (Brucellosis) Amendment Act, 1979.

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that Fund of certain compensation paid to those workers; to make provisions for or with respect to the medical examination of those workers; and for certain other purposes. [Assented to, 12th October, 1979.]

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 :—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be cited as the "Workers' Compensation (Brucellosis) Act, 1979".

Principal Act. **2.** (1) The Workers' Compensation Act, 1926, is referred to in this Act as the Principal Act.

(2) Except in so far as a contrary intention appears, this Act shall be construed with, and as part of, the Principal Act.

Arrangement. **3.** This Act is divided as follows :—

PART I.—PRELIMINARY—*ss.* 1–4.

PART II.—BRUCELLOSIS COMPENSATION FUND—*ss.* 5–9.

PART III.—PAYMENT OF WORKERS' COMPENSATION—*ss.* 10–27.

DIVISION 1.—*Medical Examinations*—*ss.* 10–12.

DIVISION 2.—*Payment of Compensation*—*ss.* 13–20.

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DIVISION 3.—*Reimbursement*—ss. 21–25.

DIVISION 4.—*Review and Determination of Certain Matters by the Commission*—ss. 26, 27.

PART IV.—APPLICATION FOR A MEDICAL BOARD—ss. 28–31.

PART V.—MISCELLANEOUS—ss. 32–38.

PART VI.—DURATION OF ACT—ss. 39–41.

SCHEDULE 1.—EMPLOYERS AND WORKERS.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“abattoir” means an abattoir licensed as such under the Meat Industry Act, 1978;

“authorised medical practitioner” means a medical practitioner for the time being appointed by the Health Commission of New South Wales under section 32;

“Commission” means the Workers’ Compensation Commission of New South Wales constituted under the Principal Act;

“employer” means an employer within the meaning of the Principal Act who is—

(a) an employer who is specified or described in Column 1 of Schedule 1; or

(b) an employer who is a member of a class of employers specified or described in Column 1 of Schedule 1;

“Fund” means the Brucellosis Compensation Fund established under this Act;

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“Institute” means the Institute of Clinical Pathology and Medical Research operated by the Health Commission of New South Wales;

“Insurance Premiums Committee” means the Insurance Premiums Committee constituted under the Principal Act;

“insurer”, in relation to an employer, means the insurer from whom the employer has obtained a policy of insurance or indemnity for the purposes of the Principal Act;

“Registrar” means the Registrar of the Commission;

“regulation” means a regulation under this Act;

“rule” means a rule made by the Commission under this Act;

“slaughter-house” means a slaughter-house licensed as such under the Meat Industry Act, 1978;

“worker” means a worker within the meaning of the Principal Act who is a member of a class of workers specified or described in Column 2 of Schedule 1.

(2) Wherever, under this Act, something is required to be—

- (a) done by the Institute—that thing shall be done by the person for the time being in charge of the Institute or a person acting on his behalf or at his direction; or
 - (b) sent to, or be done by, an authorised medical practitioner—that thing may be sent to, or be done by, as the case may require, an authorised medical practitioner acting in his place.
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Workers' Compensation (Brucellosis).

PART II.

BRUCELLOSIS COMPENSATION FUND.

5. (1) There shall be established a Brucellosis Compensation Fund, which shall consist of— Brucellosis
Compensa-
tion Fund.

- (a) all contributions paid by employers in accordance with sections 7 and 8;
- (b) any amounts paid to or recovered by the Registrar under section 21 or 22;
- (c) any money provided by Parliament for the purposes of the Fund; and
- (d) any money provided by the Commission under subsection (4).

(2) The Fund shall be vested in and administered by the Commission.

(3) There shall be paid from the Fund—

- (a) all reimbursements to employers payable under section 23, 24, 25 or 26 (including reimbursements payable under section 24 by virtue of section 30);
- (b) any compensation payable under section 14, 18 (3) or 26;
- (c) the costs of administration of this Act (including any commission payable to insurers);
- (d) any refunds of money made necessary by overpayment of contributions; and
- (e) any necessary repayments of money provided under subsection (4).

(4) The Commission may provide money for the Fund from the fund constituted under section 41 of the Principal Act at such times and upon such conditions as it may determine.

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Investment. 6. The Commission may invest any money in the Fund in any manner for the time being authorised by section 14 (2) of the Trustee Act, 1925.

Annual estimate and contributions. 7. (1) The Commission shall, in or before the month of May in each year, make an estimate (referred to in this Part as an "annual estimate") of the amount to be expended out of the Fund for the next following year commencing on 1st July.

- (2) An annual estimate shall—
 - (a) include particulars of any money provided by Parliament for the purposes of the Fund and available in respect of the relevant period;
 - (b) be set out in writing in a certificate signed by the Registrar; and
 - (c) be forwarded as soon as practicable to the Insurance Premiums Committee.

(3) The Insurance Premiums Committee shall, in respect of an annual estimate, determine—

- (a) the employers or classes of employers who are to pay contributions to the Fund;
- (b) subject to subsections (4) and (5), the amount, or the method of calculating the amount, of the contributions; and
- (c) the times at which the contributions shall be payable.

(4) Subject to subsection (5), the amount, or the method of calculating the amount, of the contributions determined under subsection (3) in respect of an annual estimate shall be an amount or a method which will, as near as can reasonably be ascertained by the Insurance Premiums Committee, provide in the aggregate—

- (a) the amount of the annual estimate (less any money referred to in subsection (2) (a) and any surplus money remaining in the Fund from previous years); and

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- (b) any commission allowed to insurers as provided for in subsection (5).

(5) The Insurance Premiums Committee may, in respect of an annual estimate, determine the amount, or a method of calculating the amount, that an insurer may be allowed as commission for collecting contributions.

(6) In respect of an annual estimate, the Insurance Premiums Committee may determine different amounts of contributions and different times for payment in respect of different employers or classes of employers.

(7) The Insurance Premiums Committee shall send the terms of a determination made under this section—

- (a) to the insurers of the employers who are required to contribute to the Fund as a result of that determination; and
- (b) where the employers who are required to contribute to the Fund as a result of that determination are self-insurers, to those employers.

(8) An insurer who receives the terms of a determination sent to him as provided in subsection (7) shall advise any employers who—

- (a) are insured or indemnified by him for the purposes of the Principal Act; and
- (b) are required to contribute to the Fund as a result of a determination by the Insurance Premiums Committee,

of the amount, or the method of calculating the amount, of the contribution and the time at which the contribution is payable.

(9) An employer, other than a self-insurer, shall, on being advised under subsection (8) of the amount, or the method of calculating the amount, of a contribution, pay to his insurer the contribution at or before the time specified in the advice and the insurer shall, within 14 days (or, where some other period is prescribed by regulation, that period) of receipt of the contribution, pay it into the Fund.

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(10) An employer who is a self-insurer shall, on being advised of the terms of a determination under this section in respect of him, pay into the Fund the contribution determined at or before the time determined.

(11) If an employer does not pay a contribution payable under this section at or before the time determined—

- (a) the employer shall be liable to pay a fine of 10 per cent (or, where some other percentage is prescribed by regulation, that percentage) of so much of the contribution as remains unpaid; and
- (b) the amount of the contribution and any fine payable under paragraph (a) may be recovered as a debt.

(12) Proceedings in respect of the recovery of any contribution or fine, or both, may be instituted by the Registrar.

(13) A certificate issued by the Insurance Premiums Committee stating that a determination has been made under this section and setting forth the amount of contribution payable by an employer and the date when it was payable shall, in any proceedings for the recovery of a contribution or fine payable by that employer under this section, be conclusive evidence of the matters stated in the certificate.

(14) An employer or an insurer shall, at such times as the Insurance Premiums Committee may notify, furnish to the Committee such particulars as may be specified in the notification for the purpose of enabling the Committee to exercise its powers under this section.

Initial levy
to establish
Fund and
additional
levies.

8. (1) The Commission shall, as soon as practicable after the commencement of this Act, make an estimate of the amount to be expended out of the Fund from the date of assent to this Act until 30th June, 1980, both dates inclusive.

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(2) If, at any time during the period covered by an estimate made under section 7 or subsection (1), it appears to the Commission that the total amount of the contributions payable to the Fund under this Act in respect of that period is insufficient to meet the expenditure from the Fund during that period, the Commission may make an estimate of the amount required to make up the insufficiency.

(3) The provisions of section 7 (2)–(14) apply to and in respect of an estimate made under subsection (1) or (2) as if that estimate were an annual estimate.

9. (1) The Minister may, from time to time, determine that an amendment to Schedule 1 is necessary by reason that—

- Determination of employers and employees.
- (a) certain employers or classes of employers (not being employers or classes of employers for the time being specified or described in Schedule 1) are, in his opinion, engaged in an industry or process which is of such a nature as to expose employees to the risk of contracting brucellosis in the course of their employment therein;
 - (b) certain classes of employees (not being classes of employees for the time being specified or described in Schedule 1) are, in his opinion, exposed to the risk of contracting brucellosis in the course of their employment;
 - (c) certain employers or classes of employers for the time being specified or described in Schedule 1 are, in his opinion, no longer engaged in an industry or process which is of such a nature as to expose employees to the risk of contracting brucellosis in the course of their employment therein; or
 - (d) certain classes of employees for the time being specified or described in Schedule 1 are, in his opinion, no longer exposed to the risk of contracting brucellosis in the course of their employment.

(2) The Governor may, by regulation, amend this Act in accordance with subsection (3) to give effect to a determination under subsection (1).

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(3) A regulation made under subsection (2) may—

- (a) omit matter from Schedule 1 or insert matter in Schedule 1, or both; or
- (b) omit Schedule 1 and insert instead a new Schedule 1.

(4) A regulation made under subsection (2) does not affect any liability to pay any contributions, compensation or other amounts which arose under this Act as in force before the regulation was made and the provisions of this Act, as so in force, shall continue to apply in respect of any such liability as if the regulation had not been made.

(5) For the purposes of the application of section 10, 13 or 18 to and in respect of a person who, by reason of an amendment of Column 2 of Schedule 1, becomes a member of a class of persons specified in that column, a reference in any such section to the commencement of this Act shall be deemed to be a reference to the time when that amendment took effect.

(6) An employer shall, at such times as the Registrar may notify, furnish to the Registrar such particulars as may be specified in the notification for the purpose of enabling the Minister to make a determination under this section.

PART III.

PAYMENT OF WORKERS' COMPENSATION.

DIVISION 1.—*Medical Examinations.*

- Medical procedure and certifies—initial diagnosis.
- 10.** (1) Subject to subsection (3), where an authorised medical practitioner forms the opinion that a person examined by him—
- (a) is suffering from brucellosis; or

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- (b) is suffering from a condition which is consistent with a diagnosis of brucellosis,

the medical practitioner shall, if that person states that he is or may be a worker within the meaning of this Act, or the medical practitioner is otherwise of the opinion that the person is such a worker—

- (c) take, or arrange for the taking of, a blood sample from the person and send it, or arrange for it to be sent, to the Institute for testing; and
- (d) issue a medical certificate to the person stating—
 - (i) that he is suffering from brucellosis or from a condition which is consistent with a diagnosis of brucellosis, as the case may be; and
 - (ii) subject to subsection (5), the period for which, in the opinion of the medical practitioner, he will be incapacitated for work.

(2) Subject to subsection (3), the authorised medical practitioner who has taken, or arranged for the taking of, a blood sample from a person as referred to in subsection (1) shall—

- (a) take, or arrange for the taking of, a further blood sample from that person not earlier than 10 days and not later than 14 days after the day on which the first sample was taken;
- (b) send, or arrange for the sending of, the further sample to the Institute for testing; and
- (c) if, after examining the person at or about the time that that sample is taken he forms the opinion that the person—
 - (i) is suffering, or still suffering, from brucellosis;
or
 - (ii) is suffering, or still suffering, from a condition which is consistent with a diagnosis of brucellosis,

issue a further medical certificate stating that fact and, subject to subsection (5), the period for which, in the opinion of the medical practitioner, the person will be incapacitated for work.

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(3) It is not necessary to comply with subsection (1) (c) or (2) (a) and (b) in relation to a disease or condition suffered by a person if the testing procedure as described in that subsection or a procedure similar to that procedure has been carried out (whether before or after the commencement of this Act) in respect of that disease or condition.

(4) At the request of the Institute, an authorised medical practitioner shall, so far as is reasonably practicable, take steps to obtain any further blood or other samples required by the Institute from a person from whom blood samples have been taken as referred to in this section and send them, or arrange for them to be sent, to the Institute.

(5) The period of incapacity specified in a medical certificate issued as referred to in subsection (1) or (2) shall be a period not exceeding 2 weeks.

(6) Any medical certificate issued as referred to in subsection (1) or (2) which purports to specify a period of incapacity in excess of 2 weeks shall be deemed, for the purposes of this Act, to specify a period of incapacity of 2 weeks.

(7) The Institute shall arrange for samples sent to it by an authorised medical practitioner as referred to in this section to be tested for the presence of brucellosis in such manner as it considers appropriate, having regard to any regulations made under this Act or the Principal Act in respect of such tests or the results of such tests, and shall, as soon as practicable, arrange for the results to be sent to that authorised medical practitioner.

Further
medical
certificates.

11. (1) Where—

- (a) a medical certificate has been issued in respect of a person by an authorised medical practitioner as referred to in section 10 or a subsequent medical certificate has been issued as referred to in section 10 or this section in respect of that person in relation to the same condition;

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- (b) the results of the Institute's tests of the blood or other samples taken from that person as referred to in section 10 have not been received by the authorised medical practitioner or an authorised medical practitioner acting in his place; and
- (c) an authorised medical practitioner, upon examining that person, forms the opinion that—
 - (i) he is suffering, or still suffering, from brucellosis;
or
 - (ii) he is suffering, or still suffering, from a condition which is consistent with a diagnosis of brucellosis,

the authorised medical practitioner may issue the person with a further medical certificate stating that he is suffering, or still suffering, from brucellosis or from a condition which is consistent with a diagnosis of brucellosis, as the case may be, and, subject to subsection (2), specifying the period for which, in the opinion of the medical practitioner, he will be incapacitated for work.

(2) The period of incapacity specified in a medical certificate issued as referred to in subsection (1) shall be a period not exceeding 2 weeks.

(3) Any medical certificate issued as referred to in subsection (1) which purports to specify a period of incapacity in excess of 2 weeks shall be deemed, for the purposes of this Act, to specify a period of incapacity of 2 weeks.

12. (1) Where an authorised medical practitioner receives the results of the Institute's tests of the blood or other samples taken from a person as referred to in section 10, he shall—

Procedure when results of tests received.

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- (a) where the results of the Institute's tests of that person's blood or other samples show a positive diagnosis of brucellosis—
- (i) issue a certificate to the person to that effect;
 - (ii) if he has examined that person at the time of issue of the certificate referred to in subparagraph (i), state in the certificate whether in his opinion the person is still incapacitated for work as a result of that disease and, if so, the period for which, in the opinion of the medical practitioner, he will be incapacitated for work; and
 - (iii) ascertain the name and address of the person's employer and send by post to that employer at that address a certificate in the same terms as the certificate referred to in subparagraphs (i) and (ii);
- (b) where the results of the Institute's tests of that person's blood or other samples are inconclusive or show that the person is not suffering from brucellosis or another disease for which he may be entitled to claim compensation under the Principal Act—
- (i) issue a certificate to the person to that effect;
 - (ii) if he has examined that person at the time of issue of the certificate referred to in subparagraph (i) and he is of the opinion that the person is still incapacitated for work by reason of his suffering from a condition which is consistent with a diagnosis of brucellosis, subject to subsection (3), include in the certificate a statement to that effect and, subject to subsection (4), state the period for which, in the opinion of the medical practitioner, he will be so incapacitated; and
 - (iii) ascertain the name and address of the person's employer and send by post to that employer at that address a certificate in the same terms as the certificate referred to in subparagraphs (i) and (ii); or

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- (c) where the results of the Institute's tests of that person's blood or other samples show a positive diagnosis of a disease (other than brucellosis), being a disease in respect of which that person may be entitled to claim compensation under the Principal Act—
- (i) issue a certificate to that person specifying that disease;
 - (ii) if he has examined that person at the time of issue of the certificate referred to in subparagraph (i), state on the certificate whether in his opinion the person is incapacitated for work as a result of that disease and, if so, the period for which, in the opinion of the medical practitioner, he will be incapacitated for work; and
 - (iii) ascertain the name and address of the person's employer and send by post to that employer at that address a certificate in the same terms as the certificate referred to in subparagraphs (i) and (ii).

(2) An authorised medical practitioner may from time to time after the receipt of results of the kind referred to in subsection (1) (b) in respect of a person (if he is of the opinion, on examination of that person, that he is still incapacitated for work by reason of his suffering from a condition which is consistent with a diagnosis of brucellosis) issue, subject to subsection (3), a certificate to the person to that effect and, subject to subsection (4), state in the certificate the period for which, in the opinion of the medical practitioner, he will be so incapacitated.

(3) An authorised medical practitioner shall not state in a certificate referred to in subsection (1) (b) or (2) that a person is incapacitated for work by reason of his suffering from a condition which is consistent with a diagnosis of brucellosis if he is able to form the opinion that that condition is caused by some other disease or illness.

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(4) A period of incapacity specified in a medical certificate issued as referred to in subsection (1) (b) or (2) shall be a period not exceeding 4 weeks.

(5) Any medical certificate issued as referred to in subsection (1) (b) or (2) which purports to specify a period of incapacity in excess of 4 weeks shall be deemed, for the purposes of this Act, to specify a period of incapacity of 4 weeks.

(6) Where—

(a) a person's employer suspects, on reasonable grounds, that an authorised medical practitioner has—

(i) received the results of the Institute's tests of blood or other samples taken from that person as referred to in section 10; or

(ii) issued a certificate as referred to in subsection (1) (a) (i), (b) (i) or (c) (i) in respect of that person; and

(b) that employer has not received a certificate referred to in subsection (1) (a) (iii), (b) (iii) or (c) (iii), as the case may be, in respect of that person,

that employer may request the Registrar to order that medical practitioner—

(c) if he has those results, to supply them to the employer; or

(d) if he has issued a certificate as referred to in subsection (1) (a) (i), (b) (i) or (c) (i) in respect of that person, to send to the employer a certificate as referred to in subsection (1) (a) (iii), (b) (iii) or (c) (iii), as the case may be, in respect of that person,

as the case may require.

(7) The Registrar may make an order requested under subsection (6).

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(8) Where the Registrar suspects, on reasonable grounds, that an authorised medical practitioner has—

- (a) received the results of the Institute's tests of blood or other samples taken from a person as referred to in section 10; or
- (b) issued a certificate as referred to in subsection (1) (a) (i), (b) (i) or (c) (i) in respect of a person,

the Registrar may, of his own motion, order that medical practitioner—

- (c) if he has those results, to supply them to the Registrar; or
- (d) if he has issued a certificate as referred to in subsection (1) (a) (i), (b) (i) or (c) (i) in respect of that person, to send to the Registrar a certificate as referred to in subsection (1) (a) (iii), (b) (iii) or (c) (iii), as the case may be, in respect of that person,

as the case may require.

(9) An order made under subsection (7) or (8) may be enforced by the Commission in the same way as an order of the Commission.

(10) If a person who attends for a medical examination following the receipt of the results of his tests as referred to in subsection (1) has resumed his employment and the time set for the medical examination is during his working hours, his employer shall allow him sufficient leave of absence to attend the examination and shall not deduct any amount from his wages or debit his leave entitlement in respect of that absence.

(11) For the purposes of this Act and the Principal Act, a certificate issued as referred to in subsection (1) (a) or (c) in respect of a person shall be conclusive evidence that that person has contracted brucellosis or the disease specified in the certificate, as the case may require.

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DIVISION 2.—*Payment of Compensation.*

Payment
of com-
pensation.

13. (1) Subject to this Act, when a worker's employer receives a medical certificate issued as referred to in section 10 or 11 by an authorised medical practitioner stating that the worker is suffering from brucellosis or from a condition which is consistent with a diagnosis of brucellosis and that he will be incapacitated for work for a period specified in the certificate, the employer shall within 7 days commence payment of, and pay in respect of—

- (a) the period of incapacity specified in the certificate (other than any period before the commencement of this Act); and
- (b) any period of incapacity specified in a subsequent medical certificate so issued in respect of the same disease or condition,

compensation to the worker at a rate equivalent to the rate of compensation that would be payable to the worker under the Principal Act if he were an injured worker within the meaning of that Act.

(2) For the purposes of this Act, the issue of a medical certificate as referred to in section 10, 11 or 12 (1) (b) or (2) stating that a person is incapacitated for work for a period by reason of his suffering from brucellosis or from a condition consistent with a diagnosis of brucellosis shall be deemed to terminate, with effect from the time of commencement of that period of incapacity, any period of incapacity stated in a prior medical certificate issued in respect of the same person for the same disease or condition.

(3) Any payment of compensation made by an employer under this Act does not prejudice the employer in relation to the conditions of any policy of insurance or indemnity obtained by him for the purposes of the Principal Act.

(4) An employer who, without reasonable excuse, fails to comply with subsection (1) is liable to a penalty not exceeding \$400.

Workers' Compensation (Brucellosis).

14. (1) Where an employer fails to pay compensation to a worker as required by section 13, the worker may, on production of such evidence as the Registrar may require, claim payment of compensation from the Fund.

Payment of compensation from Fund where not paid by employer.

(2) The Registrar shall decide a claim made under subsection (1).

(3) The compensation payable under this section shall be at a rate equivalent to the rate that would be payable to the worker under the Principal Act if he were an injured worker within the meaning of that Act.

15. Where—

(a) compensation (referred to in this section as the “Fund compensation”) payable to a worker under this Act in respect of a period would (but for this section) be borne either directly or indirectly by the Fund; and

Compensation to be reduced by any amount payable under the Principal Act.

(b) compensation (referred to in this section as the “Principal Act compensation”) is payable to that worker under the Principal Act in respect of the same period,

the amount of the Fund compensation shall be reduced by an amount equivalent to the amount of the Principal Act compensation.

16. (1) An employer (other than a self-insurer) who receives a certificate issued as referred to in, or results of the kind referred to in, section 12 (1) (a) or (c) in respect of a worker—

Procedure where brucellosis or another disease diagnosed.

(a) shall immediately notify his insurer in writing; and

(b) after giving notice to his insurer, may cease payment of compensation under this Act to the worker.

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(2) An insurer who receives from an employer a notice under subsection (1) (a) in respect of a worker shall, subject to subsection (3), where he is notified that the certificate issued under section 12 (1) (a) or (c) states that the worker is still incapacitated for work as a result of contracting brucellosis or another disease for which he may be entitled to claim compensation under the Principal Act, as the case may be—

- (a) immediately commence payment of compensation to the worker in accordance with his liability, if any, under the Principal Act; and
- (b) pay any other amounts due to the worker in accordance with his liability, if any, under the Principal Act.

(3) Where an insurer has, under section 23 (2), paid—

- (a) in respect of a worker and a period an amount of compensation, subsection (2) (a) does not require him to make a payment of compensation in respect of the same worker for the same period; or
- (b) in respect of a worker any other amount, subsection (2) (b) does not require him to pay the same amount.

(4) A self-insurer who receives a certificate issued as referred to in, or results of the kind referred to in, section 12 (1) (a) or (c) in respect of a worker shall, where the certificate states that the worker is still incapacitated for work as a result of contracting brucellosis or another disease for which he may be entitled to claim compensation under the Principal Act, as the case may be—

- (a) immediately commence payment of compensation to the worker in accordance with his liability, if any, under the Principal Act; and
- (b) pay any other amounts due to the worker in accordance with his liability, if any, under the Principal Act.

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(5) Without affecting the generality of the provisions of section 9 (1) (a) of the Principal Act, a period in respect of which an employer is liable to pay compensation to a worker under this Act shall, in relation to that worker, be treated as a period of incapacity for the purposes of those provisions.

17. An employer who receives a certificate issued as referred to in, or results of the kind referred to in, section 12 (1) (b) in respect of a worker may, subject to section 28, cease payment of compensation payable to the worker under this Act.

Procedure where brucellosis or another disease not diagnosed.

18. (1) Where—

(a) a worker is incapacitated for work by reason of his having contracted brucellosis (whether before or after the commencement of this Act); and

Employer to pay any difference in compensation.

(b) the compensation payable to him pursuant to the Principal Act in respect of any week after the commencement of this Act would, but for this section, be less than the worker's current weekly wage rate within the meaning of section 9 of the Principal Act,

the worker's employer shall pay to the worker in respect of that week an additional amount equal to the difference between the compensation so payable and that current weekly wage rate.

(2) Any period during which an amount is payable to a worker under subsection (1) shall, for the purposes of the Principal Act, be deemed to be a period during which the compensation payable to that worker is at the worker's current weekly wage rate within the meaning of section 9 of the Principal Act.

(3) Where an employer fails to pay compensation to a worker as required by this section, the worker may, on production of such evidence as the Registrar may require, claim payment of that compensation from the Fund.

(4) The Registrar shall decide a claim made under subsection (3).

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Payment in respect of part of a week.

19. Where compensation is payable under this Act for incapacity for part of a week, the amount payable shall bear the same ratio to compensation for a full week that normal working time during the part of the week bears to the worker's full normal working week.

Medical expenses.

20. (1) Where a worker's employer receives a medical certificate stating that the worker is suffering from brucellosis or from a condition which is consistent with a diagnosis of brucellosis, section 10 of the Principal Act shall, to the extent (if any) that it does not apply to that employer in respect of that worker's condition, so apply in the same way as it applies to an employer of a worker who has received an injury within the meaning of that Act.

(2) Without prejudice to the generality of subsection (1), the employer of a worker shall (in addition to the liability imposed by subsection (1)) be deemed to be liable under section 10 of the Principal Act to pay—

- (a) the cost of the medical examinations of that worker as referred to in sections 10, 11, 12 and 29 (being medical examinations which are reasonably necessary for the purposes of those sections) and the cost to the worker of any fares, travelling expenses and maintenance necessarily and reasonably incurred by him in attending those medical examinations; and
- (b) the cost (if any) of the tests carried out by the Institute as referred to in section 10.

DIVISION 3.—*Reimbursement.*

Reimbursement of compensation paid under section 14.

21. (1) Where a worker is paid compensation under section 14 and—

- (a) the Registrar receives a medical certificate to the effect, or otherwise becomes aware, that the results of the Institute's tests of the blood or other samples taken from that worker as referred to in section 10 show a positive

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diagnosis of brucellosis or another disease for which that worker may be entitled to claim compensation under the Principal Act; or

- (b) a medical board has, under this Act, certified that the worker is suffering from brucellosis or another disease for which he may be entitled to claim compensation under the Principal Act,

the Registrar, on behalf of the Fund, may, by instrument in writing sent by post, claim reimbursement of the amount paid under section 14 from—

- (c) the insurer from whom the worker's employer has obtained a policy of insurance or indemnity for the purposes of the Principal Act; or
- (d) where the worker's employer is a self-insurer—the worker's employer.

(2) Subject to subsection (5), an insurer or employer shall, within 14 days of the making of a claim against him under subsection (1), pay the amount claimed to the Registrar.

(3) Any amount referred to in subsection (2) remaining unpaid after 14 days of the making of the claim under subsection (1) in respect of it may be recovered by the Registrar as a debt.

(4) A certificate issued by the Registrar stating that, in relation to a worker, any of the events referred to in subsection (1) have taken place, shall, in any proceedings for recovery of an amount under subsection (3), be conclusive evidence of the matters stated in the certificate.

(5) If a worker is not entitled to compensation under the Principal Act in respect of a disease specified in a certificate referred to in, or indicated in results of the kind referred to in, subsection (1), a claim by the Registrar under subsection (1) in respect of that certificate or those results shall not be payable by the insurer or employer, as the case may be.

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Reimbursement where compensation payable under the Principal Act in respect of the same period.

22. (1) Where compensation paid to a worker under this Act in respect of a period (other than compensation paid under section 18) has been borne either directly or indirectly by the Fund and compensation is payable to that worker under the Principal Act in respect of the same period, the Fund shall be reimbursed to the extent of the payment from the Fund (less any amount reimbursed under section 21 in respect of that compensation) by—

- (a) the insurer from whom the worker's employer has obtained a policy of insurance or indemnity for the purposes of the Principal Act; or
- (b) where the worker's employer is a self-insurer—the worker's employer.

(2) The Registrar, on behalf of the Fund, may, by instrument in writing sent by post to an insurer or employer, as the case may require, request payment of an amount reimbursable under subsection (1) and, if the amount is not paid within 14 days of the making of the request, recover the amount as a debt.

Reimbursement by insurer of compensation paid.

23. (1) An employer (other than a self-insurer) who receives a certificate issued as referred to in, or results of the kind referred to in, section 12 (1) (a) or (c) in respect of a worker may claim from his insurer reimbursement of the amount of compensation which he is liable to pay and has paid to the worker under this Act (not being an amount required to be paid under section 18) and any medical, hospital or other expenses which he is liable to pay and has paid pursuant to section 20 in respect of the worker.

(2) An insurer who receives from an employer a notice under section 16 (1) (a) in respect of a worker shall, subject to subsection (3), pay to the employer the amount claimed under subsection (1).

(3) If a worker is not entitled to compensation under the Principal Act in respect of a disease specified in a certificate issued as referred to in, or indicated in results of the kind referred to in, section 12 (1) (a) or (c), a claim by the worker's employer under

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subsection (1) in respect of that certificate or those results shall not be payable by his insurer but the employer shall be entitled to claim from the Fund reimbursement of the amounts referred to in subsection (1) in respect of that worker.

(4) A self-insurer who receives a certificate issued as referred to in, or results of the kind referred to in, section 12 (1) (a) or (c) in respect of a worker may, if—

(a) the certificate states that the worker is still incapacitated for work as a result of contracting brucellosis or another disease for which he may be entitled to claim compensation under the Principal Act; and

(b) the worker is not entitled to compensation under the Principal Act in respect of the disease,

claim from the Fund reimbursement of the amounts referred to in subsection (1) in respect of that worker.

(5) The Registrar shall, on production to him of such evidence as he may require, decide a claim made under subsection (3) or (4).

24. (1) An employer who receives a certificate issued as referred to in, or results of the kind referred to in, section 12 (1) (b) in respect of a worker may claim from the Fund reimbursement of the amount of compensation which he is liable to pay and has paid to the worker and any medical, hospital or other expenses which he is liable to pay and has paid pursuant to section 20. **Reimbursement from Fund of compensation paid.**

(2) Where—

(a) an employer is liable to pay and has paid to a worker compensation under section 13 in respect of a period of incapacity; and

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- (b) for some reason tests of blood or other samples from that worker in relation to that incapacity will not be carried out as referred to in section 10,

the employer may claim from the Fund reimbursement of the amount of compensation so paid and any medical, hospital or other expenses which he is liable to pay and has paid pursuant to section 20.

- (3) The Registrar shall, on production to him of such evidence as he may require, decide a claim made under subsection (1) or (2).

Reimburse-
ment of
compensa-
tion paid
under
section 18.

25. (1) An employer may claim reimbursement from the Fund of any amount which he is liable to pay and has paid pursuant to section 18.

- (2) The Registrar shall, on production to him of such evidence as he may require, decide a claim made under subsection (1).

DIVISION 4.—*Review and Determination of Certain Matters by the Commission.*

Review of
claims by
Commission.

26. (1) A person who is dissatisfied with a decision of the Registrar under section 12 (6), (7) or (8) or under section 14 (2), 18 (4), 23 (5), 24 (3) or 25 (2) may, by application in writing, require the Registrar to refer the matter to the Commission for review.

- (2) The Commission may, after reviewing a matter referred to it under subsection (1)—

- (a) affirm the decision of the Registrar; or
- (b) substitute its own determination for the decision of the Registrar.

- (3) The Registrar shall give effect to a determination of the Commission under subsection (2).

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27. (1) The Commission may, for the purposes of this Act, determine that a person is incapacitated for work by reason of his suffering from brucellosis or from a condition consistent with a diagnosis of brucellosis during any period, notwithstanding that an authorised medical practitioner has not issued a medical certificate as referred to in this Act in respect of that person for that period. Commission to determine certain matters.

(2) Section 36 of the Principal Act applies to a condition consistent with a diagnosis of brucellosis and the payment of compensation under this Act in respect thereof in the same way as it applies to an injury and the payment of compensation in respect thereof under the Principal Act.

(3) For the purposes of this Act, a period of incapacity determined by the Commission pursuant to subsection (1) shall be deemed to be a period of incapacity specified in a medical certificate issued by an authorised medical practitioner.

PART IV.

APPLICATION FOR A MEDICAL BOARD.

28. (1) A worker who is notified that the results of the tests carried out by the Institute in respect of him are negative or inconclusive as referred to in section 12 (1) (b) may, within 14 days, lodge with the Registrar an application in or to the effect of the form prescribed by the rules for his case to be considered by a medical board and shall, within 7 days of making that application, notify his employer that he has made that application. Application for medical board.

(2) An application under subsection (1) shall include the applicant's consent to any medical practitioner who has issued a medical certificate as referred to in Division 1 of Part III in respect of the applicant making available to a medical board his clinical notes pertaining to the condition to which the application relates.

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(3) If an employer who has been notified that a worker has made an application for a medical board under subsection (1) has ceased payment of compensation to that worker pursuant to section 17, he shall—

- (a) subject to subsection (4), recommence payment of that compensation with effect from the date on which the payment ceased; and
- (b) subject to this Act, continue to pay that compensation.

(4) Compensation shall only be paid to a worker under subsection (3) in respect of a period of incapacity specified in a medical certificate issued in respect of that worker as referred to in section 12 (1) (b) or (2).

Medical
board.

29. (1) A medical board shall consist of 2 or more legally qualified medical practitioners appointed by the Commission, at least one of whom shall be a specialist physician experienced in the treatment or diagnosis, or both, of zoonotic diseases and who is nominated by the Health Commission of New South Wales.

(2) The remuneration of, and other expenses incurred by, the members of a medical board appointed under subsection (1) shall, subject to the rules, be paid by the Commission out of the fund established under section 41 of the Principal Act.

(3) A medical practitioner who has been employed as a medical practitioner in connection with any case by or on behalf of—

- (a) a person in respect of whom a medical board is or is to be constituted;
 - (b) the person's employer in relation to that person; or
 - (c) the employer's insurer in relation to that person,
- shall not act as a member of the medical board.

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(4) A medical board constituted to consider an application lodged by a worker—

- (a) may request the worker to undergo such examinations, investigations or tests as it considers necessary;
- (b) may request a medical practitioner who issued a medical certificate as referred to in Division 1 of Part III in respect of the worker to make available to it his clinical notes pertaining to the worker's illness; and
- (c) subject to the approval of the Commission where expenditure of money is required, obtain and take into consideration such information and reports (including reports from specialist medical practitioners) as it considers necessary.

(5) A medical practitioner shall not be obliged to make available to the medical board the clinical notes relating to a worker requested under subsection (4) (b) if the worker has not consented to those notes being so made available.

(6) If a worker, upon being requested to do so, does not submit himself for an examination, an investigation or a test as referred to in subsection (4) (a), or in any way obstructs such an examination, investigation or test, his right to have his application considered by a medical board under this Part shall lapse.

(7) The Commission or the Registrar may, in any case, and an employer may, in the case of an application by one of his workers, submit to a medical board constituted under this section to consider an application by a worker any matter which, to the Commission, the Registrar or the employer, as the case may be, seems material to any proceedings before the board.

(8) A medical board constituted under this section to consider an application by a worker shall, following its consideration of that application, issue a certificate—

- (a) as to the condition of the worker at the time of that consideration; or

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(b) stating its opinion as to the condition of the worker at a time specified in the certificate,

or both.

(9) A certificate referred to in subsection (8) shall, for the purposes of this Act or the Principal Act, be conclusive evidence of the matters certified therein.

(10) A medical board shall forward a certified copy of a certificate issued under subsection (8) in respect of a worker to the worker's employer, the employer's insurer and the Registrar.

Decision
of medical
board.

30. (1) A certificate issued by a medical board certifying that a worker is suffering from brucellosis or another disease for which he is entitled to claim compensation under the Principal Act shall, for the purposes of sections 16 and 23, be deemed to be a certificate issued as referred to in section 12 (1) (a) or (c).

(2) A certificate issued by a medical board certifying that a worker is not suffering from brucellosis or another disease for which he is entitled to claim compensation under the Principal Act shall, for the purposes of sections 17 and 24, be deemed to be a certificate issued as referred to in section 12 (1) (b).

Recovery of
lost wages,
etc.

31. A worker who has made an application for a medical board under this Part shall, unless the Commission (on application being made to it by the worker's employer) holds that the worker's application was unreasonable or unnecessary, be entitled to recover from his employer, in addition to any compensation otherwise provided—

(a) the amount of any wages lost by him; and

(b) the cost to him of any fares, travelling expenses and maintenance necessarily and reasonably incurred,

by reason of his appearing before the medical board or undergoing any examination, investigation or test requested by the board.

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PART V.

MISCELLANEOUS.

32. The Health Commission of New South Wales may appoint—

Authorisation of medical practitioners.

- (a) all legally qualified medical practitioners;
- (b) all legally qualified medical practitioners other than certain legally qualified medical practitioners or certain classes of legally qualified medical practitioners;
- (c) certain legally qualified medical practitioners; or
- (d) certain classes of legally qualified medical practitioners,

to be authorised medical practitioners for the purposes of this Act, and may at any time revoke any such appointment in respect of any particular medical practitioner or class of medical practitioners.

33. No matter or thing done, or omitted to be done, by the Registrar in good faith for the purposes of this Act shall subject him personally to any action, liability, claim or demand.

Exemption of Registrar from personal liability.

34. Notwithstanding the provisions of the Principal Act, an insurer shall not be liable to pay compensation or any other amount which an employer is liable to pay under section 13, 18, 20 or 28 unless this Act expressly requires the insurer to pay that compensation or other amount.

Insurer's liability.

35. (1) Without prejudice to the generality of his powers to make regulations under the Principal Act, the Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to the manner of payment of contributions to the Fund.

Regulations.

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(2) A regulation may impose a penalty not exceeding \$100 for an offence against the regulations and, in addition, for a continuing offence, a daily penalty not exceeding \$10.

(3) Without prejudice to the generality of section 2 (2) or of subsection (1), the Governor may make regulations providing that—

- (a) the regulations made under the Principal Act;
- (b) those regulations other than specified provisions; or
- (c) such of the provisions of those regulations as are specified,

shall not apply to matters under this Act.

Rules.

36. (1) Without prejudice to the generality of its powers to make rules under the Principal Act, the Commission may make rules, not inconsistent with this Act or the regulations, for or with respect to—

- (a) the times at which, the periods within which and the manner in which—
 - (i) claims for payment of compensation or reimbursement shall be made under this Act; and
 - (ii) applications under section 26 or 31 shall be lodged; and
- (b) any other matter that by this Act is required or permitted to be prescribed by rules.

(2) Without prejudice to the generality of section 2 (2) or subsection (1), the Commission may make rules providing that—

- (a) the rules made under the Principal Act;
- (b) those rules other than specified provisions; or
- (c) such of the provisions of those rules as are specified,

shall not apply to matters under this Act.

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37. Where, under this Act, the regulations or the rules, any notice, application, claim or other document is required to be given, lodged or made at a specified time or within a specified period, the Commission may, if it considers it warranted in the circumstances, extend that time or period. ^{Extensions of time.}

38. (1) The Commission may delegate any of its powers or functions under this Act, other than its power to make rules, to any one member of the Commission or, except in the case of a power or function under section 26, to the Registrar. ^{Delegation.}

(2) A delegation under this section—

- (a) may be general or particular; or
- (b) may be subject to such conditions as to the exercise of the power or the performance of the function as the Commission considers necessary.

PART VI.

DURATION OF ACT.

39. Without limiting the generality of section 8 of the Interpretation Act, 1897, any certificate issued as referred to in this Act and in force immediately before the date of the repeal effected by section 41 shall continue to have force and effect as if that repeal had not been effected. ^{Saving.}

40. Any money remaining in the Fund as at the date of the repeal effected by section 41, not being money required to pay any claims arising under this Act before that date, shall be refunded to the employers who have contributed to the Fund, or to such of those employers as the Insurance Premiums Committee determines, according to a formula determined by the Insurance Premiums Committee and approved by the Minister. ^{Winding up of the Fund.}

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Repeal of
provisions
of Act.

41. On and from 1st January, 1985, this Act, Part I and this Part excepted, is repealed.

Secs. 4
(1), 9.

SCHEDULE 1.

EMPLOYERS AND WORKERS.

Column 1.	Column 2.
Employers.	Workers.
An employer of a person who is a member of a class of persons specified or described in Column 2.	Slaughtermen and labourers working on the slaughter floor of an abattoir or slaughter-house; any person working in an area of an abattoir or slaughter-house which handles raw by-products of the abattoir or slaughter-house; any person penning up cattle or running cattle through a race at an abattoir or slaughter-house; any person handling a cattle carcass at an abattoir or slaughter-house up to the time of inspection by a meat inspector; any person employed by an abattoir or slaughter-house and required by his employer to be at any time on the slaughter floor or to be on any part of an abattoir or slaughter-house which handles raw by-products of the abattoir or slaughter-house.