

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 2 December, 1964.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with
an Amendment.*

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, December, 1964.*

New South Wales



ANNO TERTIO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1964.

An Act to amend the law relating to workers' compensation; to amend the Workers' Compensation Act, 1926, the Workers' Compensation (Silicosis) Act, 1942, the Workmen's Compensation (Broken Hill) Act, 1920, the Common Law Procedure Act, 1899, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith.

BE

Workers' Compensation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Workers' Compensation (Amendment) Act, 1964".

Short title,
citation and
commence-
ment.

(2) This Act, section eight excepted, shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. In this Act a reference to the commencement of this Act shall be read and construed as a reference to such day.

(3) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) The Principal Act, as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1964.

2. (1) The Principal Act is amended—

Amendment
of Act No.
15, 1926.

(a) (i) by omitting from paragraph (a) of subsection one of section nine the words "ten pounds ten shillings" and by inserting in lieu thereof the words "eleven pounds fifteen shillings";

Sec. 9.
(Total or
partial
incapacity.)

(ii) by omitting from the same paragraph the words "seven pounds" and by inserting in lieu thereof the words "eight pounds";

(iii) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words "three pounds" and by inserting in lieu thereof the words "three pounds three shillings";

(iv)

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- (iv) by inserting in subparagraph (ii) of the same paragraph after the words "in loco parentis" the following word and new paragraph :—
- “; and
- 5 (c) each person being a student who is a child or stepchild of the worker or to whom the worker stands in loco parentis”;
- (v) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words “three pounds” and by inserting in lieu thereof the words “three pounds three shillings”;
- 10 (vi) by inserting in subparagraph (ii) of the same paragraph after the word “sister” the words “who is”;
- 15 (vii) by inserting in the same subparagraph after the words “sixteen years” the words “or a student and”;
- (viii) by inserting at the end of the same subsection the following words :—
- 20 “In this subsection ‘student’ means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or university.”
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- (b) (i) by omitting from paragraph (a) of subsection (1A) of the same section the words and figures “Workers’ Compensation (Further Amendment) Act, 1960” and by inserting in lieu thereof the words and figures “Workers’ Compensation (Amendment) Act, 1964”;
- 30 (ii) by omitting from paragraph (c) of the same subsection the words “assessed and calculated under and in accordance with paragraph (a)

or

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- 5 or (b) of subsection two of section 61v of the Industrial Arbitration Act, 1940-1961" and by inserting in lieu thereof the words "appropriate by virtue of paragraph (a) or (b) of subsection two of section 61k, 61v or 61AA of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted at the relevant time under the said Act, as so amended";
- 10 (c) (i) by omitting from subsection four of the same section the words "six pounds ten shillings" and by inserting in lieu thereof the words "seven pounds five shillings";
- 15 (ii) by omitting from the same subsection the words "four pounds seventeen shillings and sixpence" and by inserting in lieu thereof the words "five pounds ten shillings";
- 20 (d) (i) by omitting from subsection five of the same section the words "nine pounds five shillings" and by inserting in lieu thereof the words "ten pounds ten shillings";
- (ii) by omitting from the same subsection the words "seven pounds" and by inserting in lieu thereof the words "eight pounds";
- 25 (e) by inserting in paragraph (a) of subsection six of the same section after the words "in loco parentis" the words "or any person being a student as defined in subsection one of this section who is a child or stepchild of the worker or to whom
- 30 the worker stands in loco parentis".

(2) The amendments made by subsection one (paragraph (b) excepted) of this section shall be deemed to extend to, and from the commencement of this Act, apply in respect of all persons in receipt of or entitled to weekly payments under the provisions of section nine of the Principal Act,

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Act, or under the provisions of the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

5 3. (1) The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

(a) by inserting next after paragraph (a) of subsection 14C) of section six the following new paragraph :—

Sec. 6. (Definitions.)

10 (a1) as a boxer, wrestler or referee in any boxing or wrestling contest in or upon the premises of a club registered under Part X of the Liquor Act, 1912, as amended by subsequent Acts; or;

15 (b) by inserting at the end of subsection one of section seven the following new paragraph :—

Sec. 7. (Liability of employers to workers for injuries.)

(g) For the purposes of this subsection a worker's journey from his place of abode shall be deemed to have commenced at, and the terminal point of his journey to his place of abode to be—

20 (i) if his place of abode is a flat or home unit in a residential flat building or home unit building—that exit of the flat or home unit whereby he departed on his journey from his place of abode, or that entrance of the flat or home unit whereby he entered or would but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be;

25 (ii) in every other case where his place of abode is or is within a building or structure—that exit of the building or structure whereby he departed on his journey from his place of abode, or that entrance of the building or structure whereby he entered or would
30 but

Workers' Compensation (Amendment).

but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be.

5 (c) (i) by inserting in paragraph (a) of the definition of "Medical treatment" in subsection two of section ten after the word "masseur" the words "or remedial medical gymnast or **speech therapist**"; Sec. 10. (Medical and hospital treatment, &c.)

10 (ii) by inserting at the end of subsection four of the same section the following new paragraph:—

15 (c) Any sum for which the employer becomes liable in respect of medical treatment under this subsection may be recovered from the employer by the person who afforded the medical treatment.

20 (d) (i) by inserting in subsection one of section 10A after the words "specified in the order" the following new subsection:— Sec. 10A. (Damages to artificial limbs, etc.)

25 (1A) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and has, as a result thereof, sustained any damage of the nature referred to in subsection one of this section, shall if the accident did not happen—

30 (a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be; or

(b)

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- 5 (b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey,
- 10 be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :
- 15 Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.
- 20 (ii) by inserting in the same subsection immediately before the words "The provisions" the symbols, figure and letter "(1B)";
- 25 (e) (i) by inserting in section 10B after the words "specified in the order" the following new subsection :— Sec. 10B.
(Damage to clothing.)
- 30 (2) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and whose clothing has, as a result thereof, been damaged shall if the accident did not happen—
- 35 (a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment

Workers' Compensation (Amendment).

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employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be; or

(b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey,

be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :

Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.

(ii) by inserting in the same subsection immediately before the words "The provisions" the symbols and figure "(3)";

(f) (i) by omitting from paragraph (a) of subsection one of section eleven the words "the amount of the average weekly earnings of the worker before the injury" and by inserting in lieu thereof the words "the weekly amount which the worker would probably have been earning as a worker but for the injury and had he continued to be employed in the same or some comparable employment";

Sec. 11.
(Partial incapacity.)

(ii) by omitting paragraphs (b), (c) and (d) of the same subsection;

(g)

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(g) by inserting next after section twelve the following new section :— New sec.
12A.

5 12A. A worker who as a result of injury is unable without immediate and substantial risk of further injury to engage in employment of a certain kind by reason of the nature of that employment shall be deemed to be incapacitated for employment of that kind. Incapacity
deemed to
exist in
certain
cases.

10 (h) (i) by omitting subsection one of section sixteen and by inserting in lieu thereof the following subsection :— Sec. 16.
(Compensa-
tion for
certain
injuries.)

15 (1) A worker who has received an injury mentioned in the first column of the table hereunder set forth shall be entitled to receive from his employer by way of compensation for that injury, in addition to any other compensation prescribed by this Act, the amount indicated in respect of that injury in the second column of that table.

20 (ii) by inserting next after subsection (1A) of the same section the following new subsection :—

25 (1B) (a) A worker who has received an injury which is not or is not wholly an injury mentioned in the table hereunder set forth and which has resulted in severe facial disfigurement shall be entitled to receive from his employer by way of compensation for that injury, in addition to any other compensation prescribed by this Act, an amount, not exceed-
30 ing in any case two hundred pounds, as may be agreed upon, or in default of agreement as may be assessed as appropriate by a medical board in accordance with the provisions of this subsection.

(b)

Workers' Compensation (Amendment).

(b) The Commission or the Registrar shall, on application by a person claiming to be entitled as a worker to compensation under this subsection and on payment by the applicant of such fee, not exceeding one pound, as may be prescribed by rules, refer to a medical board constituted in accordance with section fifty-one of this Act for determination of the questions whether severe facial disfigurement exists and if so what amount of compensation is appropriate as compensation therefor, and the decisions of the medical board shall be final and conclusive.

(c) Wherever practicable, at least one of the medical referees of whom a medical board is for the purposes of this subsection constituted shall be a specialist in plastic surgery.

(iii) by omitting subsection two of the same section ;

(iv) by inserting in the first column of the table set forth at the end of the same section after the item "†Loss of hearing of one ear" the following new item :—

"†Loss of the power of speech"

and by inserting in the second column of that table opposite the words so inserted the figures "1,750 0 0";

(v) by inserting at the foot of the same table the following new footnote :—

"†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".

(i)

Workers' Compensation (Amendment).

(i) (i) by omitting from subsection five of section Sec. 18. eighteen the words "twelve months after such (Compulsory failure" and by inserting in lieu thereof insurance.) the words "two years after such failure. In any such proceedings, proof that the employer, not being a self-insurer, having been served pursuant to subsection one of section 18A of this Act with a notice requiring him to produce for inspection a policy of insurance or indemnity obtained by him and in force at a specified date or between specified dates has not so produced any such policy so in force and that the time stated in the notice for such production has expired shall be sufficient evidence, unless the contrary be proved, that at that date or between those dates, as the case may be, the employer had failed to comply with the provisions of subsection one of this section."

(ii) by inserting at the end of the same section the following new subsection : —

(8) (a) Every employer shall keep correct records of all wages paid to the workers employed by him, and of the trade, occupation or calling of each worker, and of such other matters relating to the wages so paid as may be prescribed, and shall retain such records in his possession in good order and condition for a period of at least three years.

Such records may be combined with any records of wages required by any Act other than this Act to be kept by the employer.

(b)

Workers' Compensation (Amendment).

5 (b) The Commission may, on application by an insurer who has issued a policy of insurance or indemnity to an employer, and whether or not such policy is still in force, order the employer—

10 (i) to supply to the insurer within a time specified in the order a full and correct statement of all wages paid during a period so specified to the workers in the employment of that employer, together with such information as to the trades, occupations or callings of the workers and other prescribed matters relating to those wages as may be so specified. The period to be specified in the order shall be a period when the policy was in force and which commenced not more than three years before the making of the application;

15 (ii) to make available at or within such time or times and at such place as is specified in the order, for inspection by—

25 (a) an officer authorised in that behalf by the Commission;

30 (b) a person authorised in that behalf by the insurer and so specified,

the records required by this subsection to be kept by the employer and at the time of the order to be retained by him in respect of a period so specified, being a period when the policy was in force.

35 (c)

Workers' Compensation (Amendment).

5 (c) Any officer or person authorised under subparagraph (ii) of paragraph (b) of this subsection may inspect such records in accordance with the terms of the order and make copies thereof and take extracts therefrom.

10 (d) The Commission on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection may order the employer to pay to the insurer such amount as the Commission may having regard to the operation of this subsection find to be due and payable as a premium or balance of premium in respect of a policy of insurance or indemnity or any renewal thereof.

15 (e) The Commission, on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection, or by the Registrar, may if satisfied that the employer has failed to comply with the order call upon him to show cause why he should not be dealt with for contempt of the Commission, and if 20 he fails so to show cause the Commission may impose on him a fine not exceeding two hundred pounds or order him to be imprisoned for a period not exceeding six months.

25 Nothing in this paragraph shall affect the jurisdiction of the Commission to make a further order or orders against the employer under the said paragraph (b).

30 The provisions of section eighty-two of the Justices Act, 1902, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any fine so imposed and the persons on whom it is imposed.

(j)

Workers' Compensation (Amendment).

(j) (i) by omitting from paragraph (a) of subsection one of section 18A the words "any policy of insurance or indemnity" and by inserting in lieu thereof the words "the policy of insurance or indemnity obtained by the employer and in force at such date or between such dates, whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the notice specifies";

Section 18A.
(Inspection
of policies.)

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(ii) by inserting next after the same subsection the following new subsection—

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(1A) A worker who has received an injury, or has met with an accident arising out of or in the course of his employment or on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies, or has received an injury during any absence referred to in paragraph (e) of the said subsection, or a solicitor for the time being authorised by such worker to act on behalf of the worker in relation to a claim for compensation under this Act in respect of that injury or accident, or a representative of a union to which the worker belongs, may by notice in writing require the employer to make available for inspection a policy of insurance or indemnity in force in respect of the worker at the time whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, when the injury was received or the accident happened, as the case may be.

(iii)

Workers' Compensation (Amendment).

(iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections :—

5 (2) (a) An employer who obtains a policy of insurance or indemnity shall retain the same in his possession in good order and condition at all times while he is employing workers in respect of whom the policy is in force and for at least three years thereafter.

10 (b) An employer who has in his possession or is required by this subsection to have in his possession such a policy of insurance or indemnity as is referred to in a notice served on him pursuant to this section and who fails to comply with any requirement of the notice within the time for compliance and in the manner stated therein shall be guilty of an offence against this Act.

20 (3) In this section "union" means industrial union of employees registered under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and "representative" means the secretary of a union or an officer for the time being authorised under section 129A of the said Act, as so amended, to exercise powers under that section.

(k) (i) by inserting in subsection two of section 18C after the word "obtains" the words "or has applied for or applies for"; Sec. 18c. (Uninsured liability scheme.)

30 (ii) by omitting from the same subsection the words "awarded, and costs, as has not been paid" and by inserting in lieu thereof the words "and costs of the application therefor as has been awarded and has not been paid or as may be awarded and not be paid, as the case may require, and in respect of the costs of the claim";

(iii)

Workers' Compensation (Amendment).

- (iii) by omitting paragraphs (a), (b) and (c) of the proviso to subsection three of the same section;
- 5 (iv) by omitting from paragraph (e) of the proviso to the same subsection the words "notwithstanding anything to the contrary in the foregoing provisions of this subsection";
- 10 (v) by omitting paragraph (a) of subsection five of the same section and by inserting in lieu thereof the following paragraphs :—

15 (a) Where a claim is made under the Scheme by a worker at the same time as he applies for an award of the compensation to which the claim relates, or whose application for such award is then pending, the Commission may hear and determine the claim either concurrently with or after the hearing and determination of such application.

20 (a1) Where a claim under the Scheme has been made and the employer does not appear and defend the application for an award of compensation, or where such award has prior to the making of the claim been obtained from the Commission in default of appearance by the employer, or by consent of the worker and the employer, or if in any case the Commission for any reason thinks fit, the Commission may cause to be made such inquiries as may be deemed necessary to determine the genuineness of the grounds on which the award is sought or was based. The Commission may adjourn the application, or if an award has been made may reopen the same, and
order

Workers' Compensation (Amendment).

5 order its Registrar, or some other fit person, to take and defend the proceedings in substitution for the employer, and to such Registrar or person for such purposes all the rights of the employer shall be subrogated.

(vi) by inserting next after subsection seven of the same section the following new subsection :—

10 (7A) Where in the opinion of the Commission or the Registrar the question has arisen whether an insurer is the insurer under this Act of an employer whose worker is making a claim under the Scheme the Commission or Registrar, as the case may be, may notify the insurer of the proceedings and such notice shall operate to join the insurer as a party to the proceedings. Joinder of insurers.

(vii) by omitting subsection nine of the same section;

20 (1) by inserting next after section 18c the following new section :— New sec. 18d.

25 18D. The provisions of sections one hundred and ninety-nine, two hundred and thirty and two hundred and sixty-three of the Companies Act, 1961, as amended by subsequent Acts, shall not preclude a person from applying for an award of compensation or proceeding with such application without the leave of the Supreme Court in its equitable jurisdiction. Any award of compensation made pursuant to an application authorised by this section shall have force and effect only for the purposes of section 18c of this Act and not otherwise and notwithstanding any such provisions of the Companies Act, 1961, as so amended. Leave to proceed not necessary in certain cases.

Workers' Compensation (Amendment).

- (m) by omitting from subsection one of section thirty-one the words "and not more than four"; Sec. 31.
(Appoint-
ment of
Commis-
sion.)
- 5 (n) by inserting next after paragraph (e) of subsection four of section thirty-six the following new paragraph :— Sec. 36.
(Jurisdic-
tion.)
- (e1) the weekly amount or sum, as the case may be, in accordance with subsection one of section eleven or subsection two of section sixty of this Act;
- 10 (o) (i) by inserting in subsection one of section forty-three after the word "claims" the words "together with—" Sec. 43.
(Posting of
summary of
Act.)
- 15 (a) in a case where the employer has pursuant to subsection one of section eighteen of this Act obtained a policy of insurance or indemnity in respect of the persons there employed and the policy is for the time being in force, a statement setting forth the name and address of the insurer from whom the policy was obtained and stating that insurance under this Act has been effected with that insurer;
- 20 (b) in a case where the employer is a self-insurer, a statement that the employer is licensed as a self-insurer under this Act."
- 25 (ii) by inserting in subsection two of the same section after the word "summary" where secondly occurring the words "or statement";
- 30 (iii)

Workers' Compensation (Amendment).

5 (iii) by inserting in subsection three of the same section after the words "this Act" the words "and be liable to a penalty not exceeding twenty pounds for each day during which the offence continues";

(p) by omitting subsection four of section forty-six; Sec. 46.
(Seamen.)

(q) by inserting next after section forty-nine the following new section :— New sec.
49A.

10 49A. (1) Where an employer has entered into a contract with any insurer in respect of any liability under this Act to any worker, then in the event of the death of the employer, or an employer, being a corporation (other than a company which has commenced to be wound up), ceasing to exist, the rights the employer but for death or so ceasing would have had against the insurer as respects that liability shall be transferred to and vest in the worker. Death of employer.

20 Upon any such transfer the insurer shall have the same rights and remedies and be subject to the same liabilities as if such insurer were the employer, so however that the insurer shall not be under any greater liability to the worker than the insurer would have been under to the employer.

25 (2) In the event of the death of the employer the worker may, if the liability of the insurer to the worker is less than the liability of the employer to the worker, proceed for the balance against the personal representative of the employer.

(r)

Workers' Compensation (Amendment).

(r) by inserting next after section 53B the following new sections :— New secs. 53c, 53d.

5 53c. A person who has applied to the Commission for awards of compensation in respect of an injury to or incapacity of a worker or the death of a worker against two or more persons alleged to have been the employers of that worker either at the same time or at different times shall be entitled, if he so requests, to have all or any such applications heard together. Applications to be heard together.

10 53d. Proceedings for the recovery of compensation under this Act may be instituted by a person notwithstanding that he is under the age of twenty-one years. Recovery of compensation by minors.

15 (s) by inserting at the end of section sixty-three the following new subsection :— Sec. 63. (Negligence.)

20 (6) In this section "judgment" does not include any order or direction made or given pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, for the payment of a sum by way of compensation for an injury, but any sum so paid to a worker pursuant to such an order or direction shall be deducted from the compensation payable to him under this Act in respect of the injury. 25

(t) by inserting at the end of section sixty-four the following new subsection :— Sec. 64. (Remedies against both employer and stranger.)

30 (2) In this section "damages" does not include any sum ordered or directed pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, to be paid by way of compensation for an injury, but any such sum so paid to a worker shall be deducted from the compensation payable to him under this Act in respect of the injury. 35

Workers' Compensation (Amendment).

(2) (a) The amendments made by paragraphs (f) and (g) of subsection one of this section shall as from the commencement of this Act apply to and in respect of injuries received before as well as to those received after such
5 commencement.

(b) The amendment made by subparagraph (i) of paragraph (h) of subsection one of this section shall apply to and in respect of injuries received before the commencement of this Act by workers who have not before such com-
10 mencement made an election pursuant to subsection one of section sixteen of the Principal Act, as well as to injuries received after such commencement.

Where a worker who becomes by reason of the amendments effected by subparagraph (i) of paragraph (h) of subsection
15 one of this section and the foregoing provisions of this paragraph entitled to compensation under section sixteen of the Principal Act, as amended by this Act, applies to his employer for such compensation after the commencement of this Act, the amount payable to him under that section shall, whether
20 the injury was received before or after the commencement of the Workers' Compensation (Further Amendment) Act, 1960, be the appropriate amount indicated in the table set forth at the end of that section and as substituted by that Act.

(c) The amendments made by subparagraphs
25 (iii) and (iv) of paragraph (k) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and sixty-one.

(d) (i) The amendments made by paragraphs (q), (s) and (t) of subsection one of this section shall be
30 deemed to have commenced on the first day of July, one thousand nine hundred and twenty-six.

(ii)

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(ii) Nothing in this paragraph shall affect the rights of any parties to any claim, action, suit or proceeding which has before the commencement of this Act been determined where the time within which an appeal, including an application to Her Majesty in Council, from any such determination might have been made has expired before such commencement.

4. The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

(a) by omitting section 17A and by inserting in lieu thereof the following section :—

Subst. sec. 17A.

17A. This Part of this Act shall not apply to or in respect of—

Bush fire fighters compensation.

(a) an injury received by a fire fighter arising out of or in the course of fighting a bush fire, or the destruction of or any damage to wearing apparel or personal effects upon a fire fighter whilst fighting a bush fire, or the destruction of or any damage to the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, of a fire fighter whilst he was fighting a bush fire—if the place at which he was fighting the bush fire was within a fire district constituted under the Fire Brigades Act, 1909, as amended by subsequent Acts;

(b) an injury received by a fire fighter arising out of or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which the fire fighter was called, and the bush fire, or the destruction of or any damage

Workers' Compensation (Amendment).

- 5 damage to wearing apparel or personal effects upon a fire fighter or his crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, while so journeying or the destruction of or any damage to any vehicle used for his conveyance between his place of abode or place of employment, or the place from which he was called, and the bush fire—if the place to which he was journeying or being conveyed for the purpose of fighting the bush fire, or from which he was journeying to his place of abode, place of employment, or place from which he was called, as the case may be, was within a fire district so constituted;
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- 20 (c) the destruction of or any damage to any vehicle, equipment or thing used in connection with fire fighting at or near the scene of a bush fire and owned by or in the possession or custody of a fire fighter—if the destruction or damage was sustained within a fire district so constituted,
- 25 unless in any such case the bush fire was one to or from which a bush fire brigade was proceeding or at which a bush fire brigade operated or was in attendance for the purpose of its control or suppression.
- 30 (b) by omitting from subsection one of section 17B the definitions of "Council" and "Insurance company"; (Interpretation.)
- (c) by inserting in subsection three of section 17C after the word "twelve," the figures and letter "12A,";
- (d) (Compensation payable to fire fighters for injury received.)

Workers' Compensation (Amendment).

(d) (i) by omitting paragraph (a) of section 17D and by inserting in lieu thereof the following paragraph : —

Sec. 17D.
(Indemnity for destruction of or damage to personal effects, vehicles, etc.)

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(a) the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses of, or wearing apparel or personal effects upon—

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(i) a fire fighter whilst fighting a bush fire or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which he was called, and the bush fire, when such journeying was made exclusively and bona fide for the purpose of engaging in fighting a bush fire; or

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20

(ii) the captain, deputy captain, or any member of a bush fire brigade or the group captain or deputy group captain of any bush fire brigades whilst carrying out bush fire preventive operations or preparatory work or in the course of journeying between the place of abode or place of employment of such captain, deputy captain, member, group captain or deputy group captain and the place where bush fire preventive operations were or are to be carried out or preparatory work was or is to be carried out, when such journeying was made exclusively and bona fide

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30

35

for

Workers' Compensation (Amendment).

for the purpose of engaging in the carrying out of such preventive operations or preparatory work;

5 (ii) by omitting paragraph (i) of the proviso to the same section and by inserting in lieu thereof the following paragraph :—

(i) the amount payable under paragraph (a) of this subsection shall not exceed—

10 (a) in respect of all destruction of and damage to the crutches, artificial members, eyes, teeth, artificial aids, or spectacle
15 glasses of a person, sustained on any one occasion—the amount applicable in respect of damage referred to in section 10A of this Act;

20 (b) in respect of all destruction of and damage to wearing apparel or personal effects upon a person, sustained on any one
25 occasion—the amount applicable in respect of damage referred to in section 10B of this Act;

(e) by omitting from subsection two of section 17E the words “All moneys received under this Part of this Act shall be paid into such Fund, and the” and by inserting in lieu thereof the words “Such Fund shall consist of the amount standing to its credit at the commencement of the Workers’ Compensation (Amendment) Act, 1964, together with amounts transferred thereto pursuant to this Part of this Act.
30 The”;
35

Sec. 17E.
(Bush Fire
Fighters
Compensa-
tion Fund.)

(f)

Workers' Compensation (Amendment).

(f) by omitting section 17F;

Sec. 17F.
(Returns by insurance companies.)

(g) by omitting section 17G and by inserting in lieu thereof the following section :—

Subst. sec. 17G.

5 17G. The Commission shall as soon as is reasonably practicable before the thirtieth day of June, one thousand nine hundred and sixty-five, and as early as is reasonably practicable in each succeeding financial year terminating on the thirtieth day of June, determine whether any contribution to the Bush Fire Fighters Compensation Fund will be necessary in order to maintain that Fund on a sound financial basis during the next following financial year, and if it determines that such a contribution will be necessary shall assess the amount thereof.

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15

The Commission shall cause notice of each such determination and assessment to be given to the Minister for Local Government.

20 On the first day of July next following the notification as aforesaid of each such assessment an amount as so assessed shall be transferred to the said Fund from the Eastern and Central Divisions Bush Fire Fighting Fund established under the Bush Fires Act, 1949, as amended by subsequent

25 Acts. Amounts so transferred shall for the purposes of the said Act, as so amended, be deemed to be expenditure from the last mentioned Fund.

30 The provisions of this section shall have effect notwithstanding anything contained in the Bush Fires Act, 1949, as amended by subsequent Acts.

Workers' Compensation (Amendment).

5. The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

- 5 (a) (i) by omitting from the definition of "Insurer" in subsection one of section six the word "authorised" and by inserting in lieu thereof the word "licensed"; Sec. 6. (Definitions.)
- (ii) by omitting from the definition of "Self-insurer" in the same subsection the word "authorised" and by inserting in lieu thereof the word "licensed";
- 10 (b) (i) by omitting from subsection one of section eighteen the word "Every" and by inserting in lieu thereof the words "Subject to subsection (1A) of this section, every"; Sec. 18. (Compulsory insurance.)
- 15 (ii) by omitting from the same subsection the words "Provided that the Commission may authorise any employer to undertake the liability referred to in this subsection who furnishes to the Commission a certified copy of his balance-sheets for his last three trading years, and such other particulars as may be required. The Commission may at any time upon notice to the employer concerned, and consideration of such evidence as he desires to submit, review and continue, suspend or terminate, any such authority as it may deem expedient.
- 20 "Employer" in this proviso includes a racing club or association.";
- 25 (iii) by inserting in the same subsection after the words "In this Act—" the following words :—
- 30 " 'license' means a license granted or deemed to have been granted under this Part of this Act, and 'licensee' and 'licensed' have corresponding meanings.";
- 35 (iv)

Workers' Compensation (Amendment).

(iv) by inserting next after the same subsection the following new subsection :—

5 (1A) On application made by an employer
to the Commission in the form and manner
and accompanied by the information
prescribed by rules made under this Act and
upon consideration of such evidence as the
10 employer may submit and of such information,
documents, particulars, and other evidence as
the Commission may receive, the Commis-
sion may after due inquiry grant without
limitation of time or for such period, and
without conditions or subject to such condi-
15 tions, as the Commission deems fit a license
to the employer to undertake himself the
liabilities referred to in subsection one of this
section, or the Commission may refuse such
application. The provisions of subsection one
20 of this section shall not apply to an employer
while a license granted to him under this
subsection is in force.

25 An employer so licensed who fails to
comply in all respects with the conditions of
his license shall be guilty of an offence against
this Act.

30 Any authority granted to an employer
under subsection one of this section as enacted
before the commencement of the Workers'
Compensation (Amendment) Act, 1964, and
in force at such commencement, shall be
deemed to be a license granted under this
subsection.

35 The Commission may at any time upon
notice to an employer so licensed, after due
inquiry and consideration of such evidence
as he may submit and of such information,
documents, particulars and other evidence as
the

Workers' Compensation (Amendment).

the Commission may receive, suspend or terminate any such license, or limit or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof.

5 (v) by omitting subsection four of the same section;

(c) by omitting subsection four of section nineteen and by inserting in lieu thereof the following subsection :— Sec. 19. (Deposits by insurers.)

10 (4) Subsection three of this section shall not operate to require—

(a) a self-insurer to enter into any contract of reinsurance unless he is an insurer licensed under section twenty-seven of this Act, or

15 (b) an insurer to enter into any such contract if he confines his operations to indemnifying one employer, or a group of employers engaged in one industry, trade, or business in respect of the liability to workers under this Act and at common law. The operations of a racing or recreation club shall for
20 the purposes of this paragraph be deemed to be its trade or business.

(d) by omitting subsection one of section twenty and by inserting in lieu thereof the following subsection :— Sec. 20. (Amount of deposit.)

30 (1) (a) An employer licensed as a self-insurer shall on the granting of his license deposit with the Treasurer a sum of money the amount of which shall be determined by the Commission and the license shall be deemed not to be in force unless and until the employer so deposits that sum.

(b)

Workers' Compensation (Amendment).

5 (b) The Commission may from time to time by notice to an employer so licensed direct the employer to deposit with the Treasurer such sums, additional to any sums so deposited whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the Commission may determine. An employer who fails to comply with any such direction shall be guilty of an offence against this Act.

10 (c) The Commission may from time to time authorise the Treasurer to refund to such an employer any part of the amount or, as the case may require, any part of the total of the amounts, deposited by that employer pursuant to this subsection or the subsection which this subsection replaces.

(d) In this section "employer" includes a racing club or association.

20 (e) by inserting in subsection one of section twenty-four after the words "at common law" the words "or, in the case of an employer licensed under subsection (1A) of section eighteen of this Act, in respect of the liabilities referred to in subsection one of that section,"; Sec. 24. (Application of deposit.)

25 (f) by omitting section 25A and by inserting in lieu thereof the following section :— Subst. sec. 25A.

30 25A. An employer who has either before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, deposited any sum or sums of money pursuant to subsection one of section twenty of this Act or the subsection replaced by that subsection may in the event of his ceasing

to

Workers' Compensation (Amendment).

to be licensed under subsection (1A) of section eighteen of this Act withdraw all sums so deposited by him and standing to his credit—

5 (a) on the expiration of three months after service on the Treasurer of a request in writing duly signed by or on behalf of the employer for the refund of such sums; and

10 (b) on satisfying the Treasurer that all the accrued, continuing, future, and contingent liabilities of the employer under this Act in respect of workers employed by him while he was so licensed have been discharged or suitably and adequately provided for.

15 (g) by inserting in section twenty-six after the word "complaint" the words "or information"; Sec. 26. (Evidence.)

(h) by omitting sections twenty-seven, twenty-eight, Subst. secs. 27-30. twenty-nine and thirty and by inserting in lieu thereof the following sections :—

20 27. (1) On application made by any person to the Commission in the form and manner and Licensing of insurers. accompanied by the information prescribed by rules made under this Act and upon consideration of
25 such evidence as he may submit and of such information, documents, particulars, and other evidence as the Commission may receive, the Commission may after due inquiry grant to that person without
30 limitation of time or for such period, and without conditions or subject to such conditions, as the Commission deems fit a license to carry on in New South Wales the business of insurance of employers against their liability to their workers under this Act, and independently of this Act for injuries to
their

Workers' Compensation (Amendment).

their workers, or the Commission may refuse such application. An insurer so licensed who fails to comply in all respects with the conditions of his license shall be guilty of an offence against this Act.

5 (2) Any license granted under the section which this section replaces, and in force at the commencement of the Workers' Compensation (Amendment) Act, 1964, shall be deemed to be a license granted under this section.

10 28. (1) Every person licensed under subsection (1A) of section eighteen or section twenty-seven of this Act— Information, etc., to be supplied by licensees.

15 (a) shall furnish to the Commission within the time specified in the notice hereinafter referred to such information, particulars, accounts, documents and copies of accounts and documents as to his business and financial position as the Commission may by notice in writing to the licensee from time to time require;

20 (b) being a corporation, shall notify the Commission in writing of any of the following matters, events, or things within twenty-one days of the happening thereof (whether within or outside the State), namely :—

25 (i) any default by such licensee or its holding corporation in the payment of principal or interest under any debenture issued by such licensee or corporation;

30 (ii) the appointment of a liquidator, receiver or manager of the property of such licensee or corporation;

(iii)

Workers' Compensation (Amendment).

- (iii) that such licensee or corporation has resolved by special resolution that it be wound up voluntarily or by a court;
- 5 (iv) that a person claiming to be a creditor by assignment or otherwise of such licensee or corporation for a sum exceeding fifty pounds then due has served on such licensee or corporation by leaving at its registered office a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring such licensee or corporation to pay the sum so claimed to be due, and such licensee or corporation has for three weeks thereafter failed to pay the sum or to secure or compound for it to the satisfaction of the person claiming to be a creditor;
- 10
- 15
- 20 (v) the return unsatisfied in whole or part of execution or other process issued on a judgment, decree or order of any court in favour of a creditor of such licensee or corporation;
- 25
- 30 (vi) the receipt by such licensee or corporation, or the giving, or causing to be given by such licensee or corporation, of any notice or statement mentioned in subsection two of section one hundred and eighty-four of the Companies Act, 1961, as amended by subsequent Acts;
- 35

Workers' Compensation (Amendment).

(vii) the making of an order for the winding-up of such licensee or corporation by any court;

5

(viii) the receipt by such licensee or corporation of any notice of an application for an order for the winding-up of such licensee or corporation by any court.

10

In this subsection "holding corporation" means a corporation of which the licensee is a subsidiary.

(2) A licensee who fails to comply with any of the provisions of subsection one of this section shall be guilty of an offence against this Act.

15

29. (1) Subject to the provisions of this section the Commission may suspend, or terminate, any license granted under section twenty-seven of this Act, or limit, or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof, if it is satisfied of one or more of the following matters, events or things :—

20

(a) that the licensee is unable to pay his debts;

(b) that the licensee being a corporation has resolved that it be wound up voluntarily or by a court;

25

(c) that the licensee has not commenced the business for which he is licensed for a year from the date at which his license was granted, or has suspended his said business for a whole year;

30

(d) that in the case of the licensee being a company an inspector appointed under section one hundred and sixty-nine or section one hundred and seventy of the

Companies

Workers' Compensation (Amendment).

- 5 Companies Act, 1961, as amended by subsequent Acts, or under any equivalent provision of any Act or ordinance relating to companies for the time being in force in any other State or Territory of the Commonwealth, has reported that he is of the opinion—
- (i) that the company cannot pay its debts and should be wound up, or
 - 10 (ii) that it is in the interests of the public or of the shareholders or of the creditors that the company should be wound up;
- 15 (e) that the licensee has failed to comply with any provision of this Act and such failure constitutes a substantial breach of the requirements of this Act;
- 20 (f) that the licensee has been guilty of repeated breaches of this Act, whether of the same kind or of different kinds;
- (g) that the licensee has failed to arrange suitable and adequate reinsurance of liabilities undertaken by him under policies of insurance or indemnity issued by him;
- 25 (h) that the licensee has failed to make suitable and adequate provision for his accrued, continuing, future, and contingent liabilities under policies of insurance or indemnity issued by him;
- 30 (i) that the licensee has failed to comply with the conditions of his license;

(j)

Workers' Compensation (Amendment).

5 (j) that the licensee has unreasonably failed, or unreasonably refused, to satisfy an award made by the Commission against an employer insured or indemnified by the licensee against the liability of the employer thereunder;

10 (k) that the conduct of the licensee, his employees, and officers, and the arrangement of his affairs have been such that, in the opinion of the Commission, he should not continue to hold a license.

(2) For the purposes of this section a licensee shall be deemed to be unable to pay his debts if—

15 (a) a creditor by assignment or otherwise to whom the licensee is indebted in a sum exceeding fifty pounds then due has served on the licensee by leaving at his usual place of business or if such licensee is a corporation at the registered office thereof a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring the licensee to pay the sum so due, and the licensee has for three weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor; or

20 (b) execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the licensee is returned unsatisfied in whole or in part; or

25 (c) it is proved to the satisfaction of the Commission that the licensee is unable to pay his debts and in determining whether a licensee is unable to pay his debts the Commission

Workers' Compensation (Amendment).

Commission shall take into account the accrued, continuing, future and contingent liabilities of the licensee.

5 (3) (a) Proceedings on any ground specified in subsection one of this section or subsection seven of section 18C of this Act for the suspension or termination of a license or for limiting or varying the period of a license or attaching any conditions thereto or varying the conditions thereof shall be
10 instituted by application by the Registrar in the form and manner prescribed by rules made under this Act, setting forth the ground or grounds of the application, and thereupon the Commission shall
15 give notice in such form and manner as is so prescribed to the licensee mentioned in such application calling upon him to show cause why his license should not be dealt with as aforesaid.

20 (b) The Commission shall hear evidence in support of and in answer to the application, and after due inquiry shall decide whether or not the license should be dealt with as aforesaid, giving reasons for the decision.

25 (c) An appeal from any decision given by the Commission on such application shall lie to the Supreme Court in its equitable jurisdiction. Such appeal shall be instituted by notice of appeal filed in the Equity Office within thirty days after the giving of the decision appealed from and the
30 Court on such appeal may make any such orders as the Commission might have made on such application. The provisions of section thirty-seven of this Act shall not apply to and in respect of any such decision.

(d)

Workers' Compensation (Amendment).

5 (d) A decision of the Commission
 dealing with a license as aforesaid shall unless other-
 wise thereby provided have effect from the time
 that the same is given but the licensee may before
 the expiration of the time limited for appeal or
 while an appeal is pending apply to the Commission
 or at his option to the Supreme Court in its equit-
 10 able jurisdiction and the Commission or the Court
 as the case may be may thereupon on such terms
 and for such time as it may think fit suspend in
 whole or in part the operation of the Commission's
 decision pending the determination of an appeal.

15 (e) In every appeal under this section
 the costs of the appeal, including the costs of any
 issue therein, shall be in the discretion of the Court.

20 29A. Terms and expressions used in sections
 twenty-eight and twenty-nine of this Act shall unless
 a contrary intention appears have meanings corres-
 ponding to the meanings ascribed to such terms and
 expressions in the Companies Act, 1961, as
 amended by subsequent Acts, or other relevant Acts
 or ordinances relating to companies for the time
 being in force in any other State or Territory of
 the Commonwealth.

25 30. The Commission may at the request of a
 licensee suspend or terminate his license or limit
 or vary the period or vary the conditions thereof.

Construc-
tion.

Termination,
etc. of
licenses at
request of
licensees.

(i) (i) by inserting at the end of subsection one of
 section 30A the following new paragraph :—

Sec. 30A.
(Insurance
Premiums
Committee.)

30 This section shall apply to and in respect of
 licensed insurers under section twenty-seven
 of this Act.

(ii)

Workers' Compensation (Amendment).

5 (ii) by omitting from paragraph (c) of subsection
(13A) of the same section the words "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" and by inserting in
lieu thereof the words "for the purposes of
section twenty-eight of this Act to constitute
10 a substantial breach of the requirements of
this Act";

(j) by inserting next after section 30A the following new New secs.
30B-30E.
sections : —

15 30B. (1) If on an application made to a member Inspection
of books
and papers
of licensees.
of the Commission in chambers by the Registrar
there is shown to be reasonable cause to believe that
a licensee, or any person employed by a licensee,
has committed an offence against this Act or that
there is reasonable cause to believe that grounds
20 exist for the license of a licensee being dealt with
under any provision of this Act and that evidence
of the committing of the offence or of the existence
of any such grounds is to be found in any books,
documents, papers or records of or under the
control of the licensee, such member of the Com-
mission may make an order—

- 25 (a) authorising any person named therein to
inspect and make copies of or extracts from
such books, documents, papers or records or
any of them ; or
- 30 (b) requiring the licensee or any employee of
the licensee named or designated in the
order to produce such books, documents,
papers or records or any of them to a person
and at a place named in the order.

(2)

Workers' Compensation (Amendment).

5 (2) Any person hindering or preventing a person authorised thereto by such order from inspecting or making copies of or extracts from any such books, documents, papers or records and any licensee or any employee of the licensee named or designated in any such order who refuses or neglects to produce any such books, documents, papers or records in accordance with any such order, shall be guilty of an offence against this Act.

10 30c. (1) The Commission shall keep records in relation to all licenses which records shall include particulars of the granting, refusal, duration, suspension and termination of licenses, the conditions thereof and such other matters pertaining thereto as the Commission may think fit. ^{Records and notifications.}

15 (2) A certificate purporting to be signed by the Registrar or deputy or assistant registrar of the Commission or other prescribed officer certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified or referred to in subsection one of this section did or did not appear on or from such records shall, in all courts and upon all occasions whatsoever, without proof of the signature or of the official character of the person purporting to have signed the certificate and without the production of any record or document upon which the certificate is founded, be prima facie evidence of the particulars certified in and by the certificate.

20 (3) An applicant for a license shall if so required by the Commission give such notice of his application by advertisement or otherwise as the Commission may determine and if he fails to do so the application shall be deemed not to have been duly made.

(4)

Workers' Compensation (Amendment).

(4) The Commission shall cause notification of every suspension or termination of a license to be published in the Gazette.

5 30D. (1) (a) A license which has been terminated or the period of which has expired or which is for the time being suspended shall be deemed not to be in force. Penalties.

10 (b) Every person who carries on the business of insurance of employers against their liability to their workers under this Act, or independently of this Act, for injuries to their workers, shall unless a license has been granted to him under section twenty-seven of this Act and is for the time being in force be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred pounds for every day during which such business is carried on.

20 (2) Every person who commits an offence under this Part of this Act shall where no other pecuniary penalty is provided be liable to a penalty not exceeding two hundred pounds or imprisonment for a term not exceeding six months, and after the date of conviction of any such offence shall from time to time be liable to further penalties not exceeding fifty pounds for every week during which he continues to commit the offence.

30 30E. No contract of insurance or indemnity and no term or condition thereof shall be void or unenforceable by reason only of the fact that the person issuing the policy was not licensed pursuant to section twenty-seven of this Act or that the issue thereof by a person so licensed was contrary to the conditions of his license. Saving of policies.

(k)

Workers' Compensation (Amendment).

- (k) (i) by inserting in subsection four of section forty-
one after the word "insurer" where firstly
occurring the words "licensed under section
twenty-seven of this Act";
- 5 (ii) by omitting from subsection seven of the same
section the word "authorised" and by inserting
in lieu thereof the words "licensed under this
Act".
6. (1) The Principal Act is further amended—
- Further
amendment
of Act No.
15, 1926.
Fisher v.
Hebburn
Limited,
105 C.L.R.
188.
- 10 (a) (i) by omitting from the definition of "Depend-
ants" in subsection one of section six the
words "upon the earnings of" and by inserting
in lieu thereof the words "for support upon";
- 15 (ii) by omitting from the same definition the
words "his earnings" wherever occurring and
by inserting in lieu thereof the word "him";
- 20 (b) (i) by omitting from subsection one of section
eight the words "upon his earnings" and by
inserting in lieu thereof the words "for support
upon the worker";
- 25 (ii) by omitting from paragraph (b) of the same
subsection the words "on the earnings of"
and by inserting in lieu thereof the words "for
support on";
- (iii) by omitting from subsection two of the same
section the words "his earnings" where firstly
occurring and by inserting in lieu thereof the
words "him for support";

(iv)

Workers' Compensation (Amendment).

- (iv) by omitting from the same subsection the words "dependent upon his earnings" where secondly occurring and by inserting in lieu thereof the words "so dependent";
- 5 (v) by omitting from paragraph (a) of subsection five of the same section the words "upon the earnings of" wherever occurring and by inserting in lieu thereof the words "for support upon";
- 10 (c) (i) by omitting from paragraph (b) of subsection **Sec. 9.** one of section nine the words "on the earnings of" wherever occurring and by inserting in lieu thereof the words "for support on"; (Total or partial incapacity.)
- 15 (ii) by omitting from paragraph (c) of the same subsection the words "on the earnings of" wherever occurring and by inserting in lieu thereof the words "for support on";
- 20 (iii) by omitting from paragraph (d) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- 25 (iv) by omitting from paragraph (e) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- 30 (v) by omitting from subsection seven of the same section the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- (vi) by omitting from the same subsection the words "upon the earnings of" and by inserting in lieu thereof the words "for support on";

(d)

Workers' Compensation (Amendment).

- (d) by inserting next after subsection six of section **Sec. 18.**
eighteen the following new subsection :— (Compulsory
insurance.)

5 (6A) Where before or after the commencement
of the Workers' Compensation (Amendment) Act,
1964, an employer has become liable under this
Act to pay compensation to a worker in respect of
incapacity resulting from an injury referred to in
subsection four or (4A) of section seven of this
10 Act or has become liable under section sixteen of
this Act to pay compensation to a worker in respect
of an injury referred to in subsection (1A) of that
section, then for the purpose of determining
whether any insurer or which of two or more
15 insurers is liable under a contract of insurance or
indemnity in respect of that compensation, the
liability of the employer shall notwithstanding the
provisions of subsection five of the said section
seven and of subsection (1A) of the said section
20 sixteen be deemed to have arisen immediately
before the worker ceased to be employed by the
employer.

(2) (a) A person who would have been entitled to
compensation under any provision of the Workers' Compensa-
tion Act, 1926, or any amendment thereof, had dependency
25 for support on a worker in lieu of dependency on the earnings
of a worker been a determining factor shall be deemed to
be and always to have been so entitled.

(b) Nothing in this subsection shall affect the
rights of any parties to any claim, action, suit or proceeding
30 which has before the commencement of this Act been deter-
mined where the time within which an appeal, including an
application to Her Majesty in Council, from any such deter-
mination might have been made has expired before such
commencement.

Workers' Compensation (Amendment).

7. Any policy of insurance against liability under the Workers' Compensation Act, 1926, or any amendment of that Act, being maintained in force at the commencement of this Act shall be deemed to insure the employer and always to
 5 have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Principal Act made by this Act. Where a person is in receipt of compensation at the com-
 10 mencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any addi-
 tional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

Subsisting policies.
 Act No. 58, 1960, s. 5.

8. (1) This section shall commence upon a day to be
 appointed by the Governor and notified by proclamation
 15 published in the Gazette.

Commence-ment.

(2) The Workmen's Compensation (Broken Hill)
 Act, 1920-1964, is amended—

Amendment of Act No. 36, 1920.

(a) (i) by omitting from the definition of "Benefi-
 20 ciary" in subparagraph (a) of paragraph 2 of Part I of the Schedule the words "under the school leaving age" where firstly occurring and by inserting in lieu thereof the words ", under the age of sixteen years or being a student,";

Schedule. par. 2.

(ii) by omitting from the same definition the words
 25 "under the school leaving age" where secondly occurring;

(iii) by inserting at the end of the same definition
 30 the words "where such sister or brother or illegitimate or adopted child is under the age of sixteen years or is a student";

(iv)

Workers' Compensation (Amendment).

- (iv) by inserting in the same subparagraph next after the definition of "Mine worker" the following new definition :—
- 5 "Student" means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or university;
- 10 (v) by omitting subparagraph (b) of the same paragraph;
- (b) (i) by omitting from subparagraph (a) of para- Schedule,
graph 6 of Part II of the Schedule the words ^{par. 6.}
"the school leaving age" where firstly occur-
15 ring and by inserting in lieu thereof the words
"the age of sixteen years or being a student";
- (ii) by omitting from the same subparagraph the
words "under the school leaving age" where
20 secondly occurring and by inserting in lieu
thereof the words "any member of which is
under the age of sixteen years or a student";
- (iii) by omitting from subparagraph (b) of the
same paragraph the words "the school leaving
age" and by inserting in lieu thereof the words
"the age of sixteen years or being a student";
- 25 (iv) by omitting from subparagraph (d) of the
same paragraph the words "the school leaving
age" and by inserting in lieu thereof the words
"the age of sixteen years or being a student";
- (c)

Workers' Compensation (Amendment).

- (c) (i) by omitting from subparagraph (b) of paragraph 6A of Part II of the Schedule the figures "5 10 0" wherever occurring and by inserting in lieu thereof the figures "6 15 0"; Schedule, par. 6A.
- 5 (ii) by omitting from the same subparagraph the figures "1 0 0" and by inserting in lieu thereof the figures "1 3 0";
- 10 (iii) by omitting from the same subparagraph the figures "3 2 6" and by inserting in lieu thereof the figures "4 0 0";
- 15 (iv) by omitting from paragraph (i) of subparagraph (c) of the same paragraph the words "Social Services Consolidation Act 1947-1949 of the Parliament of the Commonwealth" and by inserting in lieu thereof the words "Social Services Consolidation Act 1947 of the Parliament of the Commonwealth, or any Act amending or replacing that Act".

(3) The amendments made by subsection two of
20 this section shall be deemed to extend to, and from the commencement of this section, apply in respect of all persons who were immediately before such commencement in receipt of compensation under the Workmen's Compensation (Broken Hill) Act, 1920-1964, as well as to all persons becoming
25 entitled to compensation thereunder after such commencement.

(4) The Workmen's Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts and by this Act, may be cited as the Workmen's Compensation (Broken Hill) Act.
30 1920-1964.

Workers' Compensation (Amendment).

9. (1) The Common Law Procedure Act, 1899, as amended by subsequent Acts, is amended by inserting in subsection one of section one hundred and forty-two after the word "thereon" the words ": Provided that where
5 pursuant to section sixty-three or sixty-four of the Workers' Compensation Act, 1926, as amended by subsequent Acts, any payment is to the extent of the amount thereof a satisfaction of the judgment, so much of the amount of the verdict as is equivalent to that payment shall if the payment was
10 made—

- (a) before the verdict was obtained, carry no interest;
- (b) after the verdict was obtained, carry interest only until the time when the payment was made."

(2) The Common Law Procedure Act, 1899, as
15 amended by subsequent Acts and by this Act, may be cited as the Common Law Procedure Act, 1899-1964.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1964
[4s.]

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 2 December, 1964.*

New South Wales



ANNO TERTIO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1964.

An Act to amend the law relating to workers' compensation; to amend the Workers' Compensation Act, 1926, the Workers' Compensation (Silicosis) Act, 1942, the Workmen's Compensation (Broken Hill) Act, 1920, the Common Law Procedure Act, 1899, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith.

BE

Workers' Compensation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Workers' Compensation (Amendment) Act, 1964". Short title, citation and commencement.

(2) This Act, section eight excepted, shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. In this Act a reference to the commencement of this Act shall be read and construed as a reference to such day.

(3) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) The Principal Act, as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1964.

2. (1) The Principal Act is amended— Amendment of Act No. 15, 1926.

(a) (i) by omitting from paragraph (a) of subsection one of section nine the words "ten pounds ten shillings" and by inserting in lieu thereof the words "eleven pounds fifteen shillings"; Sec. 9. (Total or partial incapacity.)

(ii) by omitting from the same paragraph the words "seven pounds" and by inserting in lieu thereof the words "eight pounds";

(iii) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words "three pounds" and by inserting in lieu thereof the words "three pounds three shillings";

(iv)

Workers' Compensation (Amendment).

- (iv) by inserting in subparagraph (ii) of the same paragraph after the words "in loco parentis" the following word and new paragraph :—
- "; and
- 5 (c) each person being a student who is a child or stepchild of the worker or to whom the worker stands in loco parentis";
- 10 (v) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words "three pounds" and by inserting in lieu thereof the words "three pounds three shillings";
- 15 (vi) by inserting in subparagraph (ii) of the same paragraph after the word "sister" the words "who is";
- (vii) by inserting in the same subparagraph after the words "sixteen years" the words "or a student and";
- 20 (viii) by inserting at the end of the same subsection the following words :—
- "In this subsection 'student' means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or university."
- 25
- (b) (i) by omitting from paragraph (a) of subsection (1A) of the same section the words and figures "Workers' Compensation (Further Amendment) Act, 1960" and by inserting in lieu thereof the words and figures "Workers' Compensation (Amendment) Act, 1964";
- 30
- (ii) by omitting from paragraph (c) of the same subsection the words "assessed and calculated under and in accordance with paragraph (a)

or

Workers' Compensation (Amendment).

- 5 or (b) of subsection two of section 61v of the Industrial Arbitration Act, 1940-1961" and by inserting in lieu thereof the words "appropriate by virtue of paragraph (a) or (b) of subsection two of section 61k, 61v or 61AA of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted at the relevant time under the said Act, as so amended";
- 10 (c) (i) by omitting from subsection four of the same section the words "six pounds ten shillings" and by inserting in lieu thereof the words "seven pounds five shillings";
- 15 (ii) by omitting from the same subsection the words "four pounds seventeen shillings and sixpence" and by inserting in lieu thereof the words "five pounds ten shillings";
- 20 (d) (i) by omitting from subsection five of the same section the words "nine pounds five shillings" and by inserting in lieu thereof the words "ten pounds ten shillings";
- (ii) by omitting from the same subsection the words "seven pounds" and by inserting in lieu thereof the words "eight pounds";
- 25 (e) by inserting in paragraph (a) of subsection six of the same section after the words "in loco parentis" the words "or any person being a student as defined in subsection one of this section who is a child or stepchild of the worker or to whom
- 30 the worker stands in loco parentis".

(2) The amendments made by subsection one (paragraph (b) excepted) of this section shall be deemed to extend to, and from the commencement of this Act, apply in respect of all persons in receipt of or entitled to weekly payments under the provisions of section nine of the Principal Act,

Workers' Compensation (Amendment).

Act, or under the provisions of the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

5 3. (1) The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

(a) by inserting next after paragraph (a) of subsection (14c) of section six the following new paragraph :—

Sec. 6. (Definitions.)

10

(a1) as a boxer, wrestler or referee in any boxing or wrestling contest in or upon the premises of a club registered under Part X of the Liquor Act, 1912, as amended by subsequent Acts; or;

15

(b) by inserting at the end of subsection one of section seven the following new paragraph :—

Sec. 7. (Liability of employers to workers for injuries.)

20

(g) For the purposes of this subsection a worker's journey from his place of abode shall be deemed to have commenced at, and the terminal point of his journey to his place of abode to be—

25

(i) if his place of abode is a flat or home unit in a residential flat building or home unit building—that exit of the flat or home unit whereby he departed on his journey from his place of abode, or that entrance of the flat or home unit whereby he entered or would but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be;

30

(ii) in every other case where his place of abode is or is within a building or structure—that exit of the building or structure whereby he departed on his journey from his place of abode, or that entrance of the building or structure whereby he entered or would

but

Workers' Compensation (Amendment).

but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be.

5 (c) (i) by inserting in paragraph (a) of the definition of "Medical treatment" in subsection two of section ten after the word "masseur" the words "or remedial medical gymnast";

Sec. 10.
(Medical and hospital treatment, &c.)

10 (ii) by inserting at the end of subsection four of the same section the following new paragraph : —

15 (c) Any sum for which the employer becomes liable in respect of medical treatment under this subsection may be recovered from the employer by the person who afforded the medical treatment.

(d) (i) by inserting in subsection one of section 10A after the words "specified in the order" the following new subsection : —

Sec. 10A.
(Damages to artificial limbs, etc.)

20 (1A) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and has, as a result thereof, sustained any damage of the nature referred to in subsection one of this section, shall if the accident did not happen—

25 (a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be; or

(b)

Workers' Compensation (Amendment).

5 (b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey,

10 be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :

15 Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.

20 (ii) by inserting in the same subsection immediately before the words "The provisions" the symbols, figure and letter "(1B)";

25 (e) (i) by inserting in section 10B after the words "specified in the order" the following new subsection :— Sec. 10B. (Damage to clothing.)

30 (2) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and whose clothing has, as a result thereof, been damaged shall if the accident did not happen—

35 (a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment

Workers' Compensation (Amendment).

5 employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be; or

10 (b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey,

15 be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :

20 Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.

25 (ii) by inserting in the same subsection immediately before the words "The provisions" the symbols and figure "(3)";

30 (f) (i) by omitting from paragraph (a) of subsection one of section eleven the words "the amount of the average weekly earnings of the worker before the injury" and by inserting in lieu thereof the words "the weekly amount which the worker would probably have been earning as a worker but for the injury and had he continued to be employed in the same or some comparable employment";

35 (ii) by omitting paragraphs (b), (c) and (d) of the same subsection;

(g)

Sec. 11.
(Partial incapacity.)

Workers' Compensation (Amendment).

(g) by inserting next after section twelve the following New sec. 12A.
new section :—

5 12A. A worker who as a result of injury is unable Incapacity deemed to exist in certain cases.
without immediate and substantial risk of further
injury to engage in employment of a certain kind
by reason of the nature of that employment shall
be deemed to be incapacitated for employment of
that kind.

10 (h) (i) by omitting subsection one of section sixteen Sec. 16.
and by inserting in lieu thereof the following (Compensation for certain injuries.)
subsection :—

15 (1) A worker who has received an injury
mentioned in the first column of the table
hereunder set forth shall be entitled to receive
from his employer by way of compensation for
that injury, in addition to any other compen-
sation prescribed by this Act, the amount
indicated in respect of that injury in the
second column of that table.

20 (ii) by inserting next after subsection (1A) of the
same section the following new subsection :—

25 (1B) (a) A worker who has received an
injury which is not or is not wholly an injury
mentioned in the table hereunder set forth and
which has resulted in severe facial disfigure-
ment shall be entitled to receive from his
employer by way of compensation for that
injury, in addition to any other compensation
prescribed by this Act, an amount, not exceed-
30 ing in any case two hundred pounds, as may
be agreed upon, or in default of agreement as
may be assessed as appropriate by a medical
board in accordance with the provisions of
this subsection.

(b)

Workers' Compensation (Amendment).

5 (b) The Commission or the Registrar shall, on application by a person claiming to be entitled as a worker to compensation under this subsection and on payment by the applicant of such fee, not exceeding one pound, as may be prescribed by rules, refer to a medical board constituted in accordance with section fifty-one of this Act for determination 10 the questions whether severe facial disfigurement exists and if so what amount of compensation is appropriate as compensation therefor, and the decisions of the medical board shall be final and conclusive.

15 (c) Wherever practicable, at least one of the medical referees of whom a medical board is for the purposes of this subsection constituted shall be a specialist in plastic surgery.

(iii) by omitting subsection two of the same section ;

20 (iv) by inserting in the first column of the table set forth at the end of the same section after the item "†Loss of hearing of one ear" the following new item :—

"†Loss of the power of speech"

25 and by inserting in the second column of that table opposite the words so inserted the figures "1,750 0 0";

(v) by inserting at the foot of the same table the following new footnote :—

30 "†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".

(i)

Workers' Compensation (Amendment).

(i) (i) by omitting from subsection five of section Sec. 18.
eighteen the words "twelve months after such (Compulsory
failure" and by inserting in lieu thereof insurance.)
the words "two years after such failure. In any
5 such proceedings, proof that the employer, not
being a self-insurer, having been served
pursuant to subsection one of section 18A of
this Act with a notice requiring him to produce
10 for inspection a policy of insurance or
indemnity obtained by him and in force at a
specified date or between specified dates has
not so produced any such policy so in force
and that the time stated in the notice for such
15 production has expired shall be sufficient
evidence, unless the contrary be proved, that
at that date or between those dates, as the
case may be, the employer had failed to
comply with the provisions of subsection one
of this section."

20 (ii) by inserting at the end of the same section
the following new subsection :—

(8) (a) Every employer shall keep correct
25 records of all wages paid to the workers
employed by him, and of the trade, occupa-
tion or calling of each worker, and of such
other matters relating to the wages so paid
as may be prescribed, and shall retain such
records in his possession in good order and
condition for a period of at least three years.

30 Such records may be combined with any
records of wages required by any Act other
than this Act to be kept by the employer.

(b)

Workers' Compensation (Amendment).

5 (b) The Commission may, on application by an insurer who has issued a policy of insurance or indemnity to an employer, and whether or not such policy is still in force, order the employer—

10 (i) to supply to the insurer within a time specified in the order a full and correct statement of all wages paid during a period so specified to the workers in the employment of that employer, together with such information as to the trades, occupations or callings of the workers and other prescribed matters relating to those wages as may be so specified. The period to be specified in the order shall be a period when the policy was in force and which commenced not more than three years before the making of the application;

15 (ii) to make available at or within such time or times and at such place as is specified in the order, for inspection by—

20 (a) an officer authorised in that behalf by the Commission;

(b) a person authorised in that behalf by the insurer and so specified,

25 the records required by this subsection to be kept by the employer and at the time of the order to be retained by him in respect of a period so specified, being a period when the policy was in force.

30 (c)

Workers' Compensation (Amendment).

5 (c) Any officer or person authorised under subparagraph (ii) of paragraph (b) of this subsection may inspect such records in accordance with the terms of the order and make copies thereof and take extracts therefrom.

10 (d) The Commission on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection may order the employer to pay to the insurer such amount as the Commission may having regard to the operation of this subsection find to be due and payable as a premium or balance of premium in respect of a policy of insurance or indemnity or any renewal thereof.

20 (e) The Commission, on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection, or by the Registrar, may if satisfied that the employer has failed to comply with the order call upon him to show cause why he should not be dealt with for contempt of the Commission, and if he fails so to show cause the Commission may impose on him a fine not exceeding two hundred pounds or order him to be imprisoned for a period not exceeding six months.

30 Nothing in this paragraph shall affect the jurisdiction of the Commission to make a further order or orders against the employer under the said paragraph (b).

35 The provisions of section eighty-two of the Justices Act, 1902, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any fine so imposed and the persons on whom it is imposed.

(j)

Workers' Compensation (Amendment).

(j) (i) by omitting from paragraph (a) of subsection one of section 18A the words "any policy of insurance or indemnity" and by inserting in lieu thereof the words "the policy of insurance or indemnity obtained by the employer and in force at such date or between such dates, whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the notice specifies";

Section 18A.
(Inspection
of policies.)

5

10

(ii) by inserting next after the same subsection the following new subsection—

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20

25

30

(1A) A worker who has received an injury, or has met with an accident arising out of or in the course of his employment or on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies, or has received an injury during any absence referred to in paragraph (e) of the said subsection, or a solicitor for the time being authorised by such worker to act on behalf of the worker in relation to a claim for compensation under this Act in respect of that injury or accident, or a representative of a union to which the worker belongs, may by notice in writing require the employer to make available for inspection a policy of insurance or indemnity in force in respect of the worker at the time whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, when the injury was received or the accident happened, as the case may be.

(iii)

Workers' Compensation (Amendment).

(iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections : —

5 (2) (a) An employer who obtains a policy of insurance or indemnity shall retain the same in his possession in good order and condition at all times while he is employing workers in respect of whom the policy is in force and for at least three years thereafter.

10 (b) An employer who has in his possession or is required by this subsection to have in his possession such a policy of insurance or indemnity as is referred to in a notice served on him pursuant to this section and who fails to comply with any requirement of the notice within the time for compliance and in the manner stated therein shall be guilty of an offence against this Act.

15 (3) In this section "union" means industrial union of employees registered under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and "representative" means the secretary of a union or an officer for the time being authorised under section 129A of the said Act, as so amended, to exercise powers under that section.

20 (k) (i) by inserting in subsection two of section 18C after the word "obtains" the words "or has applied for or applies for";

Sec. 18c.
(Uninsured liability scheme.)

25 (ii) by omitting from the same subsection the words "awarded, and costs, as has not been paid" and by inserting in lieu thereof the words "and costs of the application therefor as has been awarded and has not been paid or as may be awarded and not be paid, as the case may require, and in respect of the costs of the claim";

(iii)

Workers' Compensation (Amendment).

(iii) by omitting paragraphs (a), (b) and (c) of the proviso to subsection three of the same section;

5 (iv) by omitting from paragraph (e) of the proviso to the same subsection the words "notwithstanding anything to the contrary in the foregoing provisions of this subsection";

10 (v) by omitting paragraph (a) of subsection five of the same section and by inserting in lieu thereof the following paragraphs :—

15 (a) Where a claim is made under the Scheme by a worker at the same time as he applies for an award of the compensation to which the claim relates, or whose application for such award is then pending, the Commission may hear and determine the claim either concurrently with or after the hearing and determination of such application.

20 (a1) Where a claim under the Scheme has been made and the employer does not appear and defend the application for an award of compensation, or where such award has prior to the making of the claim been obtained from the Commission in default of appearance by the employer, or by consent of the worker and the employer, or if in any case the Commission for any reason thinks fit, the Commission may cause to be made such inquiries as may be deemed necessary to determine the genuineness of the grounds on which the award is sought or was based. The Commission may adjourn the application, or if an award has been made may reopen the same, and
30 order

Workers' Compensation (Amendment).

5 order its Registrar, or some other fit person,
to take and defend the proceedings in substitu-
tion for the employer, and to such Registrar
or person for such purposes all the rights of
the employer shall be subrogated.

(vi) by inserting next after subsection seven of the
same section the following new subsection :—

10 (7A) Where in the opinion of the Com- Joinder of
mission or the Registrar the question has insurers.
arisen whether an insurer is the insurer under
this Act of an employer whose worker is
making a claim under the Scheme the Com-
mission or Registrar, as the case may be, may
15 notify the insurer of the proceedings and such
notice shall operate to join the insurer as a
party to the proceedings.

(vii) by omitting subsection nine of the same
section;

20 (1) by inserting next after section 18C the following New sec.
new section :— 18D.

25 18D. The provisions of sections one hundred
and ninety-nine, two hundred and thirty and two
hundred and sixty-three of the Companies Act, Leave to
1961, as amended by subsequent Acts, shall not proceed not
preclude a person from applying for an award of necessary in
20 compensation or proceeding with such application certain cases.
without the leave of the Supreme Court in its equit-
able jurisdiction. Any award of compensation
made pursuant to an application authorised by this
section shall have force and effect only for the
30 purposes of section 18C of this Act and not other-
wise and notwithstanding any such provisions of
the Companies Act, 1961, as so amended.

Workers' Compensation (Amendment).

- (m) by omitting from subsection one of section thirty-one the words "and not more than four"; Sec. 31.
(Appoint-
ment of
Commis-
sion.)
- 5 (n) by inserting next after paragraph (e) of subsection four of section thirty-six the following new paragraph :— Sec. 36.
(Jurisdic-
tion.)
- (e1) the weekly amount or sum, as the case may be, in accordance with subsection one of section eleven or subsection two of section sixty of this Act;
- 10 (o) (i) by inserting in subsection one of section forty-three after the word "claims" the words " , together with— " Sec. 43.
(Posting of
summary of
Act.)
- (a) in a case where the employer has pursuant to subsection one of section eighteen of this Act obtained a policy of insurance or indemnity in respect of the persons there employed and the policy is for the time being in force, a statement setting forth the name and address of the insurer from whom the policy was obtained and stating that insurance under this Act has been effected with that insurer;
- 15
- (b) in a case where the employer is a self-insurer, a statement that the employer is licensed as a self-insurer under this Act."
- 20
- 25
- 30 (ii) by inserting in subsection two of the same section after the word "summary" where secondly occurring the words "or statement";
- (iii)

Workers' Compensation (Amendment).

5 (iii) by inserting in subsection three of the same section after the words "this Act" the words "and be liable to a penalty not exceeding twenty pounds for each day during which the offence continues";

(p) by omitting subsection four of section forty-six; Sec. 46.
(Seamen.)

(q) by inserting next after section forty-nine the follow- New sec.
ing new section : — 49A.

10 49A. (1) Where an employer has entered into a contract with any insurer in respect of any liability under this Act to any worker, then in the event of the death of the employer, or an employer, being a corporation (other than a company which has commenced to be wound up), ceasing to exist, the rights the employer but for death or so ceasing would have had against the insurer as respects that liability shall be transferred to and vest in the worker. Death of employer.

20 Upon any such transfer the insurer shall have the same rights and remedies and be subject to the same liabilities as if such insurer were the employer, so however that the insurer shall not be under any greater liability to the worker than the insurer would have been under to the employer.

25 (2) In the event of the death of the employer the worker may, if the liability of the insurer to the worker is less than the liability of the employer to the worker, proceed for the balance against the personal representative of the employer.

(r)

Workers' Compensation (Amendment).

(r) by inserting next after section 53B the following new sections :— New secs. 53C, 53D.

5 53C. A person who has applied to the Commission for awards of compensation in respect of an injury to or incapacity of a worker or the death of a worker against two or more persons alleged to have been the employers of that worker either at the same time or at different times shall be entitled, if he so requests, to have all or any such applications heard together. Applications to be heard together.

10 53D. Proceedings for the recovery of compensation under this Act may be instituted by a person notwithstanding that he is under the age of twenty-one years. Recovery of compensation by minors.

15 (s) by inserting at the end of section sixty-three the following new subsection :— Sec. 63. (Negligence.)

20 (6) In this section "judgment" does not include any order or direction made or given pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, for the payment of a sum by way of compensation for an injury, but any sum so paid to a worker pursuant to such an order or direction shall be deducted from the compensation payable to him under this Act in respect of the injury.

25 (t) by inserting at the end of section sixty-four the following new subsection :— Sec. 64. (Remedies against both employer and stranger.)

30 (2) In this section "damages" does not include any sum ordered or directed pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, to be paid by way of compensation for an injury, but any such sum so paid to a worker shall be deducted from the compensation payable to him under this Act in respect of the injury.

35

Workers' Compensation (Amendment).

(2) (a) The amendments made by paragraphs (f) and (g) of subsection one of this section shall as from the commencement of this Act apply to and in respect of injuries received before as well as to those received after such
5 commencement.

(b) The amendment made by subparagraph (i) of paragraph (h) of subsection one of this section shall apply to and in respect of injuries received before the commencement of this Act by workers who have not before such
10 commencement made an election pursuant to subsection one of section sixteen of the Principal Act, as well as to injuries received after such commencement.

Where a worker who becomes by reason of the amendments effected by subparagraph (i) of paragraph (h) of subsection
15 one of this section and the foregoing provisions of this paragraph entitled to compensation under section sixteen of the Principal Act, as amended by this Act, applies to his employer for such compensation after the commencement of this Act, the amount payable to him under that section shall, whether
20 the injury was received before or after the commencement of the Workers' Compensation (Further Amendment) Act, 1960, be the appropriate amount indicated in the table set forth at the end of that section and as substituted by that Act.

(c) The amendments made by subparagraphs
25 (iii) and (iv) of paragraph (k) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and sixty-one.

(d) (i) The amendments made by paragraphs (q), (s) and (t) of subsection one of this section shall be
30 deemed to have commenced on the first day of July, one thousand nine hundred and twenty-six.

(ii)

Workers' Compensation (Amendment).

(ii) Nothing in this paragraph shall affect the rights of any parties to any claim, action, suit or proceeding which has before the commencement of this Act been determined where the time within which an appeal, including an application to Her Majesty in Council, from any such determination might have been made has expired before such commencement.

4. The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

(a) by omitting section 17A and by inserting in lieu thereof the following section :—

Subst. sec. 17A.

17A. This Part of this Act shall not apply to or in respect of—

Bush fire fighters compensation.

(a) an injury received by a fire fighter arising out of or in the course of fighting a bush fire, or the destruction of or any damage to wearing apparel or personal effects upon a fire fighter whilst fighting a bush fire, or the destruction of or any damage to the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, of a fire fighter whilst he was fighting a bush fire—if the place at which he was fighting the bush fire was within a fire district constituted under the Fire Brigades Act, 1909, as amended by subsequent Acts ;

(b) an injury received by a fire fighter arising out of or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which the fire fighter was called, and the bush fire, or the destruction of or any damage

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5 damage to wearing apparel or personal effects upon a fire fighter or his crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, while so journeying or the destruction of or any damage to any vehicle used for his conveyance between his place of abode or place of employment, or the place from which he was called, and the bush fire—if the place to which he was journeying or being conveyed for the purpose of fighting the bush fire, or from which he was journeying to his place of abode, place of employment, or place from which he was called, as the case may be, was within a fire district so constituted;

20 (c) the destruction of or any damage to any vehicle, equipment or thing used in connection with fire fighting at or near the scene of a bush fire and owned by or in the possession or custody of a fire fighter—if the destruction or damage was sustained within a fire district so constituted,

25 unless in any such case the bush fire was one to or from which a bush fire brigade was proceeding or at which a bush fire brigade operated or was in attendance for the purpose of its control or suppression.

30 (b) by omitting from subsection one of section 17B the definitions of "Council" and "Insurance company"; (Interpretation.)

(c) by inserting in subsection three of section 17C after the word "twelve," the figures and letter "12A,";

(d) (Compensation payable to fire fighters for injury received.)

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(d) (i) by omitting paragraph (a) of section 17D and by inserting in lieu thereof the following paragraph :—

Sec. 17D.
(Indemnity for destruction of or damage to personal effects, vehicles, etc.)

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(a) the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses of, or wearing apparel or personal effects upon—

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(i) a fire fighter whilst fighting a bush fire or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which he was called, and the bush fire, when such journeying was made exclusively and bona fide for the purpose of engaging in fighting a bush fire ; or

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(ii) the captain, deputy captain, or any member of a bush fire brigade or the group captain or deputy group captain of any bush fire brigades whilst carrying out bush fire preventive operations or preparatory work or in the course of journeying between the place of abode or place of employment of such captain, deputy captain, member, group captain or deputy group captain and the place where bush fire preventive operations were or are to be carried out or preparatory work was or is to be carried out, when such journeying was made exclusively and bona fide

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for

Workers' Compensation (Amendment).

for the purpose of engaging in the carrying out of such preventive operations or preparatory work;

5 (ii) by omitting paragraph (i) of the proviso to the same section and by inserting in lieu thereof the following paragraph:—

10 (i) the amount payable under paragraph (a) of this subsection shall not exceed—

15 (a) in respect of all destruction of and damage to the crutches, artificial members, eyes, teeth, artificial aids, or spectacle glasses of a person, sustained on any one occasion—the amount applicable in respect of damage referred to in section 10A of this Act;

20 (b) in respect of all destruction of and damage to wearing apparel or personal effects upon a person, sustained on any one occasion—the amount applicable in respect of damage referred to in section 10B of this Act;

25 (e) by omitting from subsection two of section 17E the words “All moneys received under this Part of this Act shall be paid into such Fund, and the” and by inserting in lieu thereof the words “Such Fund shall consist of the amount standing to its credit at the commencement of the Workers’ Compensation (Amendment) Act, 1964, together with amounts transferred thereto pursuant to this Part of this Act. The”;

30 Sec. 17E. (Bush Fire Fighters Compensation Fund.)

(f)

Workers' Compensation (Amendment).

(f) by omitting section 17F;

Sec. 17F.
(Returns by
insurance
companies.)

(g) by omitting section 17G and by inserting in lieu thereof the following section :—

Subst.
sec. 17G.

5 17G. The Commission shall as soon as is reasonably practicable before the thirtieth day of June, one thousand nine hundred and sixty-five, and as early as is reasonably practicable in each succeeding financial year terminating on the thirtieth day of June, determine whether any contribution to the
10 Bush Fire Fighters Compensation Fund will be necessary in order to maintain that Fund on a sound financial basis during the next following financial year, and if it determines that such a
15 contribution will be necessary shall assess the amount thereof.

Assessment
and payment
of contribu-
tions.

The Commission shall cause notice of each such determination and assessment to be given to the Minister for Local Government.

20 On the first day of July next following the notification as aforesaid of each such assessment an amount as so assessed shall be transferred to the said Fund from the Eastern and Central Divisions Bush Fire Fighting Fund established under
25 the Bush Fires Act, 1949, as amended by subsequent Acts. Amounts so transferred shall for the purposes of the said Act, as so amended, be deemed to be expenditure from the last mentioned Fund.

30 The provisions of this section shall have effect notwithstanding anything contained in the Bush Fires Act, 1949, as amended by subsequent Acts.

Workers' Compensation (Amendment).

5. The Principal Act is further amended—

Further
amendment
of Act No.
15, 1926.

- 5 (a) (i) by omitting from the definition of "Insurer" in subsection one of section six the word "authorised" and by inserting in lieu thereof the word "licensed"; Sec. 6. (Definitions.)
- (ii) by omitting from the definition of "Self-insurer" in the same subsection the word "authorised" and by inserting in lieu thereof the word "licensed"; 01
- 10 (b) (i) by omitting from subsection one of section eighteen the word "Every" and by inserting in lieu thereof the words "Subject to subsection (1A) of this section, every"; Sec. 18. (Compulsory insurance.)
- 15 (ii) by omitting from the same subsection the words "Provided that the Commission may authorise any employer to undertake the liability referred to in this subsection who furnishes to the Commission a certified copy of his balance-sheets for his last three trading years, and such other particulars as may be required. The Commission may at any time upon notice to the employer concerned, and consideration of such evidence as he desires to submit, review and continue, suspend or terminate, any such authority as it may deem expedient.
- 20 "Employer" in this proviso includes a racing club or association."
- 25 (iii) by inserting in the same subsection after the words "In this Act—" the following words :—
- 30 " 'license' means a license granted or deemed to have been granted under this Part of this Act, and 'licensee' and 'licensed' have corresponding meanings."
- 35 (iv)

Workers' Compensation (Amendment).

(iv) by inserting next after the same subsection the following new subsection :—

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(1A) On application made by an employer to the Commission in the form and manner and accompanied by the information prescribed by rules made under this Act and upon consideration of such evidence as the employer may submit and of such information, documents, particulars, and other evidence as the Commission may receive, the Commission may after due inquiry grant without limitation of time or for such period, and without conditions or subject to such conditions, as the Commission deems fit a license to the employer to undertake himself the liabilities referred to in subsection one of this section, or the Commission may refuse such application. The provisions of subsection one of this section shall not apply to an employer while a license granted to him under this subsection is in force.

25

An employer so licensed who fails to comply in all respects with the conditions of his license shall be guilty of an offence against this Act.

30

Any authority granted to an employer under subsection one of this section as enacted before the commencement of the Workers' Compensation (Amendment) Act, 1964, and in force at such commencement, shall be deemed to be a license granted under this subsection.

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The Commission may at any time upon notice to an employer so licensed, after due inquiry and consideration of such evidence as he may submit and of such information, documents, particulars and other evidence as the

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the Commission may receive, suspend or terminate any such license, or limit or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof.

5 (v) by omitting subsection four of the same section;

(c) by omitting subsection four of section nineteen and by inserting in lieu thereof the following subsection :— Sec. 19.
(Deposits by insurers.)

10 (4) Subsection three of this section shall not operate to require—

(a) a self-insurer to enter into any contract of reinsurance unless he is an insurer licensed under section twenty-seven of this Act, or

15 (b) an insurer to enter into any such contract if he confines his operations to indemnifying one employer, or a group of employers engaged in one industry, trade, or business in respect of the liability to workers under this Act and at common law. The operations of a racing or recreation club shall for
20 the purposes of this paragraph be deemed to be its trade or business.

25 (d) by omitting subsection one of section twenty and by inserting in lieu thereof the following subsection :— Sec. 20.
(Amount of deposit.)

30 (1) (a) An employer licensed as a self-insurer shall on the granting of his license deposit with the Treasurer a sum of money the amount of which shall be determined by the Commission and the license shall be deemed not to be in force unless and until the employer so deposits that sum.

(b)

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5 (b) The Commission may from time to time by notice to an employer so licensed direct the employer to deposit with the Treasurer such sums, additional to any sums so deposited whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the Commission may determine. An employer who fails to comply with any such direction shall be guilty of an offence against this Act.

10 (c) The Commission may from time to time authorise the Treasurer to refund to such an employer any part of the amount or, as the case may require, any part of the total of the amounts, deposited by that employer pursuant to this subsection or the subsection which this subsection replaces.

(d) In this section "employer" includes a racing club or association.

20 (e) by inserting in subsection one of section twenty-four after the words "at common law" the words "or, in the case of an employer licensed under subsection (1A) of section eighteen of this Act, in respect of the liabilities referred to in subsection one of that section,"; Sec. 24. (Application of deposit.)

25 (f) by omitting section 25A and by inserting in lieu thereof the following section : — Subst. sec. 25A.

30 25A. An employer who has either before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, deposited any sum or sums of money pursuant to subsection one of section twenty of this Act or the subsection replaced by that subsection may in the event of his ceasing Return of deposits to self-insurers.

to

Workers' Compensation (Amendment).

to be licensed under subsection (1A) of section eighteen of this Act withdraw all sums so deposited by him and standing to his credit—

- 5 (a) on the expiration of three months after service on the Treasurer of a request in writing duly signed by or on behalf of the employer for the refund of such sums; and
- 10 (b) on satisfying the Treasurer that all the accrued, continuing, future, and contingent liabilities of the employer under this Act in respect of workers employed by him while he was so licensed have been discharged or suitably and adequately provided for.
- 15 (g) by inserting in section twenty-six after the word "complaint" the words "or information"; Sec. 26.
(Evidence.)
- (h) by omitting sections twenty-seven, twenty-eight, twenty-nine and thirty and by inserting in lieu thereof the following sections : — Subst. secs.
27-30.
- 20 27. (1) On application made by any person to the Commission in the form and manner and accompanied by the information prescribed by rules made under this Act and upon consideration of such evidence as he may submit and of such information, documents, particulars, and other evidence as the Commission may receive, the Commission may after due inquiry grant to that person without limitation of time or for such period, and without conditions or subject to such conditions, as the Commission deems fit a license to carry on in New South Wales the business of insurance of employers against their liability to their workers under this Act, and independently of this Act for injuries to
- 25
- 30 their

Workers' Compensation (Amendment).

their workers, or the Commission may refuse such application. An insurer so licensed who fails to comply in all respects with the conditions of his license shall be guilty of an offence against this Act.

5 (2) Any license granted under the section which this section replaces, and in force at the commencement of the Workers' Compensation (Amendment) Act, 1964, shall be deemed to be a license granted under this section.

10 28. (1) Every person licensed under subsection (1A) of section eighteen or section twenty-seven of this Act— Information, etc., to be supplied by licensees.

15 (a) shall furnish to the Commission within the time specified in the notice hereinafter referred to such information, particulars, accounts, documents and copies of accounts and documents as to his business and financial position as the Commission may by notice in writing to the licensee from time
20 to time require ;

 (b) being a corporation, shall notify the Commission in writing of any of the following matters, events, or things within twenty-one days of the happening thereof (whether
25 within or outside the State), namely :—

 (i) any default by such licensee or its holding corporation in the payment of principal or interest under any debenture issued by such licensee
30 or corporation ;

 (ii) the appointment of a liquidator, receiver or manager of the property of such licensee or corporation ;

 (iii)

Workers' Compensation (Amendment).

- (iii) that such licensee or corporation has resolved by special resolution that it be wound up voluntarily or by a court;
- 5 (iv) that a person claiming to be a creditor by assignment or otherwise of such licensee or corporation for a sum exceeding fifty pounds then due has served on such licensee or corporation by leaving at its registered office a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring such licensee or corporation to pay the sum so claimed to be due, and such licensee or corporation has for three weeks thereafter failed to pay the sum or to secure or compound for it to the satisfaction of the person claiming to be a creditor;
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- 20 (v) the return unsatisfied in whole or part of execution or other process issued on a judgment, decree or order of any court in favour of a creditor of such licensee or corporation;
- 25
- (vi) the receipt by such licensee or corporation, or the giving, or causing to be given by such licensee or corporation, of any notice or statement mentioned in subsection two of section one hundred and eighty-four of the Companies Act, 1961, as amended by subsequent Acts;
- 30
- 35

Workers' Compensation (Amendment).

(vii) the making of an order for the winding-up of such licensee or corporation by any court;

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(viii) the receipt by such licensee or corporation of any notice of an application for an order for the winding-up of such licensee or corporation by any court.

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In this subsection "holding corporation" means a corporation of which the licensee is a subsidiary.

(2) A licensee who fails to comply with any of the provisions of subsection one of this section shall be guilty of an offence against this Act.

15

29. (1) Subject to the provisions of this section the Commission may suspend, or terminate, any license granted under section twenty-seven of this Act, or limit, or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof, if it is satisfied of one or more of the following matters, events or things : —

20

(a) that the licensee is unable to pay his debts;

(b) that the licensee being a corporation has resolved that it be wound up voluntarily or by a court;

25

(c) that the licensee has not commenced the business for which he is licensed for a year from the date at which his license was granted, or has suspended his said business for a whole year;

30

(d) that in the case of the licensee being a company an inspector appointed under section one hundred and sixty-nine or section one hundred and seventy of the

Companies

Workers' Compensation (Amendment).

- 5 Companies Act, 1961, as amended by subsequent Acts, or under any equivalent provision of any Act or ordinance relating to companies for the time being in force in any other State or Territory of the Commonwealth, has reported that he is of the opinion—
- (i) that the company cannot pay its debts and should be wound up, or
- 10 (ii) that it is in the interests of the public or of the shareholders or of the creditors that the company should be wound up;
- (e) that the licensee has failed to comply with any provision of this Act and such failure constitutes a substantial breach of the requirements of this Act;
- 15 (f) that the licensee has been guilty of repeated breaches of this Act, whether of the same kind or of different kinds;
- 20 (g) that the licensee has failed to arrange suitable and adequate reinsurance of liabilities undertaken by him under policies of insurance or indemnity issued by him;
- 25 (h) that the licensee has failed to make suitable and adequate provision for his accrued, continuing, future, and contingent liabilities under policies of insurance or indemnity issued by him;
- 30 (i) that the licensee has failed to comply with the conditions of his license;

(j)

Workers' Compensation (Amendment).

- 5 (j) that the licensee has unreasonably failed, or unreasonably refused, to satisfy an award made by the Commission against an employer insured or indemnified by the licensee against the liability of the employer thereunder;
- 10 (k) that the conduct of the licensee, his employees, and officers, and the arrangement of his affairs have been such that, in the opinion of the Commission, he should not continue to hold a license.

(2) For the purposes of this section a licensee shall be deemed to be unable to pay his debts if—

- 15 (a) a creditor by assignment or otherwise to whom the licensee is indebted in a sum exceeding fifty pounds then due has served on the licensee by leaving at his usual place of business or if such licensee is a corporation at the registered office thereof a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring the licensee to pay the sum so due, and the licensee has for three weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor; or
- 20
- 25
- 30 (b) execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the licensee is returned unsatisfied in whole or in part; or
- 35 (c) it is proved to the satisfaction of the Commission that the licensee is unable to pay his debts and in determining whether a licensee is unable to pay his debts the Commission

Workers' Compensation (Amendment).

Commission shall take into account the accrued, continuing, future and contingent liabilities of the licensee.

5 (3) (a) Proceedings on any ground specified in subsection one of this section or subsection seven of section 18C of this Act for the suspension or termination of a license or for limiting or varying the period of a license or attaching any conditions thereto or varying the conditions thereof shall be
10 instituted by application by the Registrar in the form and manner prescribed by rules made under this Act, setting forth the ground or grounds of the application, and thereupon the Commission shall
15 give notice in such form and manner as is so prescribed to the licensee mentioned in such application calling upon him to show cause why his license should not be dealt with as aforesaid.

(b) The Commission shall hear evidence in support of and in answer to the application, and after due inquiry shall decide whether or not
20 the license should be dealt with as aforesaid, giving reasons for the decision.

(c) An appeal from any decision given by the Commission on such application shall lie
25 to the Supreme Court in its equitable jurisdiction. Such appeal shall be instituted by notice of appeal filed in the Equity Office within thirty days after the giving of the decision appealed from and the Court on such appeal may make any such orders
30 as the Commission might have made on such application. The provisions of section thirty-seven of this Act shall not apply to and in respect of any such decision.

(d)

Workers' Compensation (Amendment).

5 (d) A decision of the Commission dealing with a license as aforesaid shall unless otherwise thereby provided have effect from the time that the same is given but the licensee may before the expiration of the time limited for appeal or while an appeal is pending apply to the Commission or at his option to the Supreme Court in its equitable jurisdiction and the Commission or the Court as the case may be may thereupon on such terms and for such time as it may think fit suspend in whole or in part the operation of the Commission's decision pending the determination of an appeal.

15 (e) In every appeal under this section the costs of the appeal, including the costs of any issue therein, shall be in the discretion of the Court.

20 29A. Terms and expressions used in sections twenty-eight and twenty-nine of this Act shall unless a contrary intention appears have meanings corresponding to the meanings ascribed to such terms and expressions in the Companies Act, 1961, as amended by subsequent Acts, or other relevant Acts or ordinances relating to companies for the time being in force in any other State or Territory of the Commonwealth.

25 30. The Commission may at the request of a licensee suspend or terminate his license or limit or vary the period or vary the conditions thereof.

Construction.
Termination, etc. of licenses at request of licensees.

(i) (i) by inserting at the end of subsection one of section 30A the following new paragraph : —

Sec. 30A.
(Insurance Premiums Committee.)

30 This section shall apply to and in respect of licensed insurers under section twenty-seven of this Act.

(ii)

Workers' Compensation (Amendment).

(ii) by omitting from paragraph (c) of subsection (13A) of the same section the words "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" and by inserting in lieu thereof the words "for the purposes of section twenty-eight of this Act to constitute a substantial breach of the requirements of this Act";

(j) by inserting next after section 30A the following new sections :— **New secs. 30B-30E.**

30B. (1) If on an application made to a member of the Commission in chambers by the Registrar there is shown to be reasonable cause to believe that a licensee, or any person employed by a licensee, has committed an offence against this Act or that there is reasonable cause to believe that grounds exist for the license of a licensee being dealt with under any provision of this Act and that evidence of the committing of the offence or of the existence of any such grounds is to be found in any books, documents, papers or records of or under the control of the licensee, such member of the Commission may make an order—

- (a) authorising any person named therein to inspect and make copies of or extracts from such books, documents, papers or records or any of them; or
- (b) requiring the licensee or any employee of the licensee named or designated in the order to produce such books, documents, papers or records or any of them to a person and at a place named in the order.

Workers' Compensation (Amendment).

5 (2) Any person hindering or preventing a person authorised thereto by such order from inspecting or making copies of or extracts from any such books, documents, papers or records and any licensee or any employee of the licensee named or designated in any such order who refuses or neglects to produce any such books, documents, papers or records in accordance with any such order, shall be guilty of an offence against this Act.

10 30c. (1) The Commission shall keep records in relation to all licenses which records shall include particulars of the granting, refusal, duration, suspension and termination of licenses, the conditions thereof and such other matters pertaining thereto as the Commission may think fit. ^{Records and notifications.}

15 (2) A certificate purporting to be signed by the Registrar or deputy or assistant registrar of the Commission or other prescribed officer certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified or referred to in subsection one of this section did or did not appear on or from such records shall, in all courts and upon all occasions whatsoever, without proof of the signature or of the official character of the person purporting to have signed the certificate and without the production of any record or document upon which the certificate is founded, be prima facie evidence of the particulars certified in and by the certificate.

20 (3) An applicant for a license shall if so required by the Commission give such notice of his application by advertisement or otherwise as the Commission may determine and if he fails to do so the application shall be deemed not to have been duly made.

(4)

Workers' Compensation (Amendment).

(4) The Commission shall cause notification of every suspension or termination of a license to be published in the Gazette.

5 30D. (1) (a) A license which has been terminated or the period of which has expired or which is for the time being suspended shall be deemed not to be in force. Penalties.

10 (b) Every person who carries on the business of insurance of employers against their liability to their workers under this Act, or independently of this Act, for injuries to their workers, shall unless a license has been granted to him under section twenty-seven of this Act and is for the time being in force be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred pounds for every day during which such business is carried on.

20 (2) Every person who commits an offence under this Part of this Act shall where no other pecuniary penalty is provided be liable to a penalty not exceeding two hundred pounds or imprisonment for a term not exceeding six months, and after the date of conviction of any such offence shall from time to time be liable to further penalties not exceeding fifty pounds for every week during which he continues to commit the offence.

30 30E. No contract of insurance or indemnity and no term or condition thereof shall be void or unenforceable by reason only of the fact that the person issuing the policy was not licensed pursuant to section twenty-seven of this Act or that the issue thereof by a person so licensed was contrary to the conditions of his license. Saving of policies.

(k)

Workers' Compensation (Amendment).

- (k) (i) by inserting in subsection four of section forty-one after the word "insurer" where firstly occurring the words "licensed under section twenty-seven of this Act"; Sec. 41.
(Constitution of fund.)
- 5 (ii) by omitting from subsection seven of the same section the word "authorised" and by inserting in lieu thereof the words "licensed under this Act".

6. (1) The Principal Act is further amended—

Further amendment of Act No. 15, 1926. 01
Fisher v. Hebburn Limited, 105 C.L.R. 188.

- 10 (a) (i) by omitting from the definition of "Dependants" in subsection one of section six the words "upon the earnings of" and by inserting in lieu thereof the words "for support upon"; Sec. 6.
(Definitions.)
- 15 (ii) by omitting from the same definition the words "his earnings" wherever occurring and by inserting in lieu thereof the word "him";
- 20 (b) (i) by omitting from subsection one of section eight the words "upon his earnings" and by inserting in lieu thereof the words "for support upon the worker"; Sec. 8.
(Compensation payments (Death).)
- 25 (ii) by omitting from paragraph (b) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- (iii) by omitting from subsection two of the same section the words "his earnings" where firstly occurring and by inserting in lieu thereof the words "him for support";

(iv)

Workers' Compensation (Amendment).

- (iv) by omitting from the same subsection the words "dependent upon his earnings" where secondly occurring and by inserting in lieu thereof the words "so dependent";
- 5 (v) by omitting from paragraph (a) of subsection five of the same section the words "upon the earnings of" wherever occurring and by inserting in lieu thereof the words "for support upon";
- 10 (c) (i) by omitting from paragraph (b) of subsection Sec. 9. one of section nine the words "on the earnings of" wherever occurring and by inserting in lieu thereof the words "for support on"; (Total or partial incapacity.)
- 15 (ii) by omitting from paragraph (c) of the same subsection the words "on the earnings of" wherever occurring and by inserting in lieu thereof the words "for support on";
- 20 (iii) by omitting from paragraph (d) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- 25 (iv) by omitting from paragraph (e) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- 30 (v) by omitting from subsection seven of the same section the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- (vi) by omitting from the same subsection the words "upon the earnings of" and by inserting in lieu thereof the words "for support on";

(d)

Workers' Compensation (Amendment).

(d) by inserting next after subsection six of section **Sec. 18.**
eighteen the following new subsection : — **(Compulsory**
insurance.)

5 (6A) Where before or after the commencement
of the Workers' Compensation (Amendment) Act,
1964, an employer has become liable under this
Act to pay compensation to a worker in respect of
incapacity resulting from an injury referred to in
10 subsection four or (4A) of section seven of this
Act or has become liable under section sixteen of
this Act to pay compensation to a worker in respect
of an injury referred to in subsection (1A) of that
section, then for the purpose of determining
15 whether any insurer or which of two or more
insurers is liable under a contract of insurance or
indemnity in respect of that compensation, the
liability of the employer shall notwithstanding the
provisions of subsection five of the said section
seven and of subsection (1A) of the said section
20 sixteen be deemed to have arisen immediately
before the worker ceased to be employed by the
employer.

(2) (a) A person who would have been entitled to
compensation under any provision of the Workers' Compensa-
25 tion Act, 1926, or any amendment thereof, had dependency
for support on a worker in lieu of dependency on the earnings
of a worker been a determining factor shall be deemed to
be and always to have been so entitled.

(b) Nothing in this subsection shall affect the
rights of any parties to any claim, action, suit or proceeding
30 which has before the commencement of this Act been deter-
mined where the time within which an appeal, including an
application to Her Majesty in Council, from any such deter-
mination might have been made has expired before such
commencement.

Workers' Compensation (Amendment).

7. Any policy of insurance against liability under the Workers' Compensation Act, 1926, or any amendment of that Act, being maintained in force at the commencement of this Act shall be deemed to insure the employer and always to have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Principal Act made by this Act. Where a person is in receipt of compensation at the commencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

Subsisting policies.
Act No. 58,
1960, s. 5.

8. (1) This section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Commencement.

(2) The Workmen's Compensation (Broken Hill) Act, 1920-1964, is amended—

Amendment of Act No. 36, 1920.

- (a) (i) by omitting from the definition of "Beneficiary" in subparagraph (a) of paragraph 2 of Part I of the Schedule the words "under the school leaving age" where firstly occurring and by inserting in lieu thereof the words ", under the age of sixteen years or being a student,";
- (ii) by omitting from the same definition the words "under the school leaving age" where secondly occurring;
- (iii) by inserting at the end of the same definition the words "where such sister or brother or illegitimate or adopted child is under the age of sixteen years or is a student";

Schedule, par. 2.

(iv)

Workers' Compensation (Amendment).

(iv) by inserting in the same subparagraph next after the definition of "Mine worker" the following new definition :—

5 "Student" means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or university;

10 (v) by omitting subparagraph (b) of the same paragraph;

15 (b) (i) by omitting from subparagraph (a) of para-^{Schedule,} graph 6 of Part II of the Schedule the words ^{par. 6.} "the school leaving age" where firstly occurring and by inserting in lieu thereof the words "the age of sixteen years or being a student";

20 (ii) by omitting from the same subparagraph the words "under the school leaving age" where secondly occurring and by inserting in lieu thereof the words "any member of which is under the age of sixteen years or a student";

(iii) by omitting from subparagraph (b) of the same paragraph the words "the school leaving age" and by inserting in lieu thereof the words "the age of sixteen years or being a student";

25 (iv) by omitting from subparagraph (d) of the same paragraph the words "the school leaving age" and by inserting in lieu thereof the words "the age of sixteen years or being a student";

(c)

Workers' Compensation (Amendment).

- (c) (i) by omitting from subparagraph (b) of paragraph 6A of Part II of the Schedule the figures "5 10 0" wherever occurring and by inserting in lieu thereof the figures "6 15 0";
- 5 (ii) by omitting from the same subparagraph the figures "1 0 0" and by inserting in lieu thereof the figures "1 3 0";
- (iii) by omitting from the same subparagraph the figures "3 2 6" and by inserting in lieu thereof the figures "4 0 0";
- 10 (iv) by omitting from paragraph (i) of subparagraph (c) of the same paragraph the words "Social Services Consolidation Act 1947-1949 of the Parliament of the Commonwealth" and by inserting in lieu thereof the words "Social Services Consolidation Act 1947 of the Parliament of the Commonwealth, or any Act amending or replacing that Act".
- 15

(3) The amendments made by subsection two of this section shall be deemed to extend to, and from the commencement of this section, apply in respect of all persons who were immediately before such commencement in receipt of compensation under the Workmen's Compensation (Broken Hill) Act, 1920-1964, as well as to all persons becoming entitled to compensation thereunder after such commencement.

20
25

(4) The Workmen's Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts and by this Act, may be cited as the Workmen's Compensation (Broken Hill) Act, 1920-1964.

30

Workers' Compensation (Amendment).

9. (1) The Common Law Procedure Act, 1899, as amended by subsequent Acts, is amended by inserting in subsection one of section one hundred and forty-two after the word "thereon" the words " : Provided that where pursuant to section sixty-three or sixty-four of the Workers' Compensation Act, 1926, as amended by subsequent Acts, any payment is to the extent of the amount thereof a satisfaction of the judgment, so much of the amount of the verdict as is equivalent to that payment shall if the payment was
10 made—

- (a) before the verdict was obtained, carry no interest;
- (b) after the verdict was obtained, carry interest only until the time when the payment was made."

(2) The Common Law Procedure Act, 1899, as
15 amended by subsequent Acts and by this Act, may be cited as the Common Law Procedure Act, 1899-1964.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1964
[4s.]

No. , 1964.

A BILL

To amend the law relating to workers' compensation; to amend the Workers' Compensation Act, 1926, the Workers' Compensation (Silicosis) Act, 1942, the Workmen's Compensation (Broken Hill) Act, 1920, the Common Law Procedure Act, 1899, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith.

[MR. LANDA;—24 *November*, 1964.]

BE

Workers' Compensation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Workers' Compensation (Amendment) Act, 1964".

Short title,
citation and
commence-
ment.

(2) This Act, section eight excepted, shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. In this Act a reference to the commencement of this Act shall be read and construed as a reference to such day.

(3) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) The Principal Act, as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1964.

2. (1) The Principal Act is amended—

Amendment
of Act No.
15, 1926.

(a) (i) by omitting from paragraph (a) of subsection one of section nine the words "ten pounds ten shillings" and by inserting in lieu thereof the words "eleven pounds fifteen shillings";

Sec. 9.
(Total or
partial
incapacity.)

(ii) by omitting from the same paragraph the words "seven pounds" and by inserting in lieu thereof the words "eight pounds";

(iii) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words "three pounds" and by inserting in lieu thereof the words "three pounds three shillings";

(iv)

Workers' Compensation (Amendment).

- (iv) by inserting in subparagraph (ii) of the same paragraph after the words "in loco parentis" the following word and new paragraph :—
- "; and
- 5 (c) each person being a student who is a child or stepchild of the worker or to whom the worker stands in loco parentis";
- 10 (v) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words "three pounds" and by inserting in lieu thereof the words "three pounds three shillings";
- 15 (vi) by inserting in subparagraph (ii) of the same paragraph after the word "sister" the words "who is";
- (vii) by inserting in the same subparagraph after the words "sixteen years" the words "or a student and";
- 20 (viii) by inserting at the end of the same subsection the following words :—
- "In this subsection 'student' means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or
- 25 university."
- (b) (i) by omitting from paragraph (a) of subsection (1A) of the same section the words and figures "Workers' Compensation (Further Amendment) Act, 1960" and by inserting in lieu thereof the words and figures "Workers' Compensation (Amendment) Act, 1964";
- 30 (ii) by omitting from paragraph (c) of the same subsection the words "assessed and calculated under and in accordance with paragraph (a)

or

Workers' Compensation (Amendment).

- 5 or (b) of subsection two of section 61v of the Industrial Arbitration Act, 1940-1961" and by inserting in lieu thereof the words "appropriate by virtue of paragraph (a) or (b) of subsection two of section 61K, 61V or 61AA of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted at the relevant time under the said Act, as so amended";
- 10 (c) (i) by omitting from subsection four of the same section the words "six pounds ten shillings" and by inserting in lieu thereof the words "seven pounds five shillings";
- 15 (ii) by omitting from the same subsection the words "four pounds seventeen shillings and sixpence" and by inserting in lieu thereof the words "five pounds ten shillings";
- 20 (d) (i) by omitting from subsection five of the same section the words "nine pounds five shillings" and by inserting in lieu thereof the words "ten pounds ten shillings";
- (ii) by omitting from the same subsection the words "seven pounds" and by inserting in lieu thereof the words "eight pounds";
- 25 (e) by inserting in paragraph (a) of subsection six of the same section after the words "in loco parentis" the words "or any person being a student as defined in subsection one of this section who is a child or stepchild of the worker or to whom
- 30 the worker stands in loco parentis".

(2) The amendments made by subsection one (paragraph (b) excepted) of this section shall be deemed to extend to, and from the commencement of this Act, apply in respect of all persons in receipt of or entitled to weekly
35 payments under the provisions of section nine of the Principal Act,

Workers' Compensation (Amendment).

Act, or under the provisions of the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

5 3. (1) The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

(a) by inserting next after paragraph (a) of subsection (14c) of section six the following new paragraph :—

Sec. 6. (Definitions.)

10 (a1) as a boxer, wrestler or referee in any boxing or wrestling contest in or upon the premises of a club registered under Part X of the Liquor Act, 1912, as amended by subsequent Acts; or;

15 (b) by inserting at the end of subsection one of section seven the following new paragraph :—

Sec. 7. (Liability of employers to workers for injuries.)

(g) For the purposes of this subsection a worker's journey from his place of abode shall be deemed to have commenced at, and the terminal point of his journey to his place of abode to be—

20 (i) if his place of abode is a flat or home unit in a residential flat building or home unit building—that exit of the flat or home unit whereby he departed on his journey from his place of abode, or that entrance of the flat or home unit whereby he entered or
25 would but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be;

30 (ii) in every other case where his place of abode is or is within a building or structure—that exit of the building or structure whereby he departed on his journey from his place of abode, or that entrance of the building or structure whereby he entered or would

but

Workers' Compensation (Amendment).

but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be.

5 (c) (i) by inserting in paragraph (a) of the definition of "Medical treatment" in subsection two of section ten after the word "masseur" the words "or remedial medical gymnast";

Sec. 10.
(Medical and hospital treatment, &c.)

10 (ii) by inserting at the end of subsection four of the same section the following new paragraph :—

15 (c) Any sum for which the employer becomes liable in respect of medical treatment under this subsection may be recovered from the employer by the person who afforded the medical treatment.

(d) (i) by inserting in subsection one of section 10A after the words "specified in the order" the following new subsection :—

Sec. 10A.
(Damages to artificial limbs, etc.)

20 (1A) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and has, as a result thereof, sustained any damage of the nature referred to in subsection one of this section, shall if the accident did not happen—

30 (a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be; or

35

(b)

Workers' Compensation (Amendment).

5 (b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey,

10 be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :

15 Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.

20 (ii) by inserting in the same subsection immediately before the words "The provisions" the symbols, figure and letter "(1B)";

25 (e) (i) by inserting in section 10B after the words "specified in the order" the following new subsection :— Sec. 10B. (Damage to clothing.)

30 (2) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and whose clothing has, as a result thereof, been damaged shall if the accident did not happen—

35 (a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment

Workers' Compensation (Amendment).

5 employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be; or

10 (b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey,

15 be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :

20 Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.

25 (ii) by inserting in the same subsection immediately before the words "The provisions" the symbols and figure "(3)";

30 (f) (i) by omitting from paragraph (a) of subsection one of section eleven the words "the amount of the average weekly earnings of the worker before the injury" and by inserting in lieu thereof the words "the weekly amount which the worker would probably have been earning as a worker but for the injury and had he continued to be employed in the same or some comparable employment";

Sec. 11.
(Partial incapacity.)

35 (ii) by omitting paragraphs (b), (c) and (d) of the same subsection;

(g)

Workers' Compensation (Amendment).

- (g) by inserting next after section twelve the following New sec.
12A.
new section :—

5 12A. A worker who as a result of injury is unable Incapacity
deemed to
exist in
certain
cases.
without immediate and substantial risk of further
injury to engage in employment of a certain kind
by reason of the nature of that employment shall
be deemed to be incapacitated for employment of
that kind.

- 10 (h) (i) by omitting subsection one of section sixteen Sec. 16.
(Compensa-
tion for
certain
injuries.)
and by inserting in lieu thereof the following
subsection :—

15 (1) A worker who has received an injury
mentioned in the first column of the table
hereunder set forth shall be entitled to receive
from his employer by way of compensation for
that injury, in addition to any other compen-
sation prescribed by this Act, the amount
indicated in respect of that injury in the
second column of that table.

- 20 (ii) by inserting next after subsection (1A) of the
same section the following new subsection :—

25 (1B) (a) A worker who has received an
injury which is not or is not wholly an injury
mentioned in the table hereunder set forth and
which has resulted in severe facial disfigure-
ment shall be entitled to receive from his
employer by way of compensation for that
injury, in addition to any other compensation
30 prescribed by this Act, an amount, not exceed-
ing in any case two hundred pounds, as may
be agreed upon, or in default of agreement as
may be assessed as appropriate by a medical
board in accordance with the provisions of
this subsection.

(b)

Workers' Compensation (Amendment).

5 (b) The Commission or the Registrar shall, on application by a person claiming to be entitled as a worker to compensation under this subsection and on payment by the applicant of such fee, not exceeding one pound, as may be prescribed by rules, refer to a medical board constituted in accordance with section fifty-one of this Act for determination
10 the questions whether severe facial disfigurement exists and if so what amount of compensation is appropriate as compensation therefor, and the decisions of the medical board shall be final and conclusive.

15 (c) Wherever practicable, at least one of the medical referees of whom a medical board is for the purposes of this subsection constituted shall be a specialist in plastic surgery.

(iii) by omitting subsection two of the same section ;

20 (iv) by inserting in the first column of the table set forth at the end of the same section after the item “‡Loss of hearing of one ear” the following new item :—

25 “‡Loss of the power of speech”
and by inserting in the second column of that table opposite the words so inserted the figures “1,750 0 0”;

(v) by inserting at the foot of the same table the following new footnote :—

30 “‡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”.

(i)

Workers' Compensation (Amendment).

- 5 (i) (i) by omitting from subsection five of section Sec. 18.
eighteen the words "twelve months after such (Compulsory
failure" and by inserting in lieu thereof the insurance.)
words "two years after such failure. In any
such proceedings, proof that the employer, not
10 being a self-insurer, having been served
pursuant to subsection one of section 18A of
this Act with a notice requiring him to produce
for inspection a policy of insurance or
15 indemnity obtained by him and in force at a
specified date or between specified dates has
not so produced any such policy so in force
and that the time stated in the notice for such
production has expired shall be sufficient
evidence, unless the contrary be proved, that
at that date or between those dates, as the
case may be, the employer had failed to
comply with the provisions of subsection one
of this section."

- 20 (ii) by inserting at the end of the same section
the following new subsection : —

25 (8) (a) Every employer shall keep correct
records of all wages paid to the workers
employed by him, and of the trade, occupa-
tion or calling of each worker, and of such
other matters relating to the wages so paid
as may be prescribed, and shall retain such
records in his possession in good order and
condition for a period of at least three years.

30 Such records may be combined with any
records of wages required by any Act other
than this Act to be kept by the employer.

(b)

Workers' Compensation (Amendment).

5 (b) The Commission may, on application by an insurer who has issued a policy of insurance or indemnity to an employer, and whether or not such policy is still in force, order the employer—

10 (i) to supply to the insurer within a time specified in the order a full and correct statement of all wages paid during a period so specified to the workers in the employment of that employer, together with such information as to the trades, occupations or callings of the workers and other prescribed matters relating to those wages as may be so specified. The period to be specified in the order shall be a period when the policy was in force and which commenced not more than three years before the making of the application;

15 (ii) to make available at or within such time or times and at such place as is specified in the order, for inspection by—

20 (a) an officer authorised in that behalf by the Commission;

(b) a person authorised in that behalf by the insurer and so specified,

25 the records required by this subsection to be kept by the employer and at the time of the order to be retained by him in respect of a period so specified, being a period when the policy was in force.

30 (c)

Workers' Compensation (Amendment).

5 (c) Any officer or person authorised under subparagraph (ii) of paragraph (b) of this subsection may inspect such records in accordance with the terms of the order and make copies thereof and take extracts therefrom.

10 (d) The Commission on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection may order the employer to pay to the insurer such amount as the Commission may having regard to the operation of this subsection find to be due and payable as a premium or balance of premium in respect of a policy of insurance or indemnity or any renewal thereof.

20 (e) The Commission, on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection, or by the Registrar, may if satisfied that the employer has failed to comply with the order call upon him to show cause why he should not be dealt with for contempt of the Commission, and if he fails so to show cause the Commission may impose on him a fine not exceeding two hundred pounds or order him to be imprisoned for a period not exceeding six months.

30 Nothing in this paragraph shall affect the jurisdiction of the Commission to make a further order or orders against the employer under the said paragraph (b).

35 The provisions of section eighty-two of the Justices Act, 1902, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any fine so imposed and the persons on whom it is imposed.

(j)

Workers' Compensation (Amendment).

5 (j) (i) by omitting from paragraph (a) of subsection one of section 18A the words "any policy of insurance or indemnity" and by inserting in lieu thereof the words "the policy of insurance or indemnity obtained by the employer and in force at such date or between such dates, whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the notice specifies";

Section 18A.
(Inspection
of policies.)

10 (ii) by inserting next after the same subsection the following new subsection—

15 (1A) A worker who has received an injury, or has met with an accident arising out of or in the course of his employment or on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies, or has received an injury during any absence referred to in paragraph (e) of the said subsection, or a solicitor for the time being authorised by such worker to act on behalf of the worker in relation to a claim for compensation under this Act in respect of that injury or accident, or a representative of a union to which the worker belongs, may by notice in writing require the employer to make available for inspection a policy of insurance or indemnity in force in respect of the worker at the time whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, when the injury was received or the accident happened, as the case may be.

(iii)

Workers' Compensation (Amendment).

(iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections :—

5

(2) (a) An employer who obtains a policy of insurance or indemnity shall retain the same in his possession in good order and condition at all times while he is employing workers in respect of whom the policy is in force and for at least three years thereafter.

10

(b) An employer who has in his possession or is required by this subsection to have in his possession such a policy of insurance or indemnity as is referred to in a notice served on him pursuant to this section and who fails to comply with any requirement of the notice within the time for compliance and in the manner stated therein shall be guilty of an offence against this Act.

15

20

(3) In this section "union" means industrial union of employees registered under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and "representative" means the secretary of a union or an officer for the time being authorised under section 129A of the said Act, as so amended, to exercise powers under that section.

25

(k) (i) by inserting in subsection two of section 18C after the word "obtains" the words "or has applied for or applies for"; Sec. 18c. (Uninsured liability scheme.)

30

(ii) by omitting from the same subsection the words "awarded, and costs, as has not been paid" and by inserting in lieu thereof the words "and costs of the application therefor as has been awarded and has not been paid or as may be awarded and not be paid, as the case may require, and in respect of the costs of the claim";

35

(iii)

Workers' Compensation (Amendment).

(iii) by omitting paragraphs (a), (b) and (c) of the proviso to subsection three of the same section;

5 (iv) by omitting from paragraph (e) of the proviso to the same subsection the words "notwithstanding anything to the contrary in the foregoing provisions of this subsection";

10 (v) by omitting paragraph (a) of subsection five of the same section and by inserting in lieu thereof the following paragraphs :—

15 (a) Where a claim is made under the Scheme by a worker at the same time as he applies for an award of the compensation to which the claim relates, or whose application for such award is then pending, the Commission may hear and determine the claim either concurrently with or after the hearing and determination of such application.

20 (a1) Where a claim under the Scheme has been made and the employer does not appear and defend the application for an award of compensation, or where such award has prior to the making of the claim been obtained from the Commission in default of appearance
25 by the employer, or by consent of the worker and the employer, or if in any case the Commission for any reason thinks fit, the Commission may cause to be made such inquiries as may be deemed necessary to determine the genuineness of the grounds on which the award
30 is sought or was based. The Commission may adjourn the application, or if an award has been made may reopen the same, and
order

Workers' Compensation (Amendment).

5 order its Registrar, or some other fit person, to take and defend the proceedings in substitution for the employer, and to such Registrar or person for such purposes all the rights of the employer shall be subrogated.

(vi) by inserting next after subsection seven of the same section the following new subsection : —

10 (7A) Where in the opinion of the Commission or the Registrar the question has arisen whether an insurer is the insurer under this Act of an employer whose worker is making a claim under the Scheme the Commission or Registrar, as the case may be, may notify the insurer of the proceedings and such notice shall operate to join the insurer as a party to the proceedings.

Joinder of insurers.

(vii) by omitting subsection nine of the same section ;

20 (1) by inserting next after section 18c the following new section : —

New sec. 18D.

25 18D. The provisions of sections one hundred and ninety-nine, two hundred and thirty and two hundred and sixty-three of the Companies Act, 1961, as amended by subsequent Acts, shall not preclude a person from applying for an award of compensation or proceeding with such application without the leave of the Supreme Court in its equitable jurisdiction. Any award of compensation made pursuant to an application authorised by this section shall have force and effect only for the purposes of section 18c of this Act and not otherwise and notwithstanding any such provisions of the Companies Act, 1961, as so amended.

Leave to proceed not necessary in certain cases.

Workers' Compensation (Amendment).

(m) by omitting from subsection one of section thirty-one the words "and not more than four";

Sec. 31.
(Appoint-
ment of
Commis-
sion.)

(n) by inserting next after paragraph (e) of subsection four of section thirty-six the following new paragraph : —

Sec. 36.
(Jurisdic-
tion.)

5

(e1) the weekly amount or sum, as the case may be, in accordance with subsection one of section eleven or subsection two of section sixty of this Act;

(o) (i) by inserting in subsection one of section forty-three after the word "claims" the words " , together with—

Sec. 43.
(Posting of
summary of
Act.)

10

15

20

(a) in a case where the employer has pursuant to subsection one of section eighteen of this Act obtained a policy of insurance or indemnity in respect of the persons there employed and the policy is for the time being in force, a statement setting forth the name and address of the insurer from whom the policy was obtained and stating that insurance under this Act has been effected with that insurer;

25

(b) in a case where the employer is a self-insurer, a statement that the employer is licensed as a self-insurer under this Act."

30

(ii) by inserting in subsection two of the same section after the word "summary" where secondly occurring the words "or statement";

(iii)

Workers' Compensation (Amendment).

- 5 (iii) by inserting in subsection three of the same section after the words "this Act" the words "and be liable to a penalty not exceeding twenty pounds for each day during which the offence continues";
- (p) by omitting subsection four of section forty-six; Sec. 46.
(Seamen.)
- (q) by inserting next after section forty-nine the following new section: — New sec.
49A.
- 10 49A. (1) Where an employer has entered into a contract with any insurer in respect of any liability under this Act to any worker, then in the event of the death of the employer, or an employer, being a corporation (other than a company which has commenced to be wound up), ceasing to exist, the rights the employer but for death or so ceasing would have had against the insurer as respects that liability shall be transferred to and vest in the worker. Death of employer.
- 15
- 20 Upon any such transfer the insurer shall have the same rights and remedies and be subject to the same liabilities as if such insurer were the employer, so however that the insurer shall not be under any greater liability to the worker than the insurer would have been under to the employer.
- 25 (2) In the event of the death of the employer the worker may, if the liability of the insurer to the worker is less than the liability of the employer to the worker, proceed for the balance against the personal representative of the employer.

(r)

Workers' Compensation (Amendment).

(r) by inserting next after section 53B the following new sections :— New secs. 53C, 53D.

5 53C. A person who has applied to the Commission for awards of compensation in respect of an injury to or incapacity of a worker or the death of a worker against two or more persons alleged to have been the employers of that worker either at the same time or at different times shall be entitled, if he so requests, to have all or any such applications heard together. Applications to be heard together.

10 53D. Proceedings for the recovery of compensation under this Act may be instituted by a person notwithstanding that he is under the age of twenty-one years. Recovery of compensation by minors.

15 (s) by inserting at the end of section sixty-three the following new subsection :— Sec. 63. (Negligence.)

20 (6) In this section "judgment" does not include any order or direction made or given pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, for the payment of a sum by way of compensation for an injury, but any sum so paid to a worker pursuant to such an order or direction shall be deducted from the compensation payable to him under this Act in respect of the injury. 25

(t) by inserting at the end of section sixty-four the following new subsection :— Sec. 64. (Remedies against both employer and stranger.)

30 (2) In this section "damages" does not include any sum ordered or directed pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, to be paid by way of compensation for an injury, but any such sum so paid to a worker shall be deducted from the compensation payable to him under this Act in respect of the injury. 35

Workers' Compensation (Amendment).

(2) (a) The amendments made by paragraphs (f) and (g) of subsection one of this section shall as from the commencement of this Act apply to and in respect of injuries received before as well as to those received after such
5 commencement.

(b) The amendment made by subparagraph (i) of paragraph (h) of subsection one of this section shall apply to and in respect of injuries received before the commencement of this Act by workers who have not before such com-
10 mencement made an election pursuant to subsection one of section sixteen of the Principal Act, as well as to injuries received after such commencement.

Where a worker who becomes by reason of the amendments effected by subparagraph (i) of paragraph (h) of subsection
15 one of this section and the foregoing provisions of this paragraph entitled to compensation under section sixteen of the Principal Act, as amended by this Act, applies to his employer for such compensation after the commencement of this Act, the amount payable to him under that section shall, whether
20 the injury was received before or after the commencement of the Workers' Compensation (Further Amendment) Act, 1960, be the appropriate amount indicated in the table set forth at the end of that section and as substituted by that Act.

(c) The amendments made by subparagraphs
25 (iii) and (iv) of paragraph (k) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and sixty-one.

(d) (i) The amendments made by paragraphs (q), (s) and (t) of subsection one of this section shall be
30 deemed to have commenced on the first day of July, one thousand nine hundred and twenty-six.

(ii)

Workers' Compensation (Amendment).

(ii) Nothing in this paragraph shall affect the rights of any parties to any claim, action, suit or proceeding which has before the commencement of this Act been determined where the time within which an appeal, including
5 an application to Her Majesty in Council, from any such determination might have been made has expired before such commencement.

4. The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

10 (a) by omitting section 17A and by inserting in lieu thereof the following section :—

Subst. sec. 17A.

17A. This Part of this Act shall not apply to or
in respect of—

Bush fire fighters compensation.

15 (a) an injury received by a fire fighter arising out of or in the course of fighting a bush fire, or the destruction of or any damage to wearing apparel or personal effects upon a fire fighter whilst fighting a bush fire, or
20 the destruction of or any damage to the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, of a fire fighter whilst he was fighting a bush fire—if the place at which he was fighting the bush fire was within a fire district constituted under the Fire Brigades Act, 1909,
25 as amended by subsequent Acts;

30 (b) an injury received by a fire fighter arising out of or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which the fire fighter was called, and the bush fire, or the destruction of or any

damage

Workers' Compensation (Amendment).

5 damage to wearing apparel or personal
effects upon a fire fighter or his crutches,
artificial members, eyes or teeth, other
artificial aids, or spectacle glasses, while so
10 journeying or the destruction of or any
damage to any vehicle used for his con-
veyance between his place of abode or place
of employment, or the place from which he
was called, and the bush fire—if the place
to which he was journeying or being con-
veyed for the purpose of fighting the bush
fire, or from which he was journeying to
his place of abode, place of employment,
15 or place from which he was called, as the
case may be, was within a fire district so
constituted;

(c) the destruction of or any damage to any
20 vehicle, equipment or thing used in connec-
tion with fire fighting at or near the scene
of a bush fire and owned by or in the pos-
session or custody of a fire fighter—if the
destruction or damage was sustained within
a fire district so constituted,

25 unless in any such case the bush fire was one to or
from which a bush fire brigade was proceeding or
at which a bush fire brigade operated or was in
attendance for the purpose of its control or
suppression.

30 (b) by omitting from subsection one of section 17B the Sec. 17B.
definitions of "Council" and "Insurance company"; (Interpreta-
tion.)

(c) by inserting in subsection three of section 17C after Sec. 17C.
the word "twelve," the figures and letter "12A,"; (Compensa-
tion payable
to fire
fighters for
injury
received.)

(d)

Workers' Compensation (Amendment).

(d) (i) by omitting paragraph (a) of section 17D and by inserting in lieu thereof the following paragraph : —

Sec. 17D.
(Indemnity for destruction of or damage to personal effects, vehicles, etc.)

5

(a) the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses of, or wearing apparel or personal effects upon—

10

(i) a fire fighter whilst fighting a bush fire or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which he was called, and the bush fire, when such journeying was made exclusively and bona fide for the purpose of engaging in fighting a bush fire; or

15

20

(ii) the captain, deputy captain, or any member of a bush fire brigade or the group captain or deputy group captain of any bush fire brigades whilst carrying out bush fire preventive operations or preparatory work or in the course of journeying between the place of abode or place of employment of such captain, deputy captain, member, group captain or deputy group captain and the place where bush fire preventive operations were or are to be carried out or preparatory work was or is to be carried out, when such journeying was made exclusively and bona fide

25

30

35

for

Workers' Compensation (Amendment).

for the purpose of engaging in the carrying out of such preventive operations or preparatory work ;

5 (ii) by omitting paragraph (i) of the proviso to the same section and by inserting in lieu thereof the following paragraph :—

10 (i) the amount payable under paragraph (a) of this subsection shall not exceed—

15 (a) in respect of all destruction of and damage to the crutches, artificial members, eyes, teeth, artificial aids, or spectacle glasses of a person, sustained on any one occasion—the amount applicable in respect of damage referred to in section 10A of this Act ;

20 (b) in respect of all destruction of and damage to wearing apparel or personal effects upon a person, sustained on any one occasion—the amount applicable in respect of damage referred to in section 10B of this Act ;

25 (e) by omitting from subsection two of section 17E the words “All moneys received under this Part of this Act shall be paid into such Fund, and the” and by inserting in lieu thereof the words “Such Fund shall consist of the amount standing to its credit at the commencement of the Workers’ Compensation (Amendment) Act, 1964, together with amounts transferred thereto pursuant to this Part of this Act. The”;

30 (Bush Fire Fighters Compensation Fund.)

(f)

Workers' Compensation (Amendment).

(f) by omitting section 17F;

Sec. 17F.
(Returns by
insurance
companies.)

(g) by omitting section 17G and by inserting in lieu thereof the following section :—

Subst.
sec. 17G.

5 17G. The Commission shall as soon as is reasonably practicable before the thirtieth day of June, one thousand nine hundred and sixty-five, and as early as is reasonably practicable in each succeeding financial year terminating on the thirtieth day of June, determine whether any contribution to the
10 Bush Fire Fighters Compensation Fund will be necessary in order to maintain that Fund on a sound financial basis during the next following financial year, and if it determines that such a
15 contribution will be necessary shall assess the amount thereof.

Assessment
and payment
of contribu-
tions.

The Commission shall cause notice of each such determination and assessment to be given to the Minister for Local Government.

20 On the first day of July next following the notification as aforesaid of each such assessment an amount as so assessed shall be transferred to the said Fund from the Eastern and Central Divisions Bush Fire Fighting Fund established under
25 the Bush Fires Act, 1949, as amended by subsequent Acts. Amounts so transferred shall for the purposes of the said Act, as so amended, be deemed to be expenditure from the last mentioned Fund.

30 The provisions of this section shall have effect notwithstanding anything contained in the Bush Fires Act, 1949, as amended by subsequent Acts.

Workers' Compensation (Amendment).

5. The Principal Act is further amended—

Further
amendment
of Act No.
15, 1926.

- (a) (i) by omitting from the definition of "Insurer" in subsection one of section six the word "authorised" and by inserting in lieu thereof the word "licensed";
- (ii) by omitting from the definition of "Self-insurer" in the same subsection the word "authorised" and by inserting in lieu thereof the word "licensed";
- (b) (i) by omitting from subsection one of section eighteen the word "Every" and by inserting in lieu thereof the words "Subject to subsection (1A) of this section, every";
- (ii) by omitting from the same subsection the words "Provided that the Commission may authorise any employer to undertake the liability referred to in this subsection who furnishes to the Commission a certified copy of his balance-sheets for his last three trading years, and such other particulars as may be required. The Commission may at any time upon notice to the employer concerned, and consideration of such evidence as he desires to submit, review and continue, suspend or terminate, any such authority as it may deem expedient.
- "Employer" in this proviso includes a racing club or association.";
- (iii) by inserting in the same subsection after the words "In this Act—" the following words :—
- "'license' means a license granted or deemed to have been granted under this Part of this Act, and 'licensee' and 'licensed' have corresponding meanings.";
- (iv)

Sec. 6.
(Defini-
tions.)Sec. 18.
(Compul-
sory insur-
ance.)

Workers' Compensation (Amendment).

(iv) by inserting next after the same subsection the following new subsection :—

5 (1A) On application made by an employer
to the Commission in the form and manner
and accompanied by the information
prescribed by rules made under this Act and
upon consideration of such evidence as the
employer may submit and of such information,
10 documents, particulars, and other evidence as
the Commission may receive, the Commis-
sion may after due inquiry grant without
limitation of time or for such period, and
without conditions or subject to such condi-
15 tions, as the Commission deems fit a license
to the employer to undertake himself the
liabilities referred to in subsection one of this
section, or the Commission may refuse such
application. The provisions of subsection one
20 of this section shall not apply to an employer
while a license granted to him under this
subsection is in force.

25 An employer so licensed who fails to
comply in all respects with the conditions of
his license shall be guilty of an offence against
this Act.

30 Any authority granted to an employer
under subsection one of this section as enacted
before the commencement of the Workers'
Compensation (Amendment) Act, 1964, and
in force at such commencement, shall be
deemed to be a license granted under this
subsection.

35 The Commission may at any time upon
notice to an employer so licensed, after due
inquiry and consideration of such evidence
as he may submit and of such information,
documents, particulars and other evidence as
the

Workers' Compensation (Amendment).

the Commission may receive, suspend or terminate any such license, or limit or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof.

5 (v) by omitting subsection four of the same section;

(c) by omitting subsection four of section nineteen and Sec. 19.
by inserting in lieu thereof the following sub- (Deposits by
section : — insurers.)

10 (4) Subsection three of this section shall not operate to require—

(a) a self-insurer to enter into any contract of reinsurance unless he is an insurer licensed under section twenty-seven of this Act, or

15 (b) an insurer to enter into any such contract if he confines his operations to indemnifying one employer, or a group of employers engaged in one industry, trade, or business
20 in respect of the liability to workers under this Act and at common law. The operations of a racing or recreation club shall for the purposes of this paragraph be deemed to be its trade or business.

(d) by omitting subsection one of section twenty and Sec. 20.
25 by inserting in lieu thereof the following sub- (Amount of
section : — deposit.)

(1) (a) An employer licensed as a self-insurer shall on the granting of his license deposit with the Treasurer a sum of money the amount of which shall be determined by the Commission and the license shall be deemed not to be in force unless
30 and until the employer so deposits that sum.

(b)

Workers' Compensation (Amendment).

- 5 (b) The Commission may from time to time by notice to an employer so licensed direct the employer to deposit with the Treasurer such sums, additional to any sums so deposited whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the Commission may determine. An employer who fails to comply with any such direction shall be guilty of an offence against this Act.
- 10 (c) The Commission may from time to time authorise the Treasurer to refund to such an employer any part of the amount or, as the case may require, any part of the total of the amounts, deposited by that employer pursuant to this subsection or the subsection which this subsection replaces.
- 15 (d) In this section "employer" includes a racing club or association.
- 20 (e) by inserting in subsection one of section twenty-four after the words "at common law" the words "or, in the case of an employer licensed under subsection (1A) of section eighteen of this Act, in respect of the liabilities referred to in subsection one of that section,"; Sec. 24. (Application of deposit.)
- 25 (f) by omitting section 25A and by inserting in lieu thereof the following section : — Subst. sec. 25A.
- 30 25A. An employer who has either before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, deposited any sum or sums of money pursuant to subsection one of section twenty of this Act or the subsection replaced by that subsection may in the event of his ceasing

to

Return of deposits to self-insurers.

Workers' Compensation (Amendment).

to be licensed under subsection (1A) of section eighteen of this Act withdraw all sums so deposited by him and standing to his credit—

- 5 (a) on the expiration of three months after service on the Treasurer of a request in writing duly signed by or on behalf of the employer for the refund of such sums; and
- 10 (b) on satisfying the Treasurer that all the accrued, continuing, future, and contingent liabilities of the employer under this Act in respect of workers employed by him while he was so licensed have been discharged or suitably and adequately provided for.
- 15 (g) by inserting in section twenty-six after the word "complaint" the words "or information"; Sec. 26.
(Evidence.)
- (h) by omitting sections twenty-seven, twenty-eight, twenty-nine and thirty and by inserting in lieu thereof the following sections :—
- 20 27. (1) On application made by any person to the Commission in the form and manner and accompanied by the information prescribed by rules made under this Act and upon consideration of such evidence as he may submit and of such information, documents, particulars, and other evidence as the Commission may receive, the Commission may after due inquiry grant to that person without limitation of time or for such period, and without conditions or subject to such conditions, as the Commission deems fit a license to carry on in New South Wales the business of insurance of employers against their liability to their workers under this Act, and independently of this Act for injuries to
- 25
- 30
- their

Workers' Compensation (Amendment).

their workers, or the Commission may refuse such application. An insurer so licensed who fails to comply in all respects with the conditions of his license shall be guilty of an offence against this Act.

5 (2) Any license granted under the section which this section replaces, and in force at the commencement of the Workers' Compensation (Amendment) Act, 1964, shall be deemed to be a license granted under this section.

10 28. (1) Every person licensed under subsection (1A) of section eighteen or section twenty-seven of this Act— Information, etc., to be supplied by licensees.

15 (a) shall furnish to the Commission within the time specified in the notice hereinafter referred to such information, particulars, accounts, documents and copies of accounts and documents as to his business and financial position as the Commission may by notice in writing to the licensee from time to time require;

20 (b) being a corporation, shall notify the Commission in writing of any of the following matters, events, or things within twenty-one days of the happening thereof (whether within or outside the State), namely :—

25 (i) any default by such licensee or its holding corporation in the payment of principal or interest under any debenture issued by such licensee or corporation;

30 (ii) the appointment of a liquidator, receiver or manager of the property of such licensee or corporation;

(iii)

Workers' Compensation (Amendment).

- (iii) that such licensee or corporation has resolved by special resolution that it be wound up voluntarily or by a court;

- 5 (iv) that a person claiming to be a creditor by assignment or otherwise of such licensee or corporation for a sum exceeding fifty pounds then due has served on such licensee or
10 corporation by leaving at its registered office a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring such licensee or corporation
15 to pay the sum so claimed to be due, and such licensee or corporation has for three weeks thereafter failed to pay the sum or to secure or compound for it to the satisfaction of the person claiming to be a
20 creditor;

- (v) the return unsatisfied in whole or part of execution or other process issued on a judgment, decree or
25 order of any court in favour of a creditor of such licensee or corporation;

- (vi) the receipt by such licensee or corporation, or the giving, or causing to be given by such licensee or
30 corporation, of any notice or statement mentioned in subsection two of section one hundred and eighty-four of the Companies Act, 1961, as amended by subsequent Acts;

- 35

Workers' Compensation (Amendment).

(vii) the making of an order for the winding-up of such licensee or corporation by any court;

5 (viii) the receipt by such licensee or corporation of any notice of an application for an order for the winding-up of such licensee or corporation by any court.

10 In this subsection "holding corporation" means a corporation of which the licensee is a subsidiary.

(2) A licensee who fails to comply with any of the provisions of subsection one of this section shall be guilty of an offence against this Act.

15 29. (1) Subject to the provisions of this section the Commission may suspend, or terminate, any license granted under section twenty-seven of this Act, or limit, or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof, if it is satisfied of one or more of the following matters, events or things :—

20 (a) that the licensee is unable to pay his debts ;

(b) that the licensee being a corporation has resolved that it be wound up voluntarily or by a court ;

25 (c) that the licensee has not commenced the business for which he is licensed for a year from the date at which his license was granted, or has suspended his said business for a whole year ;

30 (d) that in the case of the licensee being a company an inspector appointed under section one hundred and sixty-nine or section one hundred and seventy of the

Companies

Workers' Compensation (Amendment).

5 Companies Act, 1961, as amended by subsequent Acts, or under any equivalent provision of any Act or ordinance relating to companies for the time being in force in any other State or Territory of the Commonwealth, has reported that he is of the opinion—

- (i) that the company cannot pay its debts and should be wound up, or
- 10 (ii) that it is in the interests of the public or of the shareholders or of the creditors that the company should be wound up;
- 15 (e) that the licensee has failed to comply with any provision of this Act and such failure constitutes a substantial breach of the requirements of this Act;
- 20 (f) that the licensee has been guilty of repeated breaches of this Act, whether of the same kind or of different kinds;
- (g) that the licensee has failed to arrange suitable and adequate reinsurance of liabilities undertaken by him under policies of insurance or indemnity issued by him;
- 25 (h) that the licensee has failed to make suitable and adequate provision for his accrued, continuing, future, and contingent liabilities under policies of insurance or indemnity issued by him;
- 30 (i) that the licensee has failed to comply with the conditions of his license;

(j)

Workers' Compensation (Amendment).

5 (j) that the licensee has unreasonably failed, or unreasonably refused, to satisfy an award made by the Commission against an employer insured or indemnified by the licensee against the liability of the employer thereunder;

10 (k) that the conduct of the licensee, his employees, and officers, and the arrangement of his affairs have been such that, in the opinion of the Commission, he should not continue to hold a license.

(2) For the purposes of this section a licensee shall be deemed to be unable to pay his debts if—

15 (a) a creditor by assignment or otherwise to whom the licensee is indebted in a sum exceeding fifty pounds then due has served on the licensee by leaving at his usual place of business or if such licensee is a corporation at the registered office thereof a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring the licensee to pay the sum so due, and the licensee has for three weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor; or

20 (b) execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the licensee is returned unsatisfied in whole or in part; or

25 (c) it is proved to the satisfaction of the Commission that the licensee is unable to pay his debts and in determining whether a licensee is unable to pay his debts the Commission

Workers' Compensation (Amendment).

Commission shall take into account the accrued, continuing, future and contingent liabilities of the licensee.

5 (3) (a) Proceedings on any ground specified in subsection one of this section or subsection seven of section 18C of this Act for the suspension or termination of a license or for limiting or varying the period of a license or attaching any conditions thereto or varying the conditions thereof shall be
10 instituted by application by the Registrar in the form and manner prescribed by rules made under this Act, setting forth the ground or grounds of the application, and thereupon the Commission shall
15 give notice in such form and manner as is so prescribed to the licensee mentioned in such application calling upon him to show cause why his license should not be dealt with as aforesaid.

20 (b) The Commission shall hear evidence in support of and in answer to the application, and after due inquiry shall decide whether or not the license should be dealt with as aforesaid, giving reasons for the decision.

25 (c) An appeal from any decision given by the Commission on such application shall lie to the Supreme Court in its equitable jurisdiction. Such appeal shall be instituted by notice of appeal filed in the Equity Office within thirty days after the giving of the decision appealed from and the
30 Court on such appeal may make any such orders as the Commission might have made on such application. The provisions of section thirty-seven of this Act shall not apply to and in respect of any such decision.

(d)

Workers' Compensation (Amendment).

5 (d) A decision of the Commission dealing with a license as aforesaid shall unless otherwise thereby provided have effect from the time that the same is given but the licensee may before the expiration of the time limited for appeal or while an appeal is pending apply to the Commission or at his option to the Supreme Court in its equitable jurisdiction and the Commission or the Court as the case may be may thereupon on such terms and for such time as it may think fit suspend in whole or in part the operation of the Commission's decision pending the determination of an appeal.

15 (e) In every appeal under this section the costs of the appeal, including the costs of any issue therein, shall be in the discretion of the Court.

20 29A. Terms and expressions used in sections twenty-eight and twenty-nine of this Act shall unless a contrary intention appears have meanings corresponding to the meanings ascribed to such terms and expressions in the Companies Act, 1961, as amended by subsequent Acts, or other relevant Acts or ordinances relating to companies for the time being in force in any other State or Territory of the Commonwealth.

25 30. The Commission may at the request of a licensee suspend or terminate his license or limit or vary the period or vary the conditions thereof.

Construction.
Termination, etc. of licenses at request of licensees.

30 (i) (i) by inserting at the end of subsection one of section 30A the following new paragraph : —

Sec. 30A. (Insurance Premiums Committee.)

This section shall apply to and in respect of licensed insurers under section twenty-seven of this Act.

(ii)

Workers' Compensation (Amendment).

- 5 (ii) by omitting from paragraph (c) of subsection
(13A) of the same section the words "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" and by inserting in
10 lieu thereof the words "for the purposes of
section twenty-eight of this Act to constitute
a substantial breach of the requirements of
this Act";
- (j) by inserting next after section 30A the following new **New secs.**
sections : — **30B-30E.**
- 15 30B. (1) If on an application made to a member
of the Commission in chambers by the Registrar
there is shown to be reasonable cause to believe that
a licensee, or any person employed by a licensee,
has committed an offence against this Act or that
20 there is reasonable cause to believe that grounds
exist for the license of a licensee being dealt with
under any provision of this Act and that evidence
of the committing of the offence or of the existence
of any such grounds is to be found in any books,
documents, papers or records of or under the
25 control of the licensee, such member of the Com-
mission may make an order—
- (a) authorising any person named therein to
inspect and make copies of or extracts from
such books, documents, papers or records or
any of them ; or
- 30 (b) requiring the licensee or any employee of
the licensee named or designated in the
order to produce such books, documents,
papers or records or any of them to a person
and at a place named in the order.

(2)

Workers' Compensation (Amendment).

5 (2) Any person hindering or preventing a person authorised thereto by such order from inspecting or making copies of or extracts from any such books, documents, papers or records and any licensee or any employee of the licensee named or designated in any such order who refuses or neglects to produce any such books, documents, papers or records in accordance with any such order, shall be guilty of an offence against this Act.

10 30c. (1) The Commission shall keep records in relation to all licenses which records shall include particulars of the granting, refusal, duration, suspension and termination of licenses, the conditions thereof and such other matters pertaining thereto as the Commission may think fit. Records and notifications.

15 (2) A certificate purporting to be signed by the Registrar or deputy or assistant registrar of the Commission or other prescribed officer certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified or referred to in subsection one of this section did or did not appear on or from such records shall, in all courts and upon all occasions whatsoever, without proof of the signature or of the official character of the person purporting to have signed the certificate and without the production of any record or document upon which the certificate is founded, be prima facie evidence of the particulars certified in and by the certificate.

20 (3) An applicant for a license shall if so required by the Commission give such notice of his application by advertisement or otherwise as the Commission may determine and if he fails to do so the application shall be deemed not to have been duly made.

(4)

Workers' Compensation (Amendment).

(4) The Commission shall cause notification of every suspension or termination of a license to be published in the Gazette.

5 30D. (1) (a) A license which has been terminated or the period of which has expired or which is for the time being suspended shall be deemed not to be in force. Penalties.

10 (b) Every person who carries on the business of insurance of employers against their liability to their workers under this Act, or independently of this Act, for injuries to their workers, shall unless a license has been granted to him under section twenty-seven of this Act and is for the time being in force be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred pounds for every day during which such business is carried on.

20 (2) Every person who commits an offence under this Part of this Act shall where no other pecuniary penalty is provided be liable to a penalty not exceeding two hundred pounds or imprisonment for a term not exceeding six months, and after the date of conviction of any such offence shall from time to time be liable to further penalties not exceeding fifty pounds for every week during which he continues to commit the offence.

30 30E. No contract of insurance or indemnity and no term or condition thereof shall be void or unenforceable by reason only of the fact that the person issuing the policy was not licensed pursuant to section twenty-seven of this Act or that the issue thereof by a person so licensed was contrary to the conditions of his license. Saving of policies.

(k)

Workers' Compensation (Amendment).

- (k) (i) by inserting in subsection four of section forty-one after the word "insurer" where firstly occurring the words "licensed under section twenty-seven of this Act"; Sec. 41. (Constitution of fund.)
- 5 (ii) by omitting from subsection seven of the same section the word "authorised" and by inserting in lieu thereof the words "licensed under this Act".
6. (1) The Principal Act is further amended—
- Further amendment of Act No. 15, 1926. Fisher v. Hebburn Limited, 105 C.L.R. 188.
- 10 (a) (i) by omitting from the definition of "Dependants" in subsection one of section six the words "upon the earnings of" and by inserting in lieu thereof the words "for support upon"; Sec. 6. (Definitions.)
- 15 (ii) by omitting from the same definition the words "his earnings" wherever occurring and by inserting in lieu thereof the word "him";
- 20 (b) (i) by omitting from subsection one of section eight the words "upon his earnings" and by inserting in lieu thereof the words "for support upon the worker"; Sec. 8. (Compensation payments (Death).)
- (ii) by omitting from paragraph (b) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- 25 (iii) by omitting from subsection two of the same section the words "his earnings" where firstly occurring and by inserting in lieu thereof the words "him for support";

(iv)

Workers' Compensation (Amendment).

- (iv) by omitting from the same subsection the words "dependent upon his earnings" where secondly occurring and by inserting in lieu thereof the words "so dependent";
- 5 (v) by omitting from paragraph (a) of subsection five of the same section the words "upon the earnings of" wherever occurring and by inserting in lieu thereof the words "for support upon";
- 10 (c) (i) by omitting from paragraph (b) of subsection Sec. 9. one of section nine the words "on the earnings (Total or partial incapacity.) of" wherever occurring and by inserting in lieu thereof the words "for support on";
- 15 (ii) by omitting from paragraph (c) of the same subsection the words "on the earnings of" wherever occurring and by inserting in lieu thereof the words "for support on";
- 20 (iii) by omitting from paragraph (d) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- 25 (iv) by omitting from paragraph (e) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- 30 (v) by omitting from subsection seven of the same section the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- (vi) by omitting from the same subsection the words "upon the earnings of" and by inserting in lieu thereof the words "for support on";
- (d)

Workers' Compensation (Amendment).

(d) by inserting next after subsection six of section **Sec. 18.**
eighteen the following new subsection :— (Compulsory
insurance.)

5 (6A) Where before or after the commencement
of the Workers' Compensation (Amendment) Act,
1964, an employer has become liable under this
Act to pay compensation to a worker in respect of
incapacity resulting from an injury referred to in
subsection four or (4A) of section seven of this
10 Act or has become liable under section sixteen of
this Act to pay compensation to a worker in respect
of an injury referred to in subsection (1A) of that
section, then for the purpose of determining
whether any insurer or which of two or more
15 insurers is liable under a contract of insurance or
indemnity in respect of that compensation, the
liability of the employer shall notwithstanding the
provisions of subsection five of the said section
seven and of subsection (1A) of the said section
20 sixteen be deemed to have arisen immediately
before the worker ceased to be employed by the
employer.

(2) (a) A person who would have been entitled to
compensation under any provision of the Workers' Compens-
ation Act, 1926, or any amendment thereof, had dependency
25 for support on a worker in lieu of dependency on the earnings
of a worker been a determining factor shall be deemed to
be and always to have been so entitled.

(b) Nothing in this subsection shall affect the
rights of any parties to any claim, action, suit or proceeding
30 which has before the commencement of this Act been deter-
mined where the time within which an appeal, including an
application to Her Majesty in Council, from any such deter-
mination might have been made has expired before such
commencement.

Workers' Compensation (Amendment).

7. Any policy of insurance against liability under the Workers' Compensation Act, 1926, or any amendment of that Act, being maintained in force at the commencement of this Act shall be deemed to insure the employer and always to
 5 have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Principal Act made by this Act. Where a person is in receipt of compensation at the commencement of this Act and such compensation is payable
 10 by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

Subsisting
 policies.
 Act No. 58,
 1960, s. 5.

8. (1) This section shall commence upon a day to be
 appointed by the Governor and notified by proclamation
 15 published in the Gazette.

Commence-
 ment.

(2) The Workmen's Compensation (Broken Hill)
 Act, 1920-1964, is amended—

Amendment
 of Act No.
 36, 1920.

- (a) (i) by omitting from the definition of "Benefi-
 ciary" in subparagraph (a) of paragraph 2 of
 20 Part I of the Schedule the words "under the
 school leaving age" where firstly occurring and
 by inserting in lieu thereof the words ", under
 the age of sixteen years or being a student,";
- (ii) by omitting from the same definition the words
 25 "under the school leaving age" where secondly
 occurring;
- (iii) by inserting at the end of the same definition
 30 the words "where such sister or brother or
 illegitimate or adopted child is under the age
 of sixteen years or is a student";

(iv)

Workers' Compensation (Amendment).

(iv) by inserting in the same subparagraph next after the definition of "Mine worker" the following new definition :—

5 "Student" means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or university ;

10 (v) by omitting subparagraph (b) of the same paragraph ;

(b) (i) by omitting from subparagraph (a) of para- Schedule,
graph 6 of Part II of the Schedule the words ^{par. 6.}
"the school leaving age" where firstly occur-
15 ring and by inserting in lieu thereof the words
"the age of sixteen years or being a student" ;

(ii) by omitting from the same subparagraph the
words "under the school leaving age" where
secondly occurring and by inserting in lieu
thereof the words "any member of which is
20 under the age of sixteen years or a student" ;

(iii) by omitting from subparagraph (b) of the
same paragraph the words "the school leaving
age" and by inserting in lieu thereof the words
"the age of sixteen years or being a student" ;

25 (iv) by omitting from subparagraph (d) of the
same paragraph the words "the school leaving
age" and by inserting in lieu thereof the words
"the age of sixteen years or being a student" ;

(c)

Workers' Compensation (Amendment).

- (c) (i) by omitting from subparagraph (b) of paragraph 6A of Part II of the Schedule the figures "5 10 0" wherever occurring and by inserting in lieu thereof the figures "6 15 0"; Schedule, par. 6A.
- 5 (ii) by omitting from the same subparagraph the figures "1 0 0" and by inserting in lieu thereof the figures "1 3 0";
- 10 (iii) by omitting from the same subparagraph the figures "3 2 6" and by inserting in lieu thereof the figures "4 0 0";
- 15 (iv) by omitting from paragraph (i) of subparagraph (c) of the same paragraph the words "Social Services Consolidation Act 1947-1949 of the Parliament of the Commonwealth" and by inserting in lieu thereof the words "Social Services Consolidation Act 1947 of the Parliament of the Commonwealth, or any Act amending or replacing that Act".

20 (3) The amendments made by subsection two of this section shall be deemed to extend to, and from the commencement of this section, apply in respect of all persons who were immediately before such commencement in receipt of compensation under the Workmen's Compensation (Broken Hill) Act, 1920-1964, as well as to all persons becoming

25 entitled to compensation thereunder after such commencement.

(4) The Workmen's Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts and by this Act, may be cited as the Workmen's Compensation (Broken Hill) Act,

30 1920-1964.

Workers' Compensation (Amendment).

9. (1) The Common Law Procedure Act, 1899, as amended by subsequent Acts, is amended by inserting in subsection one of section one hundred and forty-two after the word "thereon" the words " : Provided that where
5 pursuant to section sixty-three or sixty-four of the Workers' Compensation Act, 1926, as amended by subsequent Acts, any payment is to the extent of the amount thereof a satisfaction of the judgment, so much of the amount of the verdict as is equivalent to that payment shall if the payment was
10 made—

Amendment
of Act No.
21, 1899.
Sec. 142.
(Judgment
debts to
carry
interest.)

- (a) before the verdict was obtained, carry no interest;
- (b) after the verdict was obtained, carry interest only until the time when the payment was made."

(2) The Common Law Procedure Act, 1899, as
15 amended by subsequent Acts and by this Act, may be cited as the Common Law Procedure Act, 1899-1964.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1964
[4s.]

WORKERS' COMPENSATION (AMENDMENT) BILL, 1964.

EXPLANATORY NOTE.

THE objects of this Bill are to amend the Workers' Compensation Act, 1926-1962—

- (1) to increase from £10 10s. 0d. to £11 15s. 0d. the maximum weekly compensation payable, in addition to allowances for dependants, to a worker whilst incapacitated by injury; to increase from £3 0s. 0d. to £3 3s. 0d. the weekly compensation payable in respect of the dependent wife of a worker so incapacitated; and to increase certain other rates of compensation;
- (2) to provide for the payment of compensation at the rate of £1 5s. 0d. per week during incapacity to a worker in respect of each dependent child over 16 but under 21 years of age who is a full time student at a university, college or school;
- (3) to entitle a worker to payment of weekly compensation in respect of incapacity from an injury notwithstanding that he has been paid or has claimed lump sum compensation for that injury under section sixteen of the Act;
- (4) to prescribe lump sum compensation for—
 - (a) total or partial loss of the power of speech;
 - (b) severe facial disfigurement;
- (5) to include in the definition of "medical treatment" treatment by a remedial medical gymnast;
- (6) by omitting the provisions limiting to a maximum of four the number of persons who may be appointed as members of the Workers' Compensation Commission and enabling the appointment of such number of members, not being less than three, as may from time to time be determined;
- (7) to provide that incapacity for a particular employment shall be deemed to have arisen if the employment is of such a nature that the worker cannot engage therein without immediate and substantial danger of injury;
- (8) to provide that the maximum compensation payable to a partially incapacitated worker shall be the difference between the amount he would probably have been earning as wages but for the injury and the amount he is in fact earning or able to earn;
- (9) to provide that a person acting for fee or reward as a boxer, wrestler or referee in a contest held in the premises of a registered club shall be deemed to be a worker;

- (10) to provide that for the purposes of the "journeying" provisions of the Act a worker's journeys to and from his place of abode shall be deemed to commence and terminate at the external entrance of the building or individual flat in which he resides instead of, as at present, the outer boundary of the curtilage ;
- (11) to entitle a worker to compensation for damage to his spectacle glasses, artificial teeth, artificial aids and the like, and to his clothing, which results from an accident occurring in the course of a journey to which the "journeying" provisions apply ;
- (12) to enable a person who has rendered medical service to a worker in respect of a compensable injury to recover payment for that service direct from the employer ;
- (13) to confer on the Workers' Compensation Commission more extensive powers than it now has in relation to the licensing of insurers and self-insurers ;
- (14) to require an employer to keep posted at his business premises a statement showing the name of the insurer with whom he is insured against liability pursuant to the Act ;
- (15) to require an employer of a worker, at the request of the worker or the worker's solicitor or union representative, to produce for inspection any insurance policy obtained by the employer pursuant to the Act and applicable to the employment;
- (16) to require an employer who has taken out an insurance policy pursuant to the Act to keep certain records in relation to wages paid to his workers, and to enable the Workers' Compensation Commission to make orders—
 - (a) requiring an employer to furnish particulars of wages so paid, and to produce such records ; and
 - (b) for the payment of any premium held to be payable to the insurer in respect of the policy ;
- (17) in relation to the Uninsured Liability Scheme by—
 - (a) removing the limit of £10,000 on the aggregate annual disbursements under the Scheme, and validating payments made since the 1st July, 1961, in excess of that limit ;
 - (b) enabling a worker to make an application under the Scheme concurrently with his application for an award of compensation against the employer ;
 - (c) enabling a worker to apply for and obtain an award of compensation, operating only as a basis for an application under the Scheme, against his uninsured employer being a company in liquidation or under official management without his first obtaining the leave of the Supreme Court ; and
 - (d) providing that payments under the Scheme shall include the costs of the worker's application for such payments ;

- (18) (a) to increase from twelve months to two years the time within which a prosecution against an employer for failure to take out a policy of insurance may be commenced, and
- (b) to provide that in such a prosecution proof that the employer has failed to comply with a notice by the Commission or an authorised officer to produce a policy of insurance shall be evidence, unless the contrary be proved, that he has failed to take out such a policy ;
- (19) to provide that on the death of an insured employer his rights against the insurer under the policy of insurance shall be transferred to and vest in his workers ;
- (20) in relation to bush fire fighters' compensation by—
- (a) providing that compensation shall in certain cases be paid in respect of injury to a fire fighter or destruction of or damage to his property where the injury or damage is sustained in a fire district constituted under the Fire Brigades Act, 1909, as amended ;
- (b) providing that the fund for payments of such compensation shall in future be financed by the transfer from time to time of amounts from the Eastern and Central Divisions Bush Fire Fighting Fund constituted under the Bush Fires Act, 1949-1958 ; and
- (c) increasing from £10 to £25, or such greater sum as may be prescribed in respect of damage to workers' clothing under the general provisions of the Act, the maximum compensation payable for damage to the wearing apparel or personal effects of a bush fire fighter, and providing for payment of compensation to such a fighter for damage to his spectacle glasses, artificial teeth, artificial aids, and the like ;
- (21) to repeal section 46 (4) which excludes from the operation of the Act (except to the extent prescribed) members of the crew of a fishing vessel remunerated wholly or mainly by shares in the profits of the gross earnings of the working of such vessel ;
- (22) to provide retrospectively that an order made pursuant to the Crimes Act, 1900, as amended, for the payment of compensation to a worker for loss or damage caused by the commission of a crime or offence which has resulted in an injury shall not be a bar to his recovery of workers' compensation for that injury, except to the extent of any amount paid pursuant to such order ;
- (23) to enable a worker to apply for and recover compensation notwithstanding that he is under 21 years of age ;
- (24) to provide that applications for compensation by a worker or his dependants against two or more persons alleged to have employed him at the same or different times shall, if made in respect of the same injury or incapacity or the death of the worker and if the applicant so requests, be heard together ;

- (25) to overcome certain effects of the decision of the High Court in the case of Fisher v. Hebburn Limited (105 C.L.R. 188), in particular by providing that the test of dependency shall be dependence upon the worker for support instead of, as at present, dependence upon the worker's earnings, such amendments having retrospective effect; and
- (26) to make certain provisions ancillary and supplemental to the foregoing.

The Workers' Compensation (Broken Hill) Act, 1920-1964, is to be amended by providing for increases in compensation comparable to those provided in this Bill for workers under the Workers' Compensation Act and to include a student child as a dependant.

The Common Law Procedure Act, 1899-1964, is to be amended to provide that interest on the amount of a verdict obtained in the Supreme Court by a worker in respect of an injury to him shall be payable only on that part of the amount which remains after the deduction of workers' compensation already paid to him in respect of that injury.

PROOF

No. , 1964.

A BILL

To amend the law relating to workers' compensation; to amend the Workers' Compensation Act, 1926, the Workers' Compensation (Silicosis) Act, 1942, the Workmen's Compensation (Broken Hill) Act, 1920, the Common Law Procedure Act, 1899, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith.

[MR. LANDA;—24 November, 1964.]

BE

Workers' Compensation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Workers' Compensation (Amendment) Act, 1964".

Short title, citation and commencement.

(2) This Act, section eight excepted, shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. In this Act a reference to the commencement of this Act shall be read and construed as a reference to such day.

(3) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) The Principal Act, as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1964.

2. (1) The Principal Act is amended—

Amendment of Act No. 15, 1926.

(a) (i) by omitting from paragraph (a) of subsection one of section nine the words "ten pounds ten shillings" and by inserting in lieu thereof the words "eleven pounds fifteen shillings";

Sec. 9. (Total or partial incapacity.)

(ii) by omitting from the same paragraph the words "seven pounds" and by inserting in lieu thereof the words "eight pounds";

(iii) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words "three pounds" and by inserting in lieu thereof the words "three pounds three shillings";

(iv)

Workers' Compensation (Amendment).

- (iv) by inserting in subparagraph (ii) of the same paragraph after the words "in loco parentis" the following word and new paragraph :—
- "; and
- 5 (c) each person being a student who is a child or stepchild of the worker or to whom the worker stands in loco parentis";
- 10 (v) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words "three pounds" and by inserting in lieu thereof the words "three pounds three shillings";
- 15 (vi) by inserting in subparagraph (ii) of the same paragraph after the word "sister" the words "who is";
- 20 (vii) by inserting in the same subparagraph after the words "sixteen years" the words "or a student and";
- 25 (viii) by inserting at the end of the same subsection the following words :—
- "In this subsection 'student' means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or university."
- 30 (b) (i) by omitting from paragraph (a) of subsection (1A) of the same section the words and figures "Workers' Compensation (Further Amendment) Act, 1960" and by inserting in lieu thereof the words and figures "Workers' Compensation (Amendment) Act, 1964";
- (ii) by omitting from paragraph (c) of the same subsection the words "assessed and calculated under and in accordance with paragraph (a)

or

Workers' Compensation (Amendment).

- 5 or (b) of subsection two of section 61v of the Industrial Arbitration Act, 1940-1961" and by inserting in lieu thereof the words "appropriate by virtue of paragraph (a) or (b) of subsection two of section 61k, 61v or 61AA of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted at the relevant time under the said Act, as so amended";
- 10 (c) (i) by omitting from subsection four of the same section the words "six pounds ten shillings" and by inserting in lieu thereof the words "seven pounds five shillings";
- 15 (ii) by omitting from the same subsection the words "four pounds seventeen shillings and sixpence" and by inserting in lieu thereof the words "five pounds ten shillings";
- 20 (d) (i) by omitting from subsection five of the same section the words "nine pounds five shillings" and by inserting in lieu thereof the words "ten pounds ten shillings";
- (ii) by omitting from the same subsection the words "seven pounds" and by inserting in lieu thereof the words "eight pounds";
- 25 (e) by inserting in paragraph (a) of subsection six of the same section after the words "in loco parentis" the words "or any person being a student as defined in subsection one of this section who is a child or stepchild of the worker or to whom
- 30 the worker stands in loco parentis".
- (2) The amendments made by subsection one (paragraph (b) excepted) of this section shall be deemed to extend to, and from the commencement of this Act, apply in respect of all persons in receipt of or entitled to weekly payments under the provisions of section nine of the Principal Act,

Workers' Compensation (Amendment).

Act, or under the provisions of the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

5 3. (1) The Principal Act is further amended—

Further
amendment
of Act No.
15, 1926.

(a) by inserting next after paragraph (a) of subsection (14C) of section six the following new paragraph :—

Sec. 6.
(Defini-
tions.)

10 (a1) as a boxer, wrestler or referee in any boxing or wrestling contest in or upon the premises of a club registered under Part X of the Liquor Act, 1912, as amended by subsequent Acts; or;

15 (b) by inserting at the end of subsection one of section seven the following new paragraph :—

Sec. 7.
(Liability of
employers to
workers for
injuries.)

(g) For the purposes of this subsection a worker's journey from his place of abode shall be deemed to have commenced at, and the terminal point of his journey to his place of abode to be—

20 (i) if his place of abode is a flat or home unit in a residential flat building or home unit building—that exit of the flat or home unit whereby he departed on his journey from his place of abode, or that entrance of the flat or home unit whereby he entered or
25 would but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be;

30 (ii) in every other case where his place of abode is or is within a building or structure—that exit of the building or structure whereby he departed on his journey from his place of abode, or that entrance of the building or structure whereby he entered or would

but

Workers' Compensation (Amendment).

but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be.

5 (c) (i) by inserting in paragraph (a) of the definition of "Medical treatment" in subsection two of section ten after the word "masseur" the words "or remedial medical gymnast";

Sec. 10.
(Medical and hospital treatment, &c.)

10 (ii) by inserting at the end of subsection four of the same section the following new paragraph:—

15 (c) Any sum for which the employer becomes liable in respect of medical treatment under this subsection may be recovered from the employer by the person who afforded the medical treatment.

(d) (i) by inserting in subsection one of section 10A after the words "specified in the order" the following new subsection:—

Sec. 10A.
(Damages to artificial limbs, etc.)

20 (1A) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and has, as a result thereof, sustained any damage of the nature referred to in subsection one of this section, shall if the accident did not happen—

25 (a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be; or

(b)

Workers' Compensation (Amendment).

5 (b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey,

be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :

10
15 Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.

20 (ii) by inserting in the same subsection immediately before the words "The provisions" the symbols, figure and letter "(1B)";

25 (e) (i) by inserting in section 10B after the words "specified in the order" the following new subsection :— Sec. 10B. (Damage to clothing.)

30 (2) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and whose clothing has, as a result thereof, been damaged shall if the accident did not happen—

35 (a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment

Workers' Compensation (Amendment).

employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be ; or

5

(b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey,

10

be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :

15

Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.

20

25

(ii) by inserting in the same subsection immediately before the words "The provisions" the symbols and figure "(3)";

(f) (i) by omitting from paragraph (a) of subsection one of section eleven the words "the amount of the average weekly earnings of the worker before the injury" and by inserting in lieu thereof the words "the weekly amount which the worker would probably have been earning as a worker but for the injury and had he continued to be employed in the same or some comparable employment";

30

35

(ii) by omitting paragraphs (b), (c) and (d) of the same subsection;

(g)

Sec. 11.
(Partial
incapacity.)

Workers' Compensation (Amendment).

- (g) by inserting next after section twelve the following New sec. 12A.
new section :—

5 12A. A worker who as a result of injury is unable without immediate and substantial risk of further injury to engage in employment of a certain kind by reason of the nature of that employment shall be deemed to be incapacitated for employment of that kind. Incapacity deemed to exist in certain cases.

- 10 (h) (i) by omitting subsection one of section sixteen and by inserting in lieu thereof the following Sec. 16. (Compensation for certain injuries.)
subsection :—

15 (1) A worker who has received an injury mentioned in the first column of the table hereunder set forth shall be entitled to receive from his employer by way of compensation for that injury, in addition to any other compensation prescribed by this Act, the amount indicated in respect of that injury in the second column of that table.

- 20 (ii) by inserting next after subsection (1A) of the same section the following new subsection :—

25 (1B) (a) A worker who has received an injury which is not or is not wholly an injury mentioned in the table hereunder set forth and which has resulted in severe facial disfigurement shall be entitled to receive from his employer by way of compensation for that injury, in addition to any other compensation prescribed by this Act, an amount, not exceeding in any case two hundred pounds, as may be agreed upon, or in default of agreement as may be assessed as appropriate by a medical board in accordance with the provisions of this subsection.

30

(b)

Workers' Compensation (Amendment).

5 (b) The Commission or the Registrar shall, on application by a person claiming to be entitled as a worker to compensation under this subsection and on payment by the applicant of such fee, not exceeding one pound, as may be prescribed by rules, refer to a medical board constituted in accordance with section fifty-one of this Act for determination 10 the questions whether severe facial disfigurement exists and if so what amount of compensation is appropriate as compensation therefor, and the decisions of the medical board shall be final and conclusive.

15 (c) Wherever practicable, at least one of the medical referees of whom a medical board is for the purposes of this subsection constituted shall be a specialist in plastic surgery.

(iii) by omitting subsection two of the same section ;

20 (iv) by inserting in the first column of the table set forth at the end of the same section after the item "‡Loss of hearing of one ear" the following new item : —

"‡Loss of the power of speech"

25 and by inserting in the second column of that table opposite the words so inserted the figures "1,750 0 0";

(v) by inserting at the foot of the same table the following new footnote : —

30 "‡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".

(i)

Workers' Compensation (Amendment).

(i) (i) by omitting from subsection five of section Sec. 18.
eighteen the words "twelve months after such (Compulsory
failure" and by inserting in lieu thereof insurance.)
words "two years after such failure. In any
5 such proceedings, proof that the employer, not
being a self-insurer, having been served
pursuant to subsection one of section 18A of
this Act with a notice requiring him to produce
10 for inspection a policy of insurance or
indemnity obtained by him and in force at a
specified date or between specified dates has
not so produced any such policy so in force
and that the time stated in the notice for such
15 production has expired shall be sufficient
evidence, unless the contrary be proved, that
at that date or between those dates, as the
case may be, the employer had failed to
comply with the provisions of subsection one
of this section."

20 (ii) by inserting at the end of the same section
the following new subsection :—

(8) (a) Every employer shall keep correct
records of all wages paid to the workers
employed by him, and of the trade, occupa-
25 tion or calling of each worker, and of such
other matters relating to the wages so paid
as may be prescribed, and shall retain such
records in his possession in good order and
condition for a period of at least three years.

30 Such records may be combined with any
records of wages required by any Act other
than this Act to be kept by the employer.

(b)

Workers' Compensation (Amendment).

5 (b) The Commission may, on application by an insurer who has issued a policy of insurance or indemnity to an employer, and whether or not such policy is still in force, order the employer—

10 (i) to supply to the insurer within a time specified in the order a full and correct statement of all wages paid during a period so specified to the workers in the employment of that employer, together with such information as to the trades, occupations or callings of the workers and other prescribed matters relating to those wages as may be so specified. The period to be specified in the order shall be a period when the policy was in force and which commenced not more than three years before the making of the application;

15 (ii) to make available at or within such time or times and at such place as is specified in the order, for inspection by—

20 (a) an officer authorised in that behalf by the Commission;

(b) a person authorised in that behalf by the insurer and so specified,

25 the records required by this subsection to be kept by the employer and at the time of the order to be retained by him in respect of a period so specified, being a period when the policy was in force.

30 (c)

Workers' Compensation (Amendment).

5 (c) Any officer or person authorised under subparagraph (ii) of paragraph (b) of this subsection may inspect such records in accordance with the terms of the order and make copies thereof and take extracts therefrom.

10 (d) The Commission on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection may order the employer to pay to the insurer such amount as the Commission may having regard to the operation of this subsection find to be due and payable as a premium or balance of
15 premium in respect of a policy of insurance or indemnity or any renewal thereof.

20 (e) The Commission, on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection, or by the Registrar, may if satisfied that the employer has failed to comply with the order call upon him to show cause why he should not be dealt with for contempt of the Commission, and if he fails so to show cause the Commission may
25 impose on him a fine not exceeding two hundred pounds or order him to be imprisoned for a period not exceeding six months.

30 Nothing in this paragraph shall affect the jurisdiction of the Commission to make a further order or orders against the employer under the said paragraph (b).

35 The provisions of section eighty-two of the Justices Act, 1902, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any fine so imposed and the persons on whom it is imposed.

(j)

Workers' Compensation (Amendment).

5 (j) (i) by omitting from paragraph (a) of subsection one of section 18A the words "any policy of insurance or indemnity" and by inserting in lieu thereof the words "the policy of insurance or indemnity obtained by the employer and in force at such date or between such dates, whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the notice specifies";

Section 18A.
(Inspection
of policies.)

10 (ii) by inserting next after the same subsection the following new subsection—

15 (1A) A worker who has received an injury, or has met with an accident arising out of or in the course of his employment or on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies, or has received an injury during any absence referred to in paragraph (e) of the said subsection, or a solicitor for the time being authorised by such worker to act on behalf of the worker in relation to a claim for compensation under this Act in respect of that injury or accident, or a representative of a union to which the worker belongs, may by notice in writing require the employer to make available for inspection a policy of insurance or indemnity in force in respect of the worker at the time whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, when the injury was received or the accident happened, as the case may be.

(iii)

Workers' Compensation (Amendment).

(iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections :—

5 (2) (a) An employer who obtains a policy of insurance or indemnity shall retain the same in his possession in good order and condition at all times while he is employing workers in respect of whom the policy is in force and for at least three years thereafter.

10 (b) An employer who has in his possession or is required by this subsection to have in his possession such a policy of insurance or indemnity as is referred to in a notice served on him pursuant to this section and who fails to comply with any requirement of the notice within the time for compliance and in the manner stated therein shall be guilty of an offence against this Act.

15

20 (3) In this section "union" means industrial union of employees registered under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and "representative" means the secretary of a union or an officer for the time being authorised under section 129A of the said Act, as so amended, to exercise powers under that section.

25

(k) (i) by inserting in subsection two of section 18C after the word "obtains" the words "or has applied for or applies for";

Sec. 18c.
(Uninsured liability scheme.)

30 (ii) by omitting from the same subsection the words "awarded, and costs, as has not been paid" and by inserting in lieu thereof the words "and costs of the application therefor as has been awarded and has not been paid or as may be awarded and not be paid, as the case may require, and in respect of the costs of the claim";

35

(iii)

Workers' Compensation (Amendment).

(iii) by omitting paragraphs (a), (b) and (c) of the proviso to subsection three of the same section;

5

(iv) by omitting from paragraph (e) of the proviso to the same subsection the words "notwithstanding anything to the contrary in the foregoing provisions of this subsection";

10

(v) by omitting paragraph (a) of subsection five of the same section and by inserting in lieu thereof the following paragraphs : —

15

(a) Where a claim is made under the Scheme by a worker at the same time as he applies for an award of the compensation to which the claim relates, or whose application for such award is then pending, the Commission may hear and determine the claim either concurrently with or after the hearing and determination of such application.

20

(a1) Where a claim under the Scheme has been made and the employer does not appear and defend the application for an award of compensation, or where such award has prior to the making of the claim been obtained from the Commission in default of appearance by the employer, or by consent of the worker and the employer, or if in any case the Commission for any reason thinks fit, the Commission may cause to be made such inquiries as may be deemed necessary to determine the genuineness of the grounds on which the award is sought or was based. The Commission may adjourn the application, or if an award has been made may reopen the same, and
order

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30

Workers' Compensation (Amendment).

5 order its Registrar, or some other fit person, to take and defend the proceedings in substitution for the employer, and to such Registrar or person for such purposes all the rights of the employer shall be subrogated.

(vi) by inserting next after subsection seven of the same section the following new subsection : —

10 (7A) Where in the opinion of the Com- Joinder of
mission or the Registrar the question has insurers.
arisen whether an insurer is the insurer under
this Act of an employer whose worker is
making a claim under the Scheme the Com-
mission or Registrar, as the case may be, may
15 notify the insurer of the proceedings and such
notice shall operate to join the insurer as a
party to the proceedings.

(vii) by omitting subsection nine of the same section;

20 (1) by inserting next after section 18C the following New sec.
new section : — 18D.

25 18D. The provisions of sections one hundred
and ninety-nine, two hundred and thirty and two
hundred and sixty-three of the Companies Act, 1961, as amended by subsequent Acts, shall not
preclude a person from applying for an award of
compensation or proceeding with such application
without the leave of the Supreme Court in its equitable jurisdiction. Any award of compensation
made pursuant to an application authorised by this
30 section shall have force and effect only for the
purposes of section 18C of this Act and not otherwise and notwithstanding any such provisions of
the Companies Act, 1961, as so amended. Leave to
proceed not
necessary in
certain cases.

Workers' Compensation (Amendment).

- (m) by omitting from subsection one of section thirty-one the words "and not more than four"; Sec. 31.
(Appoint-
ment of
Commis-
sion.)
- 5 (n) by inserting next after paragraph (e) of subsection four of section thirty-six the following new paragraph :— Sec. 36.
(Jurisdic-
tion.)
- (e1) the weekly amount or sum, as the case may be, in accordance with subsection one of section eleven or subsection two of section sixty of this Act;
- 10 (o) (i) by inserting in subsection one of section forty-three after the word "claims" the words Sec. 43.
(Posting of
summary of
Act.)
" , together with—
- 15 (a) in a case where the employer has pursuant to subsection one of section eighteen of this Act obtained a policy of insurance or indemnity in respect of the persons there employed and the policy is for the time being in force, a statement setting forth the name and
20 address of the insurer from whom the policy was obtained and stating that insurance under this Act has been effected with that insurer;
- 25 (b) in a case where the employer is a self-insurer, a statement that the employer is licensed as a self-insurer under this Act."
- 30 (ii) by inserting in subsection two of the same section after the word "summary" where secondly occurring the words "or statement";
- (iii)

Workers' Compensation (Amendment).

5 (iii) by inserting in subsection three of the same section after the words "this Act" the words "and be liable to a penalty not exceeding twenty pounds for each day during which the offence continues";

(p) by omitting subsection four of section forty-six; Sec. 46.
(Seamen.)

(q) by inserting next after section forty-nine the following new section : — New sec. 49A.

10 49A. (1) Where an employer has entered into a contract with any insurer in respect of any liability under this Act to any worker, then in the event of the death of the employer, or an employer, being a corporation (other than a company which has commenced to be wound up), ceasing to exist, the rights the employer but for death or so ceasing would have had against the insurer as respects that liability shall be transferred to and vest in the worker. Death of employer.

20 Upon any such transfer the insurer shall have the same rights and remedies and be subject to the same liabilities as if such insurer were the employer, so however that the insurer shall not be under any greater liability to the worker than the insurer would have been under to the employer.

25 (2) In the event of the death of the employer the worker may, if the liability of the insurer to the worker is less than the liability of the employer to the worker, proceed for the balance against the personal representative of the employer.

(r)

Workers' Compensation (Amendment).

- (r) by inserting next after section 53B the following new sections : — New secs. 53C, 53D.

5 53C. A person who has applied to the Commission for awards of compensation in respect of an injury to or incapacity of a worker or the death of a worker against two or more persons alleged to have been the employers of that worker either at the same time or at different times shall be entitled, if he so requests, to have all or any such applications heard together. Applications to be heard together.

10

53D. Proceedings for the recovery of compensation under this Act may be instituted by a person notwithstanding that he is under the age of twenty-one years. Recovery of compensation by minors.

- 15 (s) by inserting at the end of section sixty-three the following new subsection : — Sec. 63. (Negligence.)

20 (6) In this section "judgment" does not include any order or direction made or given pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, for the payment of a sum by way of compensation for an injury, but any sum so paid to a worker pursuant to such an order or direction shall be deducted from the compensation payable to him under this Act in respect of the injury.

25

- (t) by inserting at the end of section sixty-four the following new subsection : — Sec. 64. (Remedies against both employer and stranger.)

30 (2) In this section "damages" does not include any sum ordered or directed pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, to be paid by way of compensation for an injury, but any such sum so paid to a worker shall be deducted from the compensation payable to him under this Act in respect of the injury.

35

Workers' Compensation (Amendment).

(2) (a) The amendments made by paragraphs (f) and (g) of subsection one of this section shall as from the commencement of this Act apply to and in respect of injuries received before as well as to those received after such
5 commencement.

(b) The amendment made by subparagraph (i) of paragraph (h) of subsection one of this section shall apply to and in respect of injuries received before the commencement of this Act by workers who have not before such
10 commencement made an election pursuant to subsection one of section sixteen of the Principal Act, as well as to injuries received after such commencement.

Where a worker who becomes by reason of the amendments effected by subparagraph (i) of paragraph (h) of subsection
15 one of this section and the foregoing provisions of this paragraph entitled to compensation under section sixteen of the Principal Act, as amended by this Act, applies to his employer for such compensation after the commencement of this Act, the amount payable to him under that section shall, whether
20 the injury was received before or after the commencement of the Workers' Compensation (Further Amendment) Act, 1960, be the appropriate amount indicated in the table set forth at the end of that section and as substituted by that Act.

(c) The amendments made by subparagraphs
25 (iii) and (iv) of paragraph (k) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and sixty-one.

(d) (i) The amendments made by paragraphs (q), (s) and (t) of subsection one of this section shall be
30 deemed to have commenced on the first day of July, one thousand nine hundred and twenty-six.

(ii)

Workers' Compensation (Amendment).

(ii) Nothing in this paragraph shall affect the rights of any parties to any claim, action, suit or proceeding which has before the commencement of this Act been determined where the time within which an appeal, including an application to Her Majesty in Council, from any such determination might have been made has expired before such commencement.

4. The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

(a) by omitting section 17A and by inserting in lieu thereof the following section :—

Subst. sec. 17A.

17A. This Part of this Act shall not apply to or in respect of—

Bush fire fighters compensation.

(a) an injury received by a fire fighter arising out of or in the course of fighting a bush fire, or the destruction of or any damage to wearing apparel or personal effects upon a fire fighter whilst fighting a bush fire, or the destruction of or any damage to the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, of a fire fighter whilst he was fighting a bush fire—if the place at which he was fighting the bush fire was within a fire district constituted under the Fire Brigades Act, 1909, as amended by subsequent Acts;

(b) an injury received by a fire fighter arising out of or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which the fire fighter was called, and the bush fire, or the destruction of or any

damage

Workers' Compensation (Amendment).

5 damage to wearing apparel or personal effects upon a fire fighter or his crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, while so journeying or the destruction of or any damage to any vehicle used for his conveyance between his place of abode or place of employment, or the place from which he was called, and the bush fire—if the place to which he was journeying or being conveyed for the purpose of fighting the bush fire, or from which he was journeying to his place of abode, place of employment, or place from which he was called, as the case may be, was within a fire district so constituted;

20 (c) the destruction of or any damage to any vehicle, equipment or thing used in connection with fire fighting at or near the scene of a bush fire and owned by or in the possession or custody of a fire fighter—if the destruction or damage was sustained within a fire district so constituted,

25 unless in any such case the bush fire was one to or from which a bush fire brigade was proceeding or at which a bush fire brigade operated or was in attendance for the purpose of its control or suppression.

30 (b) by omitting from subsection one of section 17B the definitions of "Council" and "Insurance company"; (Interpretation.)

(c) by inserting in subsection three of section 17C after the word "twelve." the figures and letter "12A,"; (Compensation payable to fire fighters for injury received.)

(d)

Workers' Compensation (Amendment).

(d) (i) by omitting paragraph (a) of section 17D and by inserting in lieu thereof the following paragraph :—

Sec. 17D.
(Indemnity for destruction of or damage to personal effects, vehicles, etc.)

5 (a) the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses of, or wearing apparel or personal effects upon—

10 (i) a fire fighter whilst fighting a bush fire or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which he was called, and the bush fire, when such
15 journeying was made exclusively and bona fide for the purpose of engaging in fighting a bush fire; or

20 (ii) the captain, deputy captain, or any member of a bush fire brigade or the group captain or deputy group captain of any bush fire brigades whilst carrying out bush fire preventive
25 operations or preparatory work or in the course of journeying between the place of abode or place of employment of such captain, deputy captain, member, group captain or deputy
30 group captain and the place where bush fire preventive operations were or are to be carried out or preparatory work was or is to be carried
35 out, when such journeying was made exclusively and bona fide

for

Workers' Compensation (Amendment).

for the purpose of engaging in the carrying out of such preventive operations or preparatory work ;

5 (ii) by omitting paragraph (i) of the proviso to the same section and by inserting in lieu thereof the following paragraph :—

10 (i) the amount payable under paragraph (a) of this subsection shall not exceed—

15 (a) in respect of all destruction of and damage to the crutches, artificial members, eyes, teeth, artificial aids, or spectacle glasses of a person, sustained on any one occasion—the amount applicable in respect of damage referred to in section 10A of this Act;

20 (b) in respect of all destruction of and damage to wearing apparel or personal effects upon a person, sustained on any one occasion—the amount applicable in respect of damage referred to in section 10B of this Act;

25 (e) by omitting from subsection two of section 17E the words “All moneys received under this Part of this Act shall be paid into such Fund, and the” and by inserting in lieu thereof the words “Such Fund shall consist of the amount standing to its credit at the commencement of the Workers’ Compensation (Amendment) Act, 1964, together with amounts transferred thereto pursuant to this Part of this Act. The”;

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35

Sec. 17E.
(Bush Fire
Fighters
Compensa-
tion Fund.)

(f)

Workers' Compensation (Amendment).

(f) by omitting section 17F;

Sec. 17F.
(Returns by insurance companies.)

(g) by omitting section 17G and by inserting in lieu thereof the following section : —

Subst. sec. 17G.

5 17G. The Commission shall as soon as is reasonably practicable before the thirtieth day of June, one thousand nine hundred and sixty-five, and as early as is reasonably practicable in each succeeding financial year terminating on the thirtieth day of June, determine whether any contribution to the Bush Fire Fighters Compensation Fund will be necessary in order to maintain that Fund on a sound financial basis during the next following financial year, and if it determines that such a contribution will be necessary shall assess the amount thereof.

10

15

The Commission shall cause notice of each such determination and assessment to be given to the Minister for Local Government.

20 On the first day of July next following the notification as aforesaid of each such assessment an amount as so assessed shall be transferred to the said Fund from the Eastern and Central Divisions Bush Fire Fighting Fund established under the Bush Fires Act, 1949, as amended by subsequent Acts. Amounts so transferred shall for the purposes of the said Act, as so amended, be deemed to be expenditure from the last mentioned Fund.

25

30 The provisions of this section shall have effect notwithstanding anything contained in the Bush Fires Act, 1949, as amended by subsequent Acts.

Workers' Compensation (Amendment).

5. The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

- (a) (i) by omitting from the definition of "Insurer" in subsection one of section six the word "authorised" and by inserting in lieu thereof the word "licensed"; Sec. 6. (Definitions.)
- (ii) by omitting from the definition of "Self-insurer" in the same subsection the word "authorised" and by inserting in lieu thereof the word "licensed";
- (b) (i) by omitting from subsection one of section eighteen the word "Every" and by inserting in lieu thereof the words "Subject to subsection (1A) of this section, every"; Sec. 18. (Compulsory insurance.)
- (ii) by omitting from the same subsection the words "Provided that the Commission may authorise any employer to undertake the liability referred to in this subsection who furnishes to the Commission a certified copy of his balance-sheets for his last three trading years, and such other particulars as may be required. The Commission may at any time upon notice to the employer concerned, and consideration of such evidence as he desires to submit, review and continue, suspend or terminate, any such authority as it may deem expedient.
 "Employer" in this proviso includes a racing club or association.";
- (iii) by inserting in the same subsection after the words "In this Act—" the following words :—
 " 'license' means a license granted or deemed to have been granted under this Part of this Act, and 'licensee' and 'licensed' have corresponding meanings.";

(iv)

Workers' Compensation (Amendment).

(iv) by inserting next after the same subsection the following new subsection :—

5 (1A) On application made by an employer
to the Commission in the form and manner
and accompanied by the information
prescribed by rules made under this Act and
upon consideration of such evidence as the
10 employer may submit and of such information,
documents, particulars, and other evidence as
the Commission may receive, the Commis-
sion may after due inquiry grant without
limitation of time or for such period, and
without conditions or subject to such condi-
15 tions, as the Commission deems fit a license
to the employer to undertake himself the
liabilities referred to in subsection one of this
section, or the Commission may refuse such
application. The provisions of subsection one
20 of this section shall not apply to an employer
while a license granted to him under this
subsection is in force.

25 An employer so licensed who fails to
comply in all respects with the conditions of
his license shall be guilty of an offence against
this Act.

30 Any authority granted to an employer
under subsection one of this section as enacted
before the commencement of the Workers'
Compensation (Amendment) Act, 1964, and
in force at such commencement, shall be
deemed to be a license granted under this
subsection.

35 The Commission may at any time upon
notice to an employer so licensed, after due
inquiry and consideration of such evidence
as he may submit and of such information,
documents, particulars and other evidence as
the

Workers' Compensation (Amendment).

the Commission may receive, suspend or terminate any such license, or limit or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof.

5 (v) by omitting subsection four of the same section;

(c) by omitting subsection four of section nineteen and by inserting in lieu thereof the following subsection : — Sec. 19.
(Deposits by insurers.)

10 (4) Subsection three of this section shall not operate to require—

(a) a self-insurer to enter into any contract of reinsurance unless he is an insurer licensed under section twenty-seven of this Act, or

15 (b) an insurer to enter into any such contract if he confines his operations to indemnifying one employer, or a group of employers engaged in one industry, trade, or business in respect of the liability to workers under
20 this Act and at common law. The operations of a racing or recreation club shall for the purposes of this paragraph be deemed to be its trade or business.

25 (d) by omitting subsection one of section twenty and by inserting in lieu thereof the following subsection : — Sec. 20.
(Amount of deposit.)

30 (1) (a) An employer licensed as a self-insurer shall on the granting of his license deposit with the Treasurer a sum of money the amount of which shall be determined by the Commission and the license shall be deemed not to be in force unless and until the employer so deposits that sum.

(b)

Workers' Compensation (Amendment).

5 (b) The Commission may from time to time by notice to an employer so licensed direct the employer to deposit with the Treasurer such sums, additional to any sums so deposited whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the Commission may determine. An employer who fails to comply with any such direction shall be guilty of an offence against this Act.

10 (c) The Commission may from time to time authorise the Treasurer to refund to such an employer any part of the amount or, as the case may require, any part of the total of the amounts, deposited by that employer pursuant to this subsection or the subsection which this subsection replaces.

(d) In this section "employer" includes a racing club or association.

20 (e) by inserting in subsection one of section twenty-four after the words "at common law" the words "or, in the case of an employer licensed under subsection (1A) of section eighteen of this Act, in respect of the liabilities referred to in subsection one of that section,"; Sec. 24. (Application of deposit.)

25 (f) by omitting section 25A and by inserting in lieu thereof the following section : — Subst. sec. 25A.

30 25A. An employer who has either before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, deposited any sum or sums of money pursuant to subsection one of section twenty of this Act or the subsection replaced by that subsection may in the event of his ceasing

to

Workers' Compensation (Amendment).

to be licensed under subsection (1A) of section eighteen of this Act withdraw all sums so deposited by him and standing to his credit—

- 5 (a) on the expiration of three months after service on the Treasurer of a request in writing duly signed by or on behalf of the employer for the refund of such sums; and
- 10 (b) on satisfying the Treasurer that all the accrued, continuing, future, and contingent liabilities of the employer under this Act in respect of workers employed by him while he was so licensed have been discharged or suitably and adequately provided for.
- 15 (g) by inserting in section twenty-six after the word "complaint" the words "or information"; Sec. 26.
(Evidence.)
- (h) by omitting sections twenty-seven, twenty-eight, twenty-nine and thirty and by inserting in lieu thereof the following sections :—
- 20 27. (1) On application made by any person to the Commission in the form and manner and accompanied by the information prescribed by rules made under this Act and upon consideration of such evidence as he may submit and of such information, documents, particulars, and other evidence as the Commission may receive, the Commission may after due inquiry grant to that person without limitation of time or for such period, and without conditions or subject to such conditions, as the Commission deems fit a license to carry on in New South Wales the business of insurance of employers against their liability to their workers under this Act, and independently of this Act for injuries to
- 25
- 30 their

Workers' Compensation (Amendment).

their workers, or the Commission may refuse such application. An insurer so licensed who fails to comply in all respects with the conditions of his license shall be guilty of an offence against this Act.

5 (2) Any license granted under the section which this section replaces, and in force at the commencement of the Workers' Compensation (Amendment) Act, 1964, shall be deemed to be a license granted under this section.

10 28. (1) Every person licensed under subsection (1A) of section eighteen or section twenty-seven of this Act— Information, etc., to be supplied by licensees.

15 (a) shall furnish to the Commission within the time specified in the notice hereinafter referred to such information, particulars, accounts, documents and copies of accounts and documents as to his business and financial position as the Commission may by notice in writing to the licensee from time
20 to time require;

(b) being a corporation, shall notify the Commission in writing of any of the following matters, events, or things within twenty-
25 one days of the happening thereof (whether within or outside the State), namely :—

(i) any default by such licensee or its holding corporation in the payment of principal or interest under any debenture issued by such licensee
30 or corporation;

(ii) the appointment of a liquidator, receiver or manager of the property of such licensee or corporation;

(iii)

Workers' Compensation (Amendment).

- (iii) that such licensee or corporation has resolved by special resolution that it be wound up voluntarily or by a court;
- 5 (iv) that a person claiming to be a creditor by assignment or otherwise of such licensee or corporation for a sum exceeding fifty pounds then due
10 has served on such licensee or corporation by leaving at its registered office a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring such licensee or corporation
15 to pay the sum so claimed to be due, and such licensee or corporation has for three weeks thereafter failed to pay the sum or to secure or compound for it to the satisfaction of the person claiming to be a
20 creditor;
- (v) the return unsatisfied in whole or part of execution or other process issued on a judgment, decree or
25 order of any court in favour of a creditor of such licensee or corporation;
- (vi) the receipt by such licensee or corporation, or the giving, or causing to be given by such licensee or corporation, of any notice or statement mentioned in subsection two
30 of section one hundred and eighty-four of the Companies Act, 1961, as amended by subsequent Acts;
- 35 (vii)

Workers' Compensation (Amendment).

(vii) the making of an order for the winding-up of such licensee or corporation by any court;

5 (viii) the receipt by such licensee or corporation of any notice of an application for an order for the winding-up of such licensee or corporation by any court.

10 In this subsection "holding corporation" means a corporation of which the licensee is a subsidiary.

(2) A licensee who fails to comply with any of the provisions of subsection one of this section shall be guilty of an offence against this Act.

15 29. (1) Subject to the provisions of this section the Commission may suspend, or terminate, any license granted under section twenty-seven of this Act, or limit, or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof, if it is satisfied of one or more of the following matters, events or things :—

(a) that the licensee is unable to pay his debts;

(b) that the licensee being a corporation has resolved that it be wound up voluntarily or by a court;

25 (c) that the licensee has not commenced the business for which he is licensed for a year from the date at which his license was granted, or has suspended his said business for a whole year;

30 (d) that in the case of the licensee being a company an inspector appointed under section one hundred and sixty-nine or section one hundred and seventy of the

Companies

Workers' Compensation (Amendment).

- 5 Companies Act, 1961, as amended by subsequent Acts, or under any equivalent provision of any Act or ordinance relating to companies for the time being in force in any other State or Territory of the Commonwealth, has reported that he is of the opinion—
- (i) that the company cannot pay its debts and should be wound up, or
 - 10 (ii) that it is in the interests of the public or of the shareholders or of the creditors that the company should be wound up;
 - (e) 15 that the licensee has failed to comply with any provision of this Act and such failure constitutes a substantial breach of the requirements of this Act;
 - (f) 20 that the licensee has been guilty of repeated breaches of this Act, whether of the same kind or of different kinds;
 - (g) that the licensee has failed to arrange suitable and adequate reinsurance of liabilities undertaken by him under policies of insurance or indemnity issued by him;
 - 25 (h) that the licensee has failed to make suitable and adequate provision for his accrued, continuing, future, and contingent liabilities under policies of insurance or indemnity issued by him;
 - 30 (i) that the licensee has failed to comply with the conditions of his license;
 - (j)

Workers' Compensation (Amendment).

- 5 (j) that the licensee has unreasonably failed, or unreasonably refused, to satisfy an award made by the Commission against an employer insured or indemnified by the licensee against the liability of the employer thereunder;
- 10 (k) that the conduct of the licensee, his employees, and officers, and the arrangement of his affairs have been such that, in the opinion of the Commission, he should not continue to hold a license.
- (2) For the purposes of this section a licensee shall be deemed to be unable to pay his debts if—
- 15 (a) a creditor by assignment or otherwise to whom the licensee is indebted in a sum exceeding fifty pounds then due has served on the licensee by leaving at his usual place of business or if such licensee is a corporation at the registered office thereof a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring the licensee to pay the sum so due, and the licensee has for three weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor; or
- 20
- 25
- 30 (b) execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the licensee is returned unsatisfied in whole or in part; or
- 35 (c) it is proved to the satisfaction of the Commission that the licensee is unable to pay his debts and in determining whether a licensee is unable to pay his debts the Commission

Workers' Compensation (Amendment).

Commission shall take into account the accrued, continuing, future and contingent liabilities of the licensee.

5 (3) (a) Proceedings on any ground specified in subsection one of this section or subsection seven of section 18c of this Act for the suspension or termination of a license or for limiting or varying the period of a license or attaching any conditions thereto or varying the conditions thereof shall be
10 instituted by application by the Registrar in the form and manner prescribed by rules made under this Act, setting forth the ground or grounds of the application, and thereupon the Commission shall
15 give notice in such form and manner as is so prescribed to the licensee mentioned in such application calling upon him to show cause why his license should not be dealt with as aforesaid.

20 (b) The Commission shall hear evidence in support of and in answer to the application, and after due inquiry shall decide whether or not the license should be dealt with as aforesaid, giving reasons for the decision.

25 (c) An appeal from any decision given by the Commission on such application shall lie to the Supreme Court in its equitable jurisdiction. Such appeal shall be instituted by notice of appeal filed in the Equity Office within thirty days after the giving of the decision appealed from and the
30 Court on such appeal may make any such orders as the Commission might have made on such application. The provisions of section thirty-seven of this Act shall not apply to and in respect of any such decision.

(d)

Workers' Compensation (Amendment).

5 (d) A decision of the Commission dealing with a license as aforesaid shall unless otherwise thereby provided have effect from the time that the same is given but the licensee may before the expiration of the time limited for appeal or while an appeal is pending apply to the Commission or at his option to the Supreme Court in its equitable jurisdiction and the Commission or the Court as the case may be may thereupon on such terms and for such time as it may think fit suspend in whole or in part the operation of the Commission's decision pending the determination of an appeal.

15 (e) In every appeal under this section the costs of the appeal, including the costs of any issue therein, shall be in the discretion of the Court.

20 29A. Terms and expressions used in sections twenty-eight and twenty-nine of this Act shall unless a contrary intention appears have meanings corresponding to the meanings ascribed to such terms and expressions in the Companies Act, 1961, as amended by subsequent Acts, or other relevant Acts or ordinances relating to companies for the time being in force in any other State or Territory of the Commonwealth.

25 30. The Commission may at the request of a licensee suspend or terminate his license or limit or vary the period or vary the conditions thereof.

Construction.
Termination, etc. of licenses at request of licensees.

30 (i) (i) by inserting at the end of subsection one of section 30A the following new paragraph : —

Sec. 30A. (Insurance Premiums Committee.)

This section shall apply to and in respect of licensed insurers under section twenty-seven of this Act.

(ii)

Workers' Compensation (Amendment).

- 5 (ii) by omitting from paragraph (c) of subsection
 (13A) of the same section the words "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" and by inserting in
 lieu thereof the words "for the purposes of
 section twenty-eight of this Act to constitute
 10 a substantial breach of the requirements of
 this Act";

- (j) by inserting next after section 30A the following new **New secs.**
 sections : — **30B-30E.**

15 30B. (1) If on an application made to a member of the Commission in chambers by the Registrar there is shown to be reasonable cause to believe that a licensee, or any person employed by a licensee, has committed an offence against this Act or that there is reasonable cause to believe that grounds exist for the license of a licensee being dealt with under any provision of this Act and that evidence of the committing of the offence or of the existence of any such grounds is to be found in any books, documents, papers or records of or under the control of the licensee, such member of the Commission may make an order—

- 25 (a) authorising any person named therein to inspect and make copies of or extracts from such books, documents, papers or records or any of them; or
- 30 (b) requiring the licensee or any employee of the licensee named or designated in the order to produce such books, documents, papers or records or any of them to a person and at a place named in the order.

(2)

Workers' Compensation (Amendment).

5 (2) Any person hindering or preventing a person authorised thereto by such order from inspecting or making copies of or extracts from any such books, documents, papers or records and any licensee or any employee of the licensee named or designated in any such order who refuses or neglects to produce any such books, documents, papers or records in accordance with any such order, shall be guilty of an offence against this Act.

10 30c. (1) The Commission shall keep records in relation to all licenses which records shall include particulars of the granting, refusal, duration, suspension and termination of licenses, the conditions thereof and such other matters pertaining thereto as the Commission may think fit. ^{Records and notifications.}

15 (2) A certificate purporting to be signed by the Registrar or deputy or assistant registrar of the Commission or other prescribed officer certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified or referred to in subsection one of this section did or did not appear on or from such records shall, in all courts and upon all occasions whatsoever, without proof of the signature or of the official character of the person purporting to have signed the certificate and without the production of any record or document upon which the certificate is founded, be prima facie evidence of the particulars certified in and by the certificate.

20 (3) An applicant for a license shall if so required by the Commission give such notice of his application by advertisement or otherwise as the Commission may determine and if he fails to do so the application shall be deemed not to have been duly made.

(4)

Workers' Compensation (Amendment).

(4) The Commission shall cause notification of every suspension or termination of a license to be published in the Gazette.

5 30D. (1) (a) A license which has been terminated or the period of which has expired or which is for the time being suspended shall be deemed not to be in force. Penalties.

10 (b) Every person who carries on the business of insurance of employers against their liability to their workers under this Act, or independently of this Act, for injuries to their workers, shall unless a license has been granted to him under section twenty-seven of this Act and is for the time being in force be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred pounds for every day during which such business is carried on.

20 (2) Every person who commits an offence under this Part of this Act shall where no other pecuniary penalty is provided be liable to a penalty not exceeding two hundred pounds or imprisonment for a term not exceeding six months, and after the date of conviction of any such offence shall from time to time be liable to further penalties not exceeding fifty pounds for every week during which he continues to commit the offence.

30 30E. No contract of insurance or indemnity and no term or condition thereof shall be void or unenforceable by reason only of the fact that the person issuing the policy was not licensed pursuant to section twenty-seven of this Act or that the issue thereof by a person so licensed was contrary to the conditions of his license. Saving of policies.

(k)

Workers' Compensation (Amendment).

- (k) (i) by inserting in subsection four of section forty-
 one after the word "insurer" where firstly
 occurring the words "licensed under section
 twenty-seven of this Act"; Sec. 41.
(Constitu-
tion of
fund.)
- 5 (ii) by omitting from subsection seven of the same
 section the word "authorised" and by inserting
 in lieu thereof the words "licensed under this
 Act".
6. (1) The Principal Act is further amended—
- Further
amendment
of Act No.
15, 1926.
Fisher v.
Hebburn
Limited,
105 C.L.R.
188.
- 10 (a) (i) by omitting from the definition of "Depend-
 ants" in subsection one of section six the Sec. 6.
(Defini-
tions.)
 words "upon the earnings of" and by inserting
 in lieu thereof the words "for support upon";
- 15 (ii) by omitting from the same definition the
 words "his earnings" wherever occurring and
 by inserting in lieu thereof the word "him";
- 20 (b) (i) by omitting from subsection one of section Sec. 8.
(Compensa-
tion pay-
ments
(Death).)
 eight the words "upon his earnings" and by
 inserting in lieu thereof the words "for support
 upon the worker";
- (ii) by omitting from paragraph (b) of the same
 subsection the words "on the earnings of"
 and by inserting in lieu thereof the words "for
 support on";
- 25 (iii) by omitting from subsection two of the same
 section the words "his earnings" where firstly
 occurring and by inserting in lieu thereof the
 words "him for support";
- (iv)

Workers' Compensation (Amendment).

- (iv) by omitting from the same subsection the words "dependent upon his earnings" where secondly occurring and by inserting in lieu thereof the words "so dependent";
- 5 (v) by omitting from paragraph (a) of subsection five of the same section the words "upon the earnings of" wherever occurring and by inserting in lieu thereof the words "for support upon";
- 10 (c) (i) by omitting from paragraph (b) of subsection Sec. 9. one of section nine the words "on the earnings of" wherever occurring and by inserting in lieu thereof the words "for support on"; (Total or partial incapacity.)
- 15 (ii) by omitting from paragraph (c) of the same subsection the words "on the earnings of" wherever occurring and by inserting in lieu thereof the words "for support on";
- 20 (iii) by omitting from paragraph (d) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- 25 (iv) by omitting from paragraph (e) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- 30 (v) by omitting from subsection seven of the same section the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- (vi) by omitting from the same subsection the words "upon the earnings of" and by inserting in lieu thereof the words "for support on";
- (d)

Workers' Compensation (Amendment).

(d) by inserting next after subsection six of section
eighteen the following new subsection :—

Sec. 18.
(Compulsory
insurance.)

5 (6A) Where before or after the commencement
of the Workers' Compensation (Amendment) Act,
1964, an employer has become liable under this
Act to pay compensation to a worker in respect of
incapacity resulting from an injury referred to in
subsection four or (4A) of section seven of this
Act or has become liable under section sixteen of
10 this Act to pay compensation to a worker in respect
of an injury referred to in subsection (1A) of that
section, then for the purpose of determining
whether any insurer or which of two or more
insurers is liable under a contract of insurance or
15 indemnity in respect of that compensation, the
liability of the employer shall notwithstanding the
provisions of subsection five of the said section
seven and of subsection (1A) of the said section
sixteen be deemed to have arisen immediately
20 before the worker ceased to be employed by the
employer.

(2) (a) A person who would have been entitled to
compensation under any provision of the Workers' Compens-
ation Act, 1926, or any amendment thereof, had dependency
25 for support on a worker in lieu of dependency on the earnings
of a worker been a determining factor shall be deemed to
be and always to have been so entitled.

(b) Nothing in this subsection shall affect the
rights of any parties to any claim, action, suit or proceeding
30 which has before the commencement of this Act been deter-
mined where the time within which an appeal, including an
application to Her Majesty in Council, from any such deter-
mination might have been made has expired before such
commencement.

Workers' Compensation (Amendment).

7. Any policy of insurance against liability under the Workers' Compensation Act, 1926, or any amendment of that Act, being maintained in force at the commencement of this Act shall be deemed to insure the employer and always to have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Principal Act made by this Act. Where a person is in receipt of compensation at the commencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

Subsisting policies.
Act No. 58,
1960, s. 5.

8. (1) This section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Commencement.

(2) The Workmen's Compensation (Broken Hill) Act, 1920-1964, is amended—

Amendment of Act No. 36, 1920.

- (a) (i) by omitting from the definition of "Beneficiary" in subparagraph (a) of paragraph 2 of Part I of the Schedule the words "under the school leaving age" where firstly occurring and by inserting in lieu thereof the words ", under the age of sixteen years or being a student,";
- (ii) by omitting from the same definition the words "under the school leaving age" where secondly occurring;
- (iii) by inserting at the end of the same definition the words "where such sister or brother or illegitimate or adopted child is under the age of sixteen years or is a student";

Schedule, par. 2.

(iv)

Workers' Compensation (Amendment).

- (iv) by inserting in the same subparagraph next after the definition of "Mine worker" the following new definition :—

5 "Student" means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or university ;

- 10 (v) by omitting subparagraph (b) of the same paragraph ;

- 15 (b) (i) by omitting from subparagraph (a) of para- Schedule, graph 6 of Part II of the Schedule the words Par. 6. "the school leaving age" where firstly occurring and by inserting in lieu thereof the words "the age of sixteen years or being a student" ;

- 20 (ii) by omitting from the same subparagraph the words "under the school leaving age" where secondly occurring and by inserting in lieu thereof the words "any member of which is under the age of sixteen years or a student" ;

- (iii) by omitting from subparagraph (b) of the same paragraph the words "the school leaving age" and by inserting in lieu thereof the words "the age of sixteen years or being a student" ;

- 25 (iv) by omitting from subparagraph (d) of the same paragraph the words "the school leaving age" and by inserting in lieu thereof the words "the age of sixteen years or being a student" ;

(c)

Workers' Compensation (Amendment).

- (c) (i) by omitting from subparagraph (b) of paragraph 6A of Part II of the Schedule the figures "5 10 0" wherever occurring and by inserting in lieu thereof the figures "6 15 0"; Schedule,
par. 6A.
- 5 (ii) by omitting from the same subparagraph the figures "1 0 0" and by inserting in lieu thereof the figures "1 3 0";
- 10 (iii) by omitting from the same subparagraph the figures "3 2 6" and by inserting in lieu thereof the figures "4 0 0";
- 15 (iv) by omitting from paragraph (i) of subparagraph (c) of the same paragraph the words "Social Services Consolidation Act 1947-1949 of the Parliament of the Commonwealth" and by inserting in lieu thereof the words "Social Services Consolidation Act 1947 of the Parliament of the Commonwealth, or any Act amending or replacing that Act".

(3) The amendments made by subsection two of this section shall be deemed to extend to, and from the commencement of this section, apply in respect of all persons who were immediately before such commencement in receipt of compensation under the Workmen's Compensation (Broken Hill) Act, 1920-1964, as well as to all persons becoming entitled to compensation thereunder after such commencement.

(4) The Workmen's Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts and by this Act, may be cited as the Workmen's Compensation (Broken Hill) Act, 1920-1964.

Workers' Compensation (Amendment).

9. (1) The Common Law Procedure Act, 1899, as amended by subsequent Acts, is amended by inserting in subsection one of section one hundred and forty-two after the word "thereon" the words " : Provided that where
5 pursuant to section sixty-three or sixty-four of the Workers' Compensation Act, 1926, as amended by subsequent Acts, any payment is to the extent of the amount thereof a satisfaction of the judgment, so much of the amount of the verdict as is equivalent to that payment shall if the payment was
10 made—

Amendment
of Act No.
21, 1899.
Sec. 142.
(Judgment
debts to
carry
interest.)

- (a) before the verdict was obtained, carry no interest;
- (b) after the verdict was obtained, carry interest only until the time when the payment was made."

(2) The Common Law Procedure Act, 1899, as
15 amended by subsequent Acts and by this Act, may be cited as the Common Law Procedure Act, 1899-1964.

New South Wales



ANNO TERTIO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 66, 1964.

An Act to amend the law relating to workers' compensation; to amend the Workers' Compensation Act, 1926, the Workers' Compensation (Silicosis) Act, 1942, the Workmen's Compensation (Broken Hill) Act, 1920, the Common Law Procedure Act, 1899, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 16th December, 1964.]

BE

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,
citation and
commence-
ment.

1. (1) This Act may be cited as the "Workers' Compensation (Amendment) Act, 1964".

(2) This Act, section eight excepted, shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. In this Act a reference to the commencement of this Act shall be read and construed as a reference to such day.

(3) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) The Principal Act, as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1964.

Amendment
of Act No.
15, 1926.

2. (1) The Principal Act is amended—

Sec. 9.
(Total or
partial
incapacity.)

(a) (i) by omitting from paragraph (a) of subsection one of section nine the words "ten pounds ten shillings" and by inserting in lieu thereof the words "eleven pounds fifteen shillings";

(ii) by omitting from the same paragraph the words "seven pounds" and by inserting in lieu thereof the words "eight pounds";

(iii) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words "three pounds" and by inserting in lieu thereof the words "three pounds three shillings";

(iv)

Workers' Compensation (Amendment).

- (iv) by inserting in subparagraph (ii) of the same paragraph after the words "in loco parentis" the following word and new paragraph :—

“; and

- (c) each person being a student who is a child or stepchild of the worker or to whom the worker stands in loco parentis”;

- (v) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words “three pounds” and by inserting in lieu thereof the words “three pounds three shillings”;

- (vi) by inserting in subparagraph (ii) of the same paragraph after the word “sister” the words “who is”;

- (vii) by inserting in the same subparagraph after the words “sixteen years” the words “or a student and”;

- (viii) by inserting at the end of the same subsection the following words :—

“In this subsection ‘student’ means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or university.”

- (b) (i) by omitting from paragraph (a) of subsection (1A) of the same section the words and figures “Workers’ Compensation (Further Amendment) Act, 1960” and by inserting in lieu thereof the words and figures “Workers’ Compensation (Amendment) Act, 1964”;

- (ii) by omitting from paragraph (c) of the same subsection the words “assessed and calculated under and in accordance with paragraph (a)

or

Workers' Compensation (Amendment).

- or (b) of subsection two of section 61v of the Industrial Arbitration Act, 1940-1961” and by inserting in lieu thereof the words “appropriate by virtue of paragraph (a) or (b) of subsection two of section 61K, 61V or 61AA of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted at the relevant time under the said Act, as so amended”;
- (c) (i) by omitting from subsection four of the same section the words “six pounds ten shillings” and by inserting in lieu thereof the words “seven pounds five shillings”;
- (ii) by omitting from the same subsection the words “four pounds seventeen shillings and sixpence” and by inserting in lieu thereof the words “five pounds ten shillings”;
- (d) (i) by omitting from subsection five of the same section the words “nine pounds five shillings” and by inserting in lieu thereof the words “ten pounds ten shillings”;
- (ii) by omitting from the same subsection the words “seven pounds” and by inserting in lieu thereof the words “eight pounds”;
- (e) by inserting in paragraph (a) of subsection six of the same section after the words “in loco parentis” the words “or any person being a student as defined in subsection one of this section who is a child or stepchild of the worker or to whom the worker stands in loco parentis”.

(2) The amendments made by subsection one (paragraph (b) excepted) of this section shall be deemed to extend to, and from the commencement of this Act, apply in respect of all persons in receipt of or entitled to weekly payments under the provisions of section nine of the Principal

Act,

Workers' Compensation (Amendment).

Act, or under the provisions of the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

3. (1) The Principal Act is further amended—

Further
amendment
of Act No.
15, 1926.

- (a) by inserting next after paragraph (a) of subsection (14c) of section six the following new paragraph :—

Sec. 6.
(Defini-
tions.)

- (a1) as a boxer, wrestler or referee in any boxing or wrestling contest in or upon the premises of a club registered under Part X of the Liquor Act, 1912, as amended by subsequent Acts; or;

- (b) by inserting at the end of subsection one of section seven the following new paragraph :—

Sec. 7.
(Liability of
employers to
workers for
injuries.)

(g) For the purposes of this subsection a worker's journey from his place of abode shall be deemed to have commenced at, and the terminal point of his journey to his place of abode to be—

- (i) if his place of abode is a flat or home unit in a residential flat building or home unit building—that exit of the flat or home unit whereby he departed on his journey from his place of abode, or that entrance of the flat or home unit whereby he entered or would but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be;
- (ii) in every other case where his place of abode is or is within a building or structure—that exit of the building or structure whereby he departed on his journey from his place of abode, or that entrance of the building or structure whereby he entered or would

but

Workers' Compensation (Amendment).

but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be.

Sec. 10.
(Medical and hospital treatment, &c.)

(c) (i) by inserting in paragraph (a) of the definition of "Medical treatment" in subsection two of section ten after the word "masseur" the words "or remedial medical gymnast or speech therapist";

(ii) by inserting at the end of subsection four of the same section the following new paragraph :—

(c) Any sum for which the employer becomes liable in respect of medical treatment under this subsection may be recovered from the employer by the person who afforded the medical treatment.

Sec. 10A.
(Damages to artificial limbs, etc.)

(d) (i) by inserting in subsection one of section 10A after the words "specified in the order" the following new subsection :—

(1A) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and has, as a result thereof, sustained any damage of the nature referred to in subsection one of this section, shall if the accident did not happen—

(a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be; or

(b)

Workers' Compensation (Amendment).

- (b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey,

be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :

Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.

- (ii) by inserting in the same subsection immediately before the words "The provisions" the symbols, figure and letter "(1B)";
- (e) (i) by inserting in section 10B after the words "specified in the order" the following new subsection :—

Sec. 10B.
(Damage to clothing.)

(2) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and whose clothing has, as a result thereof, been damaged shall if the accident did not happen—

- (a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment

Workers' Compensation (Amendment).

employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be; or

- (b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey.

be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :

Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.

- (ii) by inserting in the same subsection immediately before the words "The provisions" the symbols and figure "(3)";

Sec. 11.
(Partial
incapacity.)

- (f) (i) by omitting from paragraph (a) of subsection one of section eleven the words "the amount of the average weekly earnings of the worker before the injury" and by inserting in lieu thereof the words "the weekly amount which the worker would probably have been earning as a worker but for the injury and had he continued to be employed in the same or some comparable employment";

- (ii) by omitting paragraphs (b), (c) and (d) of the same subsection;

(g)

Workers' Compensation (Amendment).

- (g) by inserting next after section twelve the following new section :— New sec.
12A.

12A. A worker who as a result of injury is unable without immediate and substantial risk of further injury to engage in employment of a certain kind by reason of the nature of that employment shall be deemed to be incapacitated for employment of that kind. Incapacity
deemed to
exist in
certain
cases.

- (h) (i) by omitting subsection one of section sixteen and by inserting in lieu thereof the following subsection :— Sec. 16.
(Compensa-
tion for
certain
injuries.)

(1) A worker who has received an injury mentioned in the first column of the table hereunder set forth shall be entitled to receive from his employer by way of compensation for that injury, in addition to any other compensation prescribed by this Act, the amount indicated in respect of that injury in the second column of that table.

- (ii) by inserting next after subsection (1A) of the same section the following new subsection :—

(1B) (a) A worker who has received an injury which is not or is not wholly an injury mentioned in the table hereunder set forth and which has resulted in severe facial disfigurement shall be entitled to receive from his employer by way of compensation for that injury, in addition to any other compensation prescribed by this Act, an amount, not exceeding in any case two hundred pounds, as may be agreed upon, or in default of agreement as may be assessed as appropriate by a medical board in accordance with the provisions of this subsection.

(b)

Workers' Compensation (Amendment).

(b) The Commission or the Registrar shall, on application by a person claiming to be entitled as a worker to compensation under this subsection and on payment by the applicant of such fee, not exceeding one pound, as may be prescribed by rules, refer to a medical board constituted in accordance with section fifty-one of this Act for determination the questions whether severe facial disfigurement exists and if so what amount of compensation is appropriate as compensation therefor, and the decisions of the medical board shall be final and conclusive.

(c) Wherever practicable, at least one of the medical referees of whom a medical board is for the purposes of this subsection constituted shall be a specialist in plastic surgery.

(iii) by omitting subsection two of the same section ;

(iv) by inserting in the first column of the table set forth at the end of the same section after the item "‡Loss of hearing of one ear" the following new item :—

"‡Loss of the power of speech"

and by inserting in the second column of that table opposite the words so inserted the figures "1,750 0 0";

(v) by inserting at the foot of the same table the following new footnote :—

"‡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".

(i)

Workers' Compensation (Amendment).

- (i) (i) by omitting from subsection five of section Sec. 18. eighteen the words "twelve months after such (Compulsory insurance.) failure" and by inserting in lieu thereof the words "two years after such failure. In any such proceedings, proof that the employer, not being a self-insurer, having been served pursuant to subsection one of section 18A of this Act with a notice requiring him to produce for inspection a policy of insurance or indemnity obtained by him and in force at a specified date or between specified dates has not so produced any such policy so in force and that the time stated in the notice for such production has expired shall be sufficient evidence, unless the contrary be proved, that at that date or between those dates, as the case may be, the employer had failed to comply with the provisions of subsection one of this section."

- (ii) by inserting at the end of the same section the following new subsection :—

(8) (a) Every employer shall keep correct records of all wages paid to the workers employed by him, and of the trade, occupation or calling of each worker, and of such other matters relating to the wages so paid as may be prescribed, and shall retain such records in his possession in good order and condition for a period of at least three years.

Such records may be combined with any records of wages required by any Act other than this Act to be kept by the employer.

(b)

Workers' Compensation (Amendment).

(b) The Commission may, on application by an insurer who has issued a policy of insurance or indemnity to an employer, and whether or not such policy is still in force, order the employer—

(i) to supply to the insurer within a time specified in the order a full and correct statement of all wages paid during a period so specified to the workers in the employment of that employer, together with such information as to the trades, occupations or callings of the workers and other prescribed matters relating to those wages as may be so specified. The period to be specified in the order shall be a period when the policy was in force and which commenced not more than three years before the making of the application;

(ii) to make available at or within such time or times and at such place as is specified in the order, for inspection by—

(a) an officer authorised in that behalf by the Commission;

(b) a person authorised in that behalf by the insurer and so specified,

the records required by this subsection to be kept by the employer and at the time of the order to be retained by him in respect of a period so specified, being a period when the policy was in force.

(c)

Workers' Compensation (Amendment).

(c) Any officer or person authorised under subparagraph (ii) of paragraph (b) of this subsection may inspect such records in accordance with the terms of the order and make copies thereof and take extracts therefrom.

(d) The Commission on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection may order the employer to pay to the insurer such amount as the Commission may have regard to the operation of this subsection find to be due and payable as a premium or balance of premium in respect of a policy of insurance or indemnity or any renewal thereof.

(e) The Commission, on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection, or by the Registrar, may if satisfied that the employer has failed to comply with the order call upon him to show cause why he should not be dealt with for contempt of the Commission, and if he fails so to show cause the Commission may impose on him a fine not exceeding two hundred pounds or order him to be imprisoned for a period not exceeding six months.

Nothing in this paragraph shall affect the jurisdiction of the Commission to make a further order or orders against the employer under the said paragraph (b).

The provisions of section eighty-two of the Justices Act, 1902, as amended by subsequent Acts, shall *mutatis mutandis* apply to and in respect of any fine so imposed and the persons on whom it is imposed.

(j)

Workers' Compensation (Amendment).

Section 18A.
(Inspection
of policies.)

(j) (i) by omitting from paragraph (a) of subsection one of section 18A the words "any policy of insurance or indemnity" and by inserting in lieu thereof the words "the policy of insurance or indemnity obtained by the employer and in force at such date or between such dates, whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the notice specifies";

(ii) by inserting next after the same subsection the following new subsection—

(1A) A worker who has received an injury, or has met with an accident arising out of or in the course of his employment or on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies, or has received an injury during any absence referred to in paragraph (e) of the said subsection, or a solicitor for the time being authorised by such worker to act on behalf of the worker in relation to a claim for compensation under this Act in respect of that injury or accident, or a representative of a union to which the worker belongs, may by notice in writing require the employer to make available for inspection a policy of insurance or indemnity in force in respect of the worker at the time whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, when the injury was received or the accident happened, as the case may be.

(iii)

Workers' Compensation (Amendment).

- (iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections : —

(2) (a) An employer who obtains a policy of insurance or indemnity shall retain the same in his possession in good order and condition at all times while he is employing workers in respect of whom the policy is in force and for at least three years thereafter.

(b) An employer who has in his possession or is required by this subsection to have in his possession such a policy of insurance or indemnity as is referred to in a notice served on him pursuant to this section and who fails to comply with any requirement of the notice within the time for compliance and in the manner stated therein shall be guilty of an offence against this Act.

(3) In this section "union" means industrial union of employees registered under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and "representative" means the secretary of a union or an officer for the time being authorised under section 129A of the said Act, as so amended, to exercise powers under that section.

- (k) (i) by inserting in subsection two of section 18C after the word "obtains" the words "or has applied for or applies for";
- (ii) by omitting from the same subsection the words "awarded, and costs, as has not been paid" and by inserting in lieu thereof the words "and costs of the application therefor as has been awarded and has not been paid or as may be awarded and not be paid, as the case may require, and in respect of the costs of the claim";

Sec. 18c.
(Uninsured
liability
scheme.)

(iii)

Workers' Compensation (Amendment)

- (iii) by omitting paragraphs (a), (b) and (c) of the proviso to subsection three of the same section;
- (iv) by omitting from paragraph (e) of the proviso to the same subsection the words "notwithstanding anything to the contrary in the foregoing provisions of this subsection";
- (v) by omitting paragraph (a) of subsection five of the same section and by inserting in lieu thereof the following paragraphs :—

(a) Where a claim is made under the Scheme by a worker at the same time as he applies for an award of the compensation to which the claim relates, or whose application for such award is then pending, the Commission may hear and determine the claim either concurrently with or after the hearing and determination of such application.

(a1) Where a claim under the Scheme has been made and the employer does not appear and defend the application for an award of compensation, or where such award has prior to the making of the claim been obtained from the Commission in default of appearance by the employer, or by consent of the worker and the employer, or if in any case the Commission for any reason thinks fit, the Commission may cause to be made such inquiries as may be deemed necessary to determine the genuineness of the grounds on which the award is sought or was based. The Commission may adjourn the application, or if an award has been made may reopen the same, and order

Workers' Compensation (Amendment).

order its Registrar, or some other fit person, to take and defend the proceedings in substitution for the employer, and to such Registrar or person for such purposes all the rights of the employer shall be subrogated.

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

(7A) Where in the opinion of the Commission or the Registrar the question has arisen whether an insurer is the insurer under this Act of an employer whose worker is making a claim under the Scheme the Commission or Registrar, as the case may be, may notify the insurer of the proceedings and such notice shall operate to join the insurer as a party to the proceedings.

- (vii) by omitting subsection nine of the same section;

- (l) by inserting next after section 18c the following new section : —

18D. The provisions of sections one hundred and ninety-nine, two hundred and thirty and two hundred and sixty-three of the Companies Act, 1961, as amended by subsequent Acts, shall not preclude a person from applying for an award of compensation or proceeding with such application without the leave of the Supreme Court in its equitable jurisdiction. Any award of compensation made pursuant to an application authorised by this section shall have force and effect only for the purposes of section 18c of this Act and not otherwise and notwithstanding any such provisions of the Companies Act, 1961, as so amended.

(m)

Workers' Compensation (Amendment).

Sec. 31.
(Appointment of
Commission.)

(m) by omitting from subsection one of section thirty-one the words "and not more than four";

Sec. 36.
(Jurisdiction.)

(n) by inserting next after paragraph (e) of subsection four of section thirty-six the following new paragraph : —

(e1) the weekly amount or sum, as the case may be, in accordance with subsection one of section eleven or subsection two of section sixty of this Act;

Sec. 43.
(Posting of
summary of
Act.)

(o) (i) by inserting in subsection one of section forty-three after the word "claims" the words
", together with—

(a) in a case where the employer has pursuant to subsection one of section eighteen of this Act obtained a policy of insurance or indemnity in respect of the persons there employed and the policy is for the time being in force, a statement setting forth the name and address of the insurer from whom the policy was obtained and stating that insurance under this Act has been effected with that insurer;

(b) in a case where the employer is a self-insurer, a statement that the employer is licensed as a self-insurer under this Act."

(ii) by inserting in subsection two of the same section after the word "summary" where secondly occurring the words "or statement";

(iii)

Workers' Compensation (Amendment).

- (iii) by inserting in subsection three of the same section after the words "this Act" the words "and be liable to a penalty not exceeding twenty pounds for each day during which the offence continues";
- (p) by omitting subsection four of section forty-six; Sec. 46.
(Seamen.)
- (q) by inserting next after section forty-nine the following new section : — New sec.
49A.

49A. (1) Where an employer has entered into a contract with any insurer in respect of any liability under this Act to any worker, then in the event of the death of the employer, or an employer, being a corporation (other than a company which has commenced to be wound up), ceasing to exist, the rights the employer but for death or so ceasing would have had against the insurer as respects that liability shall be transferred to and vest in the worker. ^{Death of employer.}

Upon any such transfer the insurer shall have the same rights and remedies and be subject to the same liabilities as if such insurer were the employer, so however that the insurer shall not be under any greater liability to the worker than the insurer would have been under to the employer.

(2) In the event of the death of the employer the worker may, if the liability of the insurer to the worker is less than the liability of the employer to the worker, proceed for the balance against the personal representative of the employer.

(r)

Workers' Compensation (Amendment).

New secs.
53C, 53D.

- (r) by inserting next after section 53B the following new sections :—

Applications
to be heard
together.

53C. A person who has applied to the Commission for awards of compensation in respect of an injury to or incapacity of a worker or the death of a worker against two or more persons alleged to have been the employers of that worker either at the same time or at different times shall be entitled, if he so requests, to have all or any such applications heard together.

Recovery of
compensation
by
minors.

53D. Proceedings for the recovery of compensation under this Act may be instituted by a person notwithstanding that he is under the age of twenty-one years.

Sec. 63.
(Negli-
gence.)

- (s) by inserting at the end of section sixty-three the following new subsection :—

(6) In this section "judgment" does not include any order or direction made or given pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, for the payment of a sum by way of compensation for an injury, but any sum so paid to a worker pursuant to such an order or direction shall be deducted from the compensation payable to him under this Act in respect of the injury.

Sec. 64.
(Remedies
against
both
employer
and
stranger.)

- (t) by inserting at the end of section sixty-four the following new subsection :—

(2) In this section "damages" does not include any sum ordered or directed pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, to be paid by way of compensation for an injury, but any such sum so paid to a worker shall be deducted from the compensation payable to him under this Act in respect of the injury.

Workers' Compensation (Amendment).

(2) (a) The amendments made by paragraphs (f) and (g) of subsection one of this section shall as from the commencement of this Act apply to and in respect of injuries received before as well as to those received after such commencement.

(b) The amendment made by subparagraph (i) of paragraph (h) of subsection one of this section shall apply to and in respect of injuries received before the commencement of this Act by workers who have not before such commencement made an election pursuant to subsection one of section sixteen of the Principal Act, as well as to injuries received after such commencement.

Where a worker who becomes by reason of the amendments effected by subparagraph (i) of paragraph (h) of subsection one of this section and the foregoing provisions of this paragraph entitled to compensation under section sixteen of the Principal Act, as amended by this Act, applies to his employer for such compensation after the commencement of this Act, the amount payable to him under that section shall, whether the injury was received before or after the commencement of the Workers' Compensation (Further Amendment) Act, 1960, be the appropriate amount indicated in the table set forth at the end of that section and as substituted by that Act.

(c) The amendments made by subparagraphs (iii) and (iv) of paragraph (k) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and sixty-one.

(d) (i) The amendments made by paragraphs (q), (s) and (t) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and twenty-six.

(ii)

Workers' Compensation (Amendment).

(ii) Nothing in this paragraph shall affect the rights of any parties to any claim, action, suit or proceeding which has before the commencement of this Act been determined where the time within which an appeal, including an application to Her Majesty in Council, from any such determination might have been made has expired before such commencement.

Further amendment of Act No. 15, 1926.

Subst. sec. 17A.

4. The Principal Act is further amended—

- (a) by omitting section 17A and by inserting in lieu thereof the following section :—

Bush fire fighters compensation.

17A. This Part of this Act shall not apply to or in respect of—

- (a) an injury received by a fire fighter arising out of or in the course of fighting a bush fire, or the destruction of or any damage to wearing apparel or personal effects upon a fire fighter whilst fighting a bush fire, or the destruction of or any damage to the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, of a fire fighter whilst he was fighting a bush fire—if the place at which he was fighting the bush fire was within a fire district constituted under the Fire Brigades Act, 1909, as amended by subsequent Acts;
- (b) an injury received by a fire fighter arising out of or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which the fire fighter was called, and the bush fire, or the destruction of or any

damage

Workers' Compensation (Amendment).

damage to wearing apparel or personal effects upon a fire fighter or his crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, while so journeying or the destruction of or any damage to any vehicle used for his conveyance between his place of abode or place of employment, or the place from which he was called, and the bush fire—if the place to which he was journeying or being conveyed for the purpose of fighting the bush fire, or from which he was journeying to his place of abode, place of employment, or place from which he was called, as the case may be, was within a fire district so constituted;

- (c) the destruction of or any damage to any vehicle, equipment or thing used in connection with fire fighting at or near the scene of a bush fire and owned by or in the possession or custody of a fire fighter—if the destruction or damage was sustained within a fire district so constituted,

unless in any such case the bush fire was one to or from which a bush fire brigade was proceeding or at which a bush fire brigade operated or was in attendance for the purpose of its control or suppression.

- (b) by omitting from subsection one of section 17B the definitions of "Council" and "Insurance company"; Sec. 17B.
(Interpretation.)
- (c) by inserting in subsection three of section 17C after the word "twelve," the figures and letter "12A,"; Sec. 17C.
(Compensation payable to fire fighters for injury received.)
- (d) (Compensation payable to fire fighters for injury received.)

Workers' Compensation (Amendment).

Sec. 17D.
(Indemnity
for destruction
of or
damage to
personal
effects,
vehicles,
etc.)

(d) (i) by omitting paragraph (a) of section 17D and by inserting in lieu thereof the following paragraph :—

(a) the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses of, or wearing apparel or personal effects upon—

(i) a fire fighter whilst fighting a bush fire or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which he was called, and the bush fire, when such journeying was made exclusively and bona fide for the purpose of engaging in fighting a bush fire; or

(ii) the captain, deputy captain, or any member of a bush fire brigade or the group captain or deputy group captain of any bush fire brigades whilst carrying out bush fire preventive operations or preparatory work or in the course of journeying between the place of abode or place of employment of such captain, deputy captain, member, group captain or deputy group captain and the place where bush fire preventive operations were or are to be carried out or preparatory work was or is to be carried out, when such journeying was made exclusively and bona fide

for

Workers' Compensation (Amendment).

for the purpose of engaging in the carrying out of such preventive operations or preparatory work;

(ii) by omitting paragraph (i) of the proviso to the same section and by inserting in lieu thereof the following paragraph:—

(i) the amount payable under paragraph (a) of this subsection shall not exceed—

(a) in respect of all destruction of and damage to the crutches, artificial members, eyes, teeth, artificial aids, or spectacle glasses of a person, sustained on any one occasion—the amount applicable in respect of damage referred to in section 10A of this Act;

(b) in respect of all destruction of and damage to wearing apparel or personal effects upon a person, sustained on any one occasion—the amount applicable in respect of damage referred to in section 10B of this Act;

(e) by omitting from subsection two of section 17E the words “All moneys received under this Part of this Act shall be paid into such Fund, and the” and by inserting in lieu thereof the words “Such Fund shall consist of the amount standing to its credit at the commencement of the Workers' Compensation (Amendment) Act, 1964, together with amounts transferred thereto pursuant to this Part of this Act. The”;

Sec. 17E.
(Bush Fire
Fighters
Compensation
Fund.)

(f)

Workers' Compensation (Amendment).

Sec. 17F.
(Returns by
insurance
companies.)

(f) by omitting section 17F;

Subst.
sec. 17G.

(g) by omitting section 17G and by inserting in lieu thereof the following section :—

Assessment
and payment
of contribu-
tions.

17G. The Commission shall as soon as is reasonably practicable before the thirtieth day of June, one thousand nine hundred and sixty-five, and as early as is reasonably practicable in each succeeding financial year terminating on the thirtieth day of June, determine whether any contribution to the Bush Fire Fighters Compensation Fund will be necessary in order to maintain that Fund on a sound financial basis during the next following financial year, and if it determines that such a contribution will be necessary shall assess the amount thereof.

The Commission shall cause notice of each such determination and assessment to be given to the Minister for Local Government.

On the first day of July next following the notification as aforesaid of each such assessment an amount as so assessed shall be transferred to the said Fund from the Eastern and Central Divisions Bush Fire Fighting Fund established under the Bush Fires Act, 1949, as amended by subsequent Acts. Amounts so transferred shall for the purposes of the said Act, as so amended, be deemed to be expenditure from the last mentioned Fund.

The provisions of this section shall have effect notwithstanding anything contained in the Bush Fires Act, 1949, as amended by subsequent Acts.

Workers' Compensation (Amendment).

5. The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

- (a) (i) by omitting from the definition of "Insurer" in subsection one of section six the word "authorised" and by inserting in lieu thereof the word "licensed"; Sec. 6. (Definitions.)
- (ii) by omitting from the definition of "Self-insurer" in the same subsection the word "authorised" and by inserting in lieu thereof the word "licensed";
- (b) (i) by omitting from subsection one of section eighteen the word "Every" and by inserting in lieu thereof the words "Subject to subsection (1A) of this section, every"; Sec. 18. (Compulsory insurance.)
- (ii) by omitting from the same subsection the words "Provided that the Commission may authorise any employer to undertake the liability referred to in this subsection who furnishes to the Commission a certified copy of his balance-sheets for his last three trading years, and such other particulars as may be required. The Commission may at any time upon notice to the employer concerned, and consideration of such evidence as he desires to submit, review and continue, suspend or terminate, any such authority as it may deem expedient.
"Employer" in this proviso includes a racing club or association.";
- (iii) by inserting in the same subsection after the words "In this Act—" the following words :—
" 'license' means a license granted or deemed to have been granted under this Part of this Act, and 'licensee' and 'licensed' have corresponding meanings.";

(iv)

Workers' Compensation (Amendment).

- (iv) by inserting next after the same subsection the following new subsection :—

(1A) On application made by an employer to the Commission in the form and manner and accompanied by the information prescribed by rules made under this Act and upon consideration of such evidence as the employer may submit and of such information, documents, particulars, and other evidence as the Commission may receive, the Commission may after due inquiry grant without limitation of time or for such period, and without conditions or subject to such conditions, as the Commission deems fit a license to the employer to undertake himself the liabilities referred to in subsection one of this section, or the Commission may refuse such application. The provisions of subsection one of this section shall not apply to an employer while a license granted to him under this subsection is in force.

An employer so licensed who fails to comply in all respects with the conditions of his license shall be guilty of an offence against this Act.

Any authority granted to an employer under subsection one of this section as enacted before the commencement of the Workers' Compensation (Amendment) Act, 1964, and in force at such commencement, shall be deemed to be a license granted under this subsection.

The Commission may at any time upon notice to an employer so licensed, after due inquiry and consideration of such evidence as he may submit and of such information, documents, particulars and other evidence as
the

Workers' Compensation (Amendment).

the Commission may receive, suspend or terminate any such license, or limit or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof.

- (v) by omitting subsection four of the same section;
- (c) by omitting subsection four of section nineteen and by inserting in lieu thereof the following subsection :— Sec. 19.
(Deposits by insurers.)
- (4) Subsection three of this section shall not operate to require—
- (a) a self-insurer to enter into any contract of reinsurance unless he is an insurer licensed under section twenty-seven of this Act, or
- (b) an insurer to enter into any such contract if he confines his operations to indemnifying one employer, or a group of employers engaged in one industry, trade, or business in respect of the liability to workers under this Act and at common law. The operations of a racing or recreation club shall for the purposes of this paragraph be deemed to be its trade or business.
- (d) by omitting subsection one of section twenty and by inserting in lieu thereof the following subsection :— Sec. 20.
(Amount of deposit.)
- (1) (a) An employer licensed as a self-insurer shall on the granting of his license deposit with the Treasurer a sum of money the amount of which shall be determined by the Commission and the license shall be deemed not to be in force unless and until the employer so deposits that sum.
- (b)

Workers' Compensation (Amendment).

(b) The Commission may from time to time by notice to an employer so licensed direct the employer to deposit with the Treasurer such sums, additional to any sums so deposited whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the Commission may determine. An employer who fails to comply with any such direction shall be guilty of an offence against this Act.

(c) The Commission may from time to time authorise the Treasurer to refund to such an employer any part of the amount or, as the case may require, any part of the total of the amounts, deposited by that employer pursuant to this subsection or the subsection which this subsection replaces.

(d) In this section "employer" includes a racing club or association.

Sec. 24.
(Application
of deposit.)

(e) by inserting in subsection one of section twenty-four after the words "at common law" the words "or, in the case of an employer licensed under subsection (1A) of section eighteen of this Act, in respect of the liabilities referred to in subsection one of that section,";

Subst. sec.
25A.

(f) by omitting section 25A and by inserting in lieu thereof the following section:—

Return of
deposits to
self-
insurers.

25A. An employer who has either before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, deposited any sum or sums of money pursuant to subsection one of section twenty of this Act or the subsection replaced by that subsection may in the event of his ceasing

to

Workers' Compensation (Amendment).

to be licensed under subsection (1A) of section eighteen of this Act withdraw all sums so deposited by him and standing to his credit—

- (a) on the expiration of three months after service on the Treasurer of a request in writing duly signed by or on behalf of the employer for the refund of such sums; and
- (b) on satisfying the Treasurer that all the accrued, continuing, future, and contingent liabilities of the employer under this Act in respect of workers employed by him while he was so licensed have been discharged or suitably and adequately provided for.
- (g) by inserting in section twenty-six after the word "complaint" the words "or information";
- (h) by omitting sections twenty-seven, twenty-eight, twenty-nine and thirty and by inserting in lieu thereof the following sections : —

27. (1) On application made by any person to the Commission in the form and manner and accompanied by the information prescribed by rules made under this Act and upon consideration of such evidence as he may submit and of such information, documents, particulars, and other evidence as the Commission may receive, the Commission may after due inquiry grant to that person without limitation of time or for such period, and without conditions or subject to such conditions, as the Commission deems fit a license to carry on in New South Wales the business of insurance of employers against their liability to their workers under this Act, and independently of this Act for injuries to

(iii)

their

(vii)

Workers' Compensation (Amendment).

their workers, or the Commission may refuse such application. An insurer so licensed who fails to comply in all respects with the conditions of his license shall be guilty of an offence against this Act.

(2) Any license granted under the section which this section replaces, and in force at the commencement of the Workers' Compensation (Amendment) Act, 1964, shall be deemed to be a license granted under this section.

Information,
etc., to be
supplied by
licensees.

28. (1) Every person licensed under subsection (1A) of section eighteen or section twenty-seven of this Act—

(a) shall furnish to the Commission within the time specified in the notice hereinafter referred to such information, particulars, accounts, documents and copies of accounts and documents as to his business and financial position as the Commission may by notice in writing to the licensee from time to time require;

(b) being a corporation, shall notify the Commission in writing of any of the following matters, events, or things within twenty-one days of the happening thereof (whether within or outside the State), namely:—

(i) any default by such licensee or its holding corporation in the payment of principal or interest under any debenture issued by such licensee or corporation;

(ii) the appointment of a liquidator, receiver or manager of the property of such licensee or corporation;

(iii)

Workers' Compensation (Amendment).

(iii) that such licensee or corporation has resolved by special resolution that it be wound up voluntarily or by a court;

(iv) that a person claiming to be a creditor by assignment or otherwise of such licensee or corporation for a sum exceeding fifty pounds then due has served on such licensee or corporation by leaving at its registered office a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring such licensee or corporation to pay the sum so claimed to be due, and such licensee or corporation has for three weeks thereafter failed to pay the sum or to secure or compound for it to the satisfaction of the person claiming to be a creditor;

(v) the return unsatisfied in whole or part of execution or other process issued on a judgment, decree or order of any court in favour of a creditor of such licensee or corporation;

(vi) the receipt by such licensee or corporation, or the giving, or causing to be given by such licensee or corporation, of any notice or statement mentioned in subsection two of section one hundred and eighty-four of the Companies Act, 1961, as amended by subsequent Acts;

(vii)

Workers' Compensation (Amendment).

- (vii) the making of an order for the winding-up of such licensee or corporation by any court;
- (viii) the receipt by such licensee or corporation of any notice of an application for an order for the winding-up of such licensee or corporation by any court.

In this subsection "holding corporation" means a corporation of which the licensee is a subsidiary.

(2) A licensee who fails to comply with any of the provisions of subsection one of this section shall be guilty of an offence against this Act.

Termination
of licenses.

29. (1) Subject to the provisions of this section the Commission may suspend, or terminate, any license granted under section twenty-seven of this Act, or limit, or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof, if it is satisfied of one or more of the following matters, events or things :—

- (a) that the licensee is unable to pay his debts;
- (b) that the licensee being a corporation has resolved that it be wound up voluntarily or by a court;
- (c) that the licensee has not commenced the business for which he is licensed for a year from the date at which his license was granted, or has suspended his said business for a whole year;
- (d) that in the case of the licensee being a company an inspector appointed under section one hundred and sixty-nine or section one hundred and seventy of the

Companies

Workers' Compensation (Amendment).

Companies Act, 1961, as amended by subsequent Acts, or under any equivalent provision of any Act or ordinance relating to companies for the time being in force in any other State or Territory of the Commonwealth, has reported that he is of the opinion—

- (i) that the company cannot pay its debts and should be wound up, or
 - (ii) that it is in the interests of the public or of the shareholders or of the creditors that the company should be wound up;
- (e) that the licensee has failed to comply with any provision of this Act and such failure constitutes a substantial breach of the requirements of this Act;
- (f) that the licensee has been guilty of repeated breaches of this Act, whether of the same kind or of different kinds;
- (g) that the licensee has failed to arrange suitable and adequate reinsurance of liabilities undertaken by him under policies of insurance or indemnity issued by him;
- (h) that the licensee has failed to make suitable and adequate provision for his accrued, continuing, future, and contingent liabilities under policies of insurance or indemnity issued by him;
- (i) that the licensee has failed to comply with the conditions of his license;

(j)

Workers' Compensation (Amendment).

- (j) that the licensee has unreasonably failed, or unreasonably refused, to satisfy an award made by the Commission against an employer insured or indemnified by the licensee against the liability of the employer thereunder;
- (k) that the conduct of the licensee, his employees, and officers, and the arrangement of his affairs have been such that, in the opinion of the Commission, he should not continue to hold a license.

(2) For the purposes of this section a licensee shall be deemed to be unable to pay his debts if—

- (a) a creditor by assignment or otherwise to whom the licensee is indebted in a sum exceeding fifty pounds then due has served on the licensee by leaving at his usual place of business or if such licensee is a corporation at the registered office thereof a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring the licensee to pay the sum so due, and the licensee has for three weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor; or
- (b) execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the licensee is returned unsatisfied in whole or in part; or
- (c) it is proved to the satisfaction of the Commission that the licensee is unable to pay his debts and in determining whether a licensee is unable to pay his debts the Commission

Workers' Compensation (Amendment).

Commission shall take into account the accrued, continuing, future and contingent liabilities of the licensee.

(3) (a) Proceedings on any ground specified in subsection one of this section or subsection seven of section 18c of this Act for the suspension or termination of a license or for limiting or varying the period of a license or attaching any conditions thereto or varying the conditions thereof shall be instituted by application by the Registrar in the form and manner prescribed by rules made under this Act, setting forth the ground or grounds of the application, and thereupon the Commission shall give notice in such form and manner as is so prescribed to the licensee mentioned in such application calling upon him to show cause why his license should not be dealt with as aforesaid.

(b) The Commission shall hear evidence in support of and in answer to the application, and after due inquiry shall decide whether or not the license should be dealt with as aforesaid, giving reasons for the decision.

(c) An appeal from any decision given by the Commission on such application shall lie to the Supreme Court in its equitable jurisdiction. Such appeal shall be instituted by notice of appeal filed in the Equity Office within thirty days after the giving of the decision appealed from and the Court on such appeal may make any such orders as the Commission might have made on such application. The provisions of section thirty-seven of this Act shall not apply to and in respect of any such decision.

(d)

Workers' Compensation (Amendment).

(d) A decision of the Commission dealing with a license as aforesaid shall unless otherwise thereby provided have effect from the time that the same is given but the licensee may before the expiration of the time limited for appeal or while an appeal is pending apply to the Commission or at his option to the Supreme Court in its equitable jurisdiction and the Commission or the Court as the case may be may thereupon on such terms and for such time as it may think fit suspend in whole or in part the operation of the Commission's decision pending the determination of an appeal.

(e) In every appeal under this section the costs of the appeal, including the costs of any issue therein, shall be in the discretion of the Court.

Construction.

29A. Terms and expressions used in sections twenty-eight and twenty-nine of this Act shall unless a contrary intention appears have meanings corresponding to the meanings ascribed to such terms and expressions in the Companies Act, 1961, as amended by subsequent Acts, or other relevant Acts or ordinances relating to companies for the time being in force in any other State or Territory of the Commonwealth.

Termination,
etc. of
licenses at
request of
licensees.

30. The Commission may at the request of a licensee suspend or terminate his license or limit or vary the period or vary the conditions thereof.

Sec. 30A.
(Insurance
Premiums
Committee.)

- (i) (i) by inserting at the end of subsection one of section 30A the following new paragraph :—

This section shall apply to and in respect of licensed insurers under section twenty-seven of this Act.

(ii)

Workers' Compensation (Amendment).

- (ii) by omitting from paragraph (c) of subsection (13A) of the same section the words "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" and by inserting in lieu thereof the words "for the purposes of section twenty-eight of this Act to constitute a substantial breach of the requirements of this Act";
- (j) by inserting next after section 30A the following new sections :—

New secs.
30B-30E.

30B. (1) If on an application made to a member of the Commission in chambers by the Registrar there is shown to be reasonable cause to believe that a licensee, or any person employed by a licensee, has committed an offence against this Act or that there is reasonable cause to believe that grounds exist for the license of a licensee being dealt with under any provision of this Act and that evidence of the committing of the offence or of the existence of any such grounds is to be found in any books, documents, papers or records of or under the control of the licensee, such member of the Commission may make an order—

Inspection
of books
and papers
of licensees.

- (a) authorising any person named therein to inspect and make copies of or extracts from such books, documents, papers or records or any of them ; or
- (b) requiring the licensee or any employee of the licensee named or designated in the order to produce such books, documents, papers or records or any of them to a person and at a place named in the order.

(2)

Workers' Compensation (Amendment).

(2) Any person hindering or preventing a person authorised thereto by such order from inspecting or making copies of or extracts from any such books, documents, papers or records and any licensee or any employee of the licensee named or designated in any such order who refuses or neglects to produce any such books, documents, papers or records in accordance with any such order, shall be guilty of an offence against this Act.

Records
and notifica-
tions.

30c. (1) The Commission shall keep records in relation to all licenses which records shall include particulars of the granting, refusal, duration, suspension and termination of licenses, the conditions thereof and such other matters pertaining thereto as the Commission may think fit.

(2) A certificate purporting to be signed by the Registrar or deputy or assistant registrar of the Commission or other prescribed officer certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified or referred to in subsection one of this section did or did not appear on or from such records shall, in all courts and upon all occasions whatsoever, without proof of the signature or of the official character of the person purporting to have signed the certificate and without the production of any record or document upon which the certificate is founded, be prima facie evidence of the particulars certified in and by the certificate.

(3) An applicant for a license shall if so required by the Commission give such notice of his application by advertisement or otherwise as the Commission may determine and if he fails to do so the application shall be deemed not to have been duly made.

(4)

Workers' Compensation (Amendment).

(4) The Commission shall cause notification of every suspension or termination of a license to be published in the Gazette.

30D. (1) (a) A license which has been terminated or the period of which has expired or which is for the time being suspended shall be deemed not to be in force. Penalties.

(b) Every person who carries on the business of insurance of employers against their liability to their workers under this Act, or independently of this Act, for injuries to their workers, shall unless a license has been granted to him under section twenty-seven of this Act and is for the time being in force be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred pounds for every day during which such business is carried on.

(2) Every person who commits an offence under this Part of this Act shall where no other pecuniary penalty is provided be liable to a penalty not exceeding two hundred pounds or imprisonment for a term not exceeding six months, and after the date of conviction of any such offence shall from time to time be liable to further penalties not exceeding fifty pounds for every week during which he continues to commit the offence.

30E. No contract of insurance or indemnity and no term or condition thereof shall be void or unenforceable by reason only of the fact that the person issuing the policy was not licensed pursuant to section twenty-seven of this Act or that the issue thereof by a person so licensed was contrary to the conditions of his license. Saving of policies.

(k)

Workers' Compensation (Amendment).

Sec. 41.
(Constitution of fund.)

- (k) (i) by inserting in subsection four of section forty-one after the word "insurer" where firstly occurring the words "licensed under section twenty-seven of this Act";
- (ii) by omitting from subsection seven of the same section the word "authorised" and by inserting in lieu thereof the words "licensed under this Act".

Further amendment of Act No. 15, 1926.
Fisher v. Hebburn Limited, 105 C.L.R. 188.

6. (1) The Principal Act is further amended—

Sec. 6.
(Definitions.)

- (a) (i) by omitting from the definition of "Dependants" in subsection one of section six the words "upon the earnings of" and by inserting in lieu thereof the words "for support upon";
- (ii) by omitting from the same definition the words "his earnings" wherever occurring and by inserting in lieu thereof the word "him";

Sec. 8.
(Compensation payments (Death).)

- (b) (i) by omitting from subsection one of section eight the words "upon his earnings" and by inserting in lieu thereof the words "for support upon the worker";
- (ii) by omitting from paragraph (b) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- (iii) by omitting from subsection two of the same section the words "his earnings" where firstly occurring and by inserting in lieu thereof the words "him for support";

(iv)

Workers' Compensation (Amendment).

- (iv) by omitting from the same subsection the words "dependent upon his earnings" where secondly occurring and by inserting in lieu thereof the words "so dependent";
 - (v) by omitting from paragraph (a) of subsection five of the same section the words "upon the earnings of" wherever occurring and by inserting in lieu thereof the words "for support upon";
 - (c) (i) by omitting from paragraph (b) of subsection one of section nine the words "on the earnings of" wherever occurring and by inserting in lieu thereof the words "for support on"; Sec. 9. (Total or partial incapacity.)
 - (ii) by omitting from paragraph (c) of the same subsection the words "on the earnings of" wherever occurring and by inserting in lieu thereof the words "for support on";
 - (iii) by omitting from paragraph (d) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
 - (iv) by omitting from paragraph (e) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
 - (v) by omitting from subsection seven of the same section the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
 - (vi) by omitting from the same subsection the words "upon the earnings of" and by inserting in lieu thereof the words "for support on";
- (d)

Workers' Compensation (Amendment).

Sec. 18.
(Compulsory
insurance.)

(d) by inserting next after subsection six of section eighteen the following new subsection:—

(6A) Where before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, an employer has become liable under this Act to pay compensation to a worker in respect of incapacity resulting from an injury referred to in subsection four or (4A) of section seven of this Act or has become liable under section sixteen of this Act to pay compensation to a worker in respect of an injury referred to in subsection (1A) of that section, then for the purpose of determining whether any insurer or which of two or more insurers is liable under a contract of insurance or indemnity in respect of that compensation, the liability of the employer shall notwithstanding the provisions of subsection five of the said section seven and of subsection (1A) of the said section sixteen be deemed to have arisen immediately before the worker ceased to be employed by the employer.

(2) (a) A person who would have been entitled to compensation under any provision of the Workers' Compensation Act, 1926, or any amendment thereof, had dependency for support on a worker in lieu of dependency on the earnings of a worker been a determining factor shall be deemed to be and always to have been so entitled.

(b) Nothing in this subsection shall affect the rights of any parties to any claim, action, suit or proceeding which has before the commencement of this Act been determined where the time within which an appeal, including an application to Her Majesty in Council, from any such determination might have been made has expired before such commencement.

Workers' Compensation (Amendment).

7. Any policy of insurance against liability under the Workers' Compensation Act, 1926, or any amendment of that Act, being maintained in force at the commencement of this Act shall be deemed to insure the employer and always to have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Principal Act made by this Act. Where a person is in receipt of compensation at the commencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

Subsisting
Policies.
Act No. 58,
1960, s. 5.

8. (1) This section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Commence-
ment.

(2) The Workmen's Compensation (Broken Hill) Act, 1920-1964, is amended—

Amendment
of Act No.
36, 1920.

- (a) (i) by omitting from the definition of "Beneficiary" in subparagraph (a) of paragraph 2 of Part I of the Schedule the words "under the school leaving age" where firstly occurring and by inserting in lieu thereof the words "under the age of sixteen years or being a student,";
- (ii) by omitting from the same definition the words "under the school leaving age" where secondly occurring;
- (iii) by inserting at the end of the same definition the words "where such sister or brother or illegitimate or adopted child is under the age of sixteen years or is a student";

Schedule,
par. 2.

(iv)

Workers' Compensation (Amendment).

- (iv) by inserting in the same subparagraph next after the definition of "Mine worker" the following new definition :—

"Student" means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or university;

- (v) by omitting subparagraph (b) of the same paragraph;

Schedule,
part 6.

- (b) (i) by omitting from subparagraph (a) of paragraph 6 of Part II of the Schedule the words "the school leaving age" where firstly occurring and by inserting in lieu thereof the words "the age of sixteen years or being a student";
- (ii) by omitting from the same subparagraph the words "under the school leaving age" where secondly occurring and by inserting in lieu thereof the words "any member of which is under the age of sixteen years or a student";
- (iii) by omitting from subparagraph (b) of the same paragraph the words "the school leaving age" and by inserting in lieu thereof the words "the age of sixteen years or being a student";
- (iv) by omitting from subparagraph (d) of the same paragraph the words "the school leaving age" and by inserting in lieu thereof the words "the age of sixteen years or being a student";

(c)

Workers' Compensation (Amendment).

- (c) (i) by omitting from subparagraph (b) of paragraph 6A of Part II of the Schedule the figures "5 10 0" wherever occurring and by inserting in lieu thereof the figures "6 15 0"; Schedule,
par. 6A.
- (ii) by omitting from the same subparagraph the figures "1 0 0" and by inserting in lieu thereof the figures "1 3 0";
- (iii) by omitting from the same subparagraph the figures "3 2 6" and by inserting in lieu thereof the figures "4 0 0";
- (iv) by omitting from paragraph (i) of subparagraph (c) of the same paragraph the words "Social Services Consolidation Act 1947-1949 of the Parliament of the Commonwealth" and by inserting in lieu thereof the words "Social Services Consolidation Act 1947 of the Parliament of the Commonwealth, or any Act amending or replacing that Act".

(3) The amendments made by subsection two of this section shall be deemed to extend to, and from the commencement of this section, apply in respect of all persons who were immediately before such commencement in receipt of compensation under the Workmen's Compensation (Broken Hill) Act, 1920-1964, as well as to all persons becoming entitled to compensation thereunder after such commencement.

(4) The Workmen's Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts and by this Act, may be cited as the Workmen's Compensation (Broken Hill) Act, 1920-1964.

Workers' Compensation (Amendment).

Amendment
of Act No.
21, 1899.
Sec. 142.
(Judgment
debts to
carry
interest.)

9. (1) The Common Law Procedure Act, 1899, as amended by subsequent Acts, is amended by inserting in subsection one of section one hundred and forty-two after the word "thereon" the words " : Provided that where pursuant to section sixty-three or sixty-four of the Workers' Compensation Act, 1926, as amended by subsequent Acts, any payment is to the extent of the amount thereof a satisfaction of the judgment, so much of the amount of the verdict as is equivalent to that payment shall if the payment was made—

(a) before the verdict was obtained, carry no interest;

(b) after the verdict was obtained, carry interest only until the time when the payment was made."

(2) The Common Law Procedure Act, 1899, as amended by subsequent Acts and by this Act, may be cited as the Common Law Procedure Act, 1899-1964.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1965

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 9 December, 1964.*

New South Wales



ANNO TERTIO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 66, 1964.

An Act to amend the law relating to workers' compensation; to amend the Workers' Compensation Act, 1926, the Workers' Compensation (Silicosis) Act, 1942, the Workmen's Compensation (Broken Hill) Act, 1920, the Common Law Procedure Act, 1899, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 16th December, 1964.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

(vi) HOWARD T. FOWLES,
Chairman of Committees of the Legislative Assembly.

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,
citation and
commence-
ment.

1. (1) This Act may be cited as the "Workers' Compensation (Amendment) Act, 1964".

(2) This Act, section eight excepted, shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. In this Act a reference to the commencement of this Act shall be read and construed as a reference to such day.

(3) The Workers' Compensation Act, 1926, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) The Principal Act, as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1964.

Amendment
of Act No.
15, 1926.

Sec. 9.
(Total or
partial
incapacity.)

2. (1) The Principal Act is amended—

(a) (i) by omitting from paragraph (a) of subsection one of section nine the words "ten pounds ten shillings" and by inserting in lieu thereof the words "eleven pounds fifteen shillings";

(ii) by omitting from the same paragraph the words "seven pounds" and by inserting in lieu thereof the words "eight pounds";

(iii) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words "three pounds" and by inserting in lieu thereof the words "three pounds three shillings";

(iv)

Workers' Compensation (Amendment).

- (iv) by inserting in subparagraph (ii) of the same paragraph after the words "in loco parentis" the following word and new paragraph :—

“; and

- (c) each person being a student who is a child or stepchild of the worker or to whom the worker stands in loco parentis”;
- (v) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words “three pounds” and by inserting in lieu thereof the words “three pounds three shillings”;
- (vi) by inserting in subparagraph (ii) of the same paragraph after the word “sister” the words “who is”;
- (vii) by inserting in the same subparagraph after the words “sixteen years” the words “or a student and”;
- (viii) by inserting at the end of the same subsection the following words :—

“In this subsection ‘student’ means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or university.”

- (b) (i) by omitting from paragraph (a) of subsection (1A) of the same section the words and figures “Workers’ Compensation (Further Amendment) Act, 1960” and by inserting in lieu thereof the words and figures “Workers’ Compensation (Amendment) Act, 1964”;
- (ii) by omitting from paragraph (c) of the same subsection the words “assessed and calculated under and in accordance with paragraph (a)

or

Workers' Compensation (Amendment).

or (b) of subsection two of section 61v of the Industrial Arbitration Act, 1940-1961" and by inserting in lieu thereof the words "appropriate by virtue of paragraph (a) or (b) of subsection two of section 61K, 61v or 61AA of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted at the relevant time under the said Act, as so amended";

(c) (i) by omitting from subsection four of the same section the words "six pounds ten shillings" and by inserting in lieu thereof the words "seven pounds five shillings";

(ii) by omitting from the same subsection the words "four pounds seventeen shillings and sixpence" and by inserting in lieu thereof the words "five pounds ten shillings";

(d) (i) by omitting from subsection five of the same section the words "nine pounds five shillings" and by inserting in lieu thereof the words "ten pounds ten shillings";

(ii) by omitting from the same subsection the words "seven pounds" and by inserting in lieu thereof the words "eight pounds";

(e) by inserting in paragraph (a) of subsection six of the same section after the words "in loco parentis" the words "or any person being a student as defined in subsection one of this section who is a child or stepchild of the worker or to whom the worker stands in loco parentis".

(2) The amendments made by subsection one (paragraph (b) excepted) of this section shall be deemed to extend to, and from the commencement of this Act, apply in respect of all persons in receipt of or entitled to weekly payments under the provisions of section nine of the Principal

Act.

Workers' Compensation (Amendment).

Act, or under the provisions of the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, as well as to all persons becoming entitled to weekly payments under any of such provisions after such commencement.

3. (1) The Principal Act is further amended—

Further amendment of Act No. 15, 1926.

(a) by inserting next after paragraph (a) of subsection (14c) of section six the following new paragraph :—

Sec. 6. (Definitions.)

(a1) as a boxer, wrestler or referee in any boxing or wrestling contest in or upon the premises of a club registered under Part X of the Liquor Act, 1912, as amended by subsequent Acts; or;

(b) by inserting at the end of subsection one of section seven the following new paragraph :—

Sec. 7. (Liability of employers to workers for injuries.)

(g) For the purposes of this subsection a worker's journey from his place of abode shall be deemed to have commenced at, and the terminal point of his journey to his place of abode to be—

(i) if his place of abode is a flat or home unit in a residential flat building or home unit building—that exit of the flat or home unit whereby he departed on his journey from his place of abode, or that entrance of the flat or home unit whereby he entered or would but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be;

(ii) in every other case where his place of abode is or is within a building or structure—that exit of the building or structure whereby he departed on his journey from his place of abode, or that entrance of the building or structure whereby he entered or would

but

Workers' Compensation (Amendment).

but for injury have or may have entered his place of abode at the conclusion of his journey thereto, as the case may be.

Sec. 10.
(Medical and hospital treatment, &c.)

- (c) (i) by inserting in paragraph (a) of the definition of "Medical treatment" in subsection two of section ten after the word "masseur" the words "or remedial medical gymnast or speech therapist";
- (ii) by inserting at the end of subsection four of the same section the following new paragraph :—

(c) Any sum for which the employer becomes liable in respect of medical treatment under this subsection may be recovered from the employer by the person who afforded the medical treatment.

Sec. 10A.
(Damages to artificial limbs, etc.)

- (d) (i) by inserting in subsection one of section 10A after the words "specified in the order" the following new subsection :—

(1A) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and has, as a result thereof, sustained any damage of the nature referred to in subsection one of this section, shall if the accident did not happen—

- (a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be; or

(b)

Workers' Compensation (Amendment).

- (b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey,

be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :

Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.

- (ii) by inserting in the same subsection immediately before the words "The provisions" the symbols, figure and letter "(1B)";

- (e) (i) by inserting in section 10B after the words "specified in the order" the following new subsection :—
- Sec. 10B.
(Damage to clothing.)

(2) A worker who has met with an accident on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies and whose clothing has, as a result thereof, been damaged shall if the accident did not happen—

- (a) during or after any substantial interruption of, or substantial deviation from, any such journey, made for a reason unconnected with the worker's employment

Workers' Compensation (Amendment).

employment or unconnected with his attendance at the trade, technical or other school, place of pick-up, or place referred to in subparagraph (i) of the said paragraph (d), as the case may be; or

- (b) during or after any other break in any such journey, which the Commission, having regard to all the circumstances, deems not to have been reasonably incidental to any such journey.

be entitled to compensation under and in accordance with subsection one of this section in respect of that damage as though the accident had arisen out of and in the course of his employment :

Provided that a worker shall be entitled to such compensation notwithstanding that the accident happened during or after any substantial interruption of, or substantial deviation from or other break in any journey, if, in the circumstances of the particular case, the risk of accident was not materially increased by reason only of such substantial interruption, substantial deviation or other break.

- (ii) by inserting in the same subsection immediately before the words "The provisions" the symbols and figure "(3)";

Sec. 11.
(Partial
incapacity.)

- (f) (i) by omitting from paragraph (a) of subsection one of section eleven the words "the amount of the average weekly earnings of the worker before the injury" and by inserting in lieu thereof the words "the weekly amount which the worker would probably have been earning as a worker but for the injury and had he continued to be employed in the same or some comparable employment";

- (ii) by omitting paragraphs (b), (c) and (d) of the same subsection;

(g)

Workers' Compensation (Amendment).

- (g) by inserting next after section twelve the following new section :— New sec.
12A.

12A. A worker who as a result of injury is unable without immediate and substantial risk of further injury to engage in employment of a certain kind by reason of the nature of that employment shall be deemed to be incapacitated for employment of that kind. Incapacity
deemed to
exist in
certain
cases.

- (h) (i) by omitting subsection one of section sixteen and by inserting in lieu thereof the following subsection :— Sec. 16.
(Compensa-
tion for
certain
injuries.)

(1) A worker who has received an injury mentioned in the first column of the table hereunder set forth shall be entitled to receive from his employer by way of compensation for that injury, in addition to any other compensation prescribed by this Act, the amount indicated in respect of that injury in the second column of that table.

- (ii) by inserting next after subsection (1A) of the same section the following new subsection :—

(1B) (a) A worker who has received an injury which is not or is not wholly an injury mentioned in the table hereunder set forth and which has resulted in severe facial disfigurement shall be entitled to receive from his employer by way of compensation for that injury, in addition to any other compensation prescribed by this Act, an amount, not exceeding in any case two hundred pounds, as may be agreed upon, or in default of agreement as may be assessed as appropriate by a medical board in accordance with the provisions of this subsection.

(b)

Workers' Compensation (Amendment).

(b) The Commission or the Registrar shall, on application by a person claiming to be entitled as a worker to compensation under this subsection and on payment by the applicant of such fee, not exceeding one pound, as may be prescribed by rules, refer to a medical board constituted in accordance with section fifty-one of this Act for determination the questions whether severe facial disfigurement exists and if so what amount of compensation is appropriate as compensation therefor, and the decisions of the medical board shall be final and conclusive.

(c) Wherever practicable, at least one of the medical referees of whom a medical board is for the purposes of this subsection constituted shall be a specialist in plastic surgery.

(iii) by omitting subsection two of the same section ;

(iv) by inserting in the first column of the table set forth at the end of the same section after the item "†Loss of hearing of one ear" the following new item :—

“†Loss of the power of speech”

and by inserting in the second column of that table opposite the words so inserted the figures “1,750 0 0”;

(v) by inserting at the foot of the same table the following new footnote :—

“†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”.

(i)

Workers' Compensation (Amendment).

- (i) (i) by omitting from subsection five of section ^{Sec. 18.} eighteen the words "twelve months after such ^{(Compulsory} failure" and by inserting in lieu thereof the ^{insurance.)} words "two years after such failure. In any such proceedings, proof that the employer, not being a self-insurer, having been served pursuant to subsection one of section 18A of this Act with a notice requiring him to produce for inspection a policy of insurance or indemnity obtained by him and in force at a specified date or between specified dates has not so produced any such policy so in force and that the time stated in the notice for such production has expired shall be sufficient evidence, unless the contrary be proved, that at that date or between those dates, as the case may be, the employer had failed to comply with the provisions of subsection one of this section."

- (ii) by inserting at the end of the same section the following new subsection :—

(8) (a) Every employer shall keep correct records of all wages paid to the workers employed by him, and of the trade, occupation or calling of each worker, and of such other matters relating to the wages so paid as may be prescribed, and shall retain such records in his possession in good order and condition for a period of at least three years.

Such records may be combined with any records of wages required by any Act other than this Act to be kept by the employer.

(b)

Workers' Compensation (Amendment).

(b) The Commission may, on application by an insurer who has issued a policy of insurance or indemnity to an employer, and whether or not such policy is still in force, order the employer—

(i) to supply to the insurer within a time specified in the order a full and correct statement of all wages paid during a period so specified to the workers in the employment of that employer, together with such information as to the trades, occupations or callings of the workers and other prescribed matters relating to those wages as may be so specified. The period to be specified in the order shall be a period when the policy was in force and which commenced not more than three years before the making of the application;

(ii) to make available at or within such time or times and at such place as is specified in the order, for inspection by—

(a) an officer authorised in that behalf by the Commission;

(b) a person authorised in that behalf by the insurer and so specified,

the records required by this subsection to be kept by the employer and at the time of the order to be retained by him in respect of a period so specified, being a period when the policy was in force.

(c)

Workers' Compensation (Amendment).

(c) Any officer or person authorised under subparagraph (ii) of paragraph (b) of this subsection may inspect such records in accordance with the terms of the order and make copies thereof and take extracts therefrom.

(d) The Commission on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection may order the employer to pay to the insurer such amount as the Commission may having regard to the operation of this subsection find to be due and payable as a premium or balance of premium in respect of a policy of insurance or indemnity or any renewal thereof.

(e) The Commission, on application by an insurer on whose application an order has been made against an employer under paragraph (b) of this subsection, or by the Registrar, may if satisfied that the employer has failed to comply with the order call upon him to show cause why he should not be dealt with for contempt of the Commission, and if he fails so to show cause the Commission may impose on him a fine not exceeding two hundred pounds or order him to be imprisoned for a period not exceeding six months.

Nothing in this paragraph shall affect the jurisdiction of the Commission to make a further order or orders against the employer under the said paragraph (b).

The provisions of section eighty-two of the Justices Act, 1902, as amended by subsequent Acts, shall mutatis mutandis apply to and in respect of any fine so imposed and the persons on whom it is imposed.

(j)

Workers' Compensation (Amendment).

Section 18A.
(Inspection
of policies.)

(j) (i) by omitting from paragraph (a) of subsection one of section 18A the words "any policy of insurance or indemnity" and by inserting in lieu thereof the words "the policy of insurance or indemnity obtained by the employer and in force at such date or between such dates, whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the notice specifies";

(ii) by inserting next after the same subsection the following new subsection—

(1A) A worker who has received an injury, or has met with an accident arising out of or in the course of his employment or on any of the daily or other periodic journeys or other journeys to which paragraph (c) or (d) of subsection one of section seven of this Act applies, or has received an injury during any absence referred to in paragraph (e) of the said subsection, or a solicitor for the time being authorised by such worker to act on behalf of the worker in relation to a claim for compensation under this Act in respect of that injury or accident, or a representative of a union to which the worker belongs, may by notice in writing require the employer to make available for inspection a policy of insurance or indemnity in force in respect of the worker at the time whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, when the injury was received or the accident happened, as the case may be.

(iii)

Workers' Compensation (Amendment).

(iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections :—

(2) (a) An employer who obtains a policy of insurance or indemnity shall retain the same in his possession in good order and condition at all times while he is employing workers in respect of whom the policy is in force and for at least three years thereafter.

(b) An employer who has in his possession or is required by this subsection to have in his possession such a policy of insurance or indemnity as is referred to in a notice served on him pursuant to this section and who fails to comply with any requirement of the notice within the time for compliance and in the manner stated therein shall be guilty of an offence against this Act.

(3) In this section "union" means industrial union of employees registered under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and "representative" means the secretary of a union or an officer for the time being authorised under section 129A of the said Act, as so amended, to exercise powers under that section.

- (k) (i) by inserting in subsection two of section 18C after the word "obtains" the words "or has applied for or applies for";
- (ii) by omitting from the same subsection the words "awarded, and costs, as has not been paid" and by inserting in lieu thereof the words "and costs of the application therefor as has been awarded and has not been paid or as may be awarded and not be paid, as the case may require, and in respect of the costs of the claim";

Sec. 18c.
(Uninsured
liability
scheme.)

(iii)

Workers' Compensation (Amendment).

(iii) by omitting paragraphs (a), (b) and (c) of the proviso to subsection three of the same section;

(iv) by omitting from paragraph (e) of the proviso to the same subsection the words "notwithstanding anything to the contrary in the foregoing provisions of this subsection";

(v) by omitting paragraph (a) of subsection five of the same section and by inserting in lieu thereof the following paragraphs :—

(a) Where a claim is made under the Scheme by a worker at the same time as he applies for an award of the compensation to which the claim relates, or whose application for such award is then pending, the Commission may hear and determine the claim either concurrently with or after the hearing and determination of such application.

(a1) Where a claim under the Scheme has been made and the employer does not appear and defend the application for an award of compensation, or where such award has prior to the making of the claim been obtained from the Commission in default of appearance by the employer, or by consent of the worker and the employer, or if in any case the Commission for any reason thinks fit, the Commission may cause to be made such inquiries as may be deemed necessary to determine the genuineness of the grounds on which the award is sought or was based. The Commission may adjourn the application, or if an award has been made may reopen the same, and
order

Workers' Compensation (Amendment).

order its Registrar, or some other fit person, to take and defend the proceedings in substitution for the employer, and to such Registrar or person for such purposes all the rights of the employer shall be subrogated.

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

(7A) Where in the opinion of the Commission or the Registrar the question has arisen whether an insurer is the insurer under this Act of an employer whose worker is making a claim under the Scheme the Commission or Registrar, as the case may be, may notify the insurer of the proceedings and such notice shall operate to join the insurer as a party to the proceedings.

Joinder of insurers.

- (vii) by omitting subsection nine of the same section;

- (1) by inserting next after section 18c the following new section :—

New sec. 18D.

18D. The provisions of sections one hundred and ninety-nine, two hundred and thirty and two hundred and sixty-three of the Companies Act, 1961, as amended by subsequent Acts, shall not preclude a person from applying for an award of compensation or proceeding with such application without the leave of the Supreme Court in its equitable jurisdiction. Any award of compensation made pursuant to an application authorised by this section shall have force and effect only for the purposes of section 18c of this Act and not otherwise and notwithstanding any such provisions of the Companies Act, 1961, as so amended.

Leave to proceed not necessary in certain cases.

(m)

Workers' Compensation (Amendment).

Sec. 31. (m) by omitting from subsection one of section thirty-one the words "and not more than four";
(Appointment of Commission.)

Sec. 36. (n) by inserting next after paragraph (e) of subsection four of section thirty-six the following new paragraph :—
(Jurisdiction.)

(e1) the weekly amount or sum, as the case may be, in accordance with subsection one of section eleven or subsection two of section sixty of this Act;

Sec. 43. (o) (i) by inserting in subsection one of section forty-three after the word "claims" the words
(Posting of summary of Act.)
", together with—

(a) in a case where the employer has pursuant to subsection one of section eighteen of this Act obtained a policy of insurance or indemnity in respect of the persons there employed and the policy is for the time being in force, a statement setting forth the name and address of the insurer from whom the policy was obtained and stating that insurance under this Act has been effected with that insurer;

(b) in a case where the employer is a self-insurer, a statement that the employer is licensed as a self-insurer under this Act."

(ii) by inserting in subsection two of the same section after the word "summary" where secondly occurring the words "or statement";

(iii)

Workers' Compensation (Amendment).

New secs.
53c, 53d.

(r) by inserting next after section 53B the following new sections :—

Applications
to be heard
together.

53C. A person who has applied to the Commission for awards of compensation in respect of an injury to or incapacity of a worker or the death of a worker against two or more persons alleged to have been the employers of that worker either at the same time or at different times shall be entitled, if he so requests, to have all or any such applications heard together.

Recovery of
compensation by
minors.

53D. Proceedings for the recovery of compensation under this Act may be instituted by a person notwithstanding that he is under the age of twenty-one years.

Sec. 63.
(Negli-
gence.)

(s) by inserting at the end of section sixty-three the following new subsection :—

(6) In this section "judgment" does not include any order or direction made or given pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, for the payment of a sum by way of compensation for an injury, but any sum so paid to a worker pursuant to such an order or direction shall be deducted from the compensation payable to him under this Act in respect of the injury.

Sec. 64.
(Remedies
against
both
employer
and
stranger.)

(t) by inserting at the end of section sixty-four the following new subsection :—

(2) In this section "damages" does not include any sum ordered or directed pursuant to any provisions of the Crimes Act, 1900, as amended by subsequent Acts, to be paid by way of compensation for an injury, but any such sum so paid to a worker shall be deducted from the compensation payable to him under this Act in respect of the injury.

Workers' Compensation (Amendment).

(2) (a) The amendments made by paragraphs (f) and (g) of subsection one of this section shall as from the commencement of this Act apply to and in respect of injuries received before as well as to those received after such commencement.

(b) (i) The amendment made by subparagraph (i) of paragraph (h) of subsection one of this section shall apply to and in respect of injuries received before the commencement of this Act by workers who have not before such commencement made an election pursuant to subsection one of section sixteen of the Principal Act, as well as to injuries received after such commencement.

Where a worker who becomes by reason of the amendments effected by subparagraph (i) of paragraph (h) of subsection one of this section and the foregoing provisions of this paragraph entitled to compensation under section sixteen of the Principal Act, as amended by this Act, applies to his employer for such compensation after the commencement of this Act, the amount payable to him under that section shall, whether the injury was received before or after the commencement of the Workers' Compensation (Further Amendment) Act, 1960, be the appropriate amount indicated in the table set forth at the end of that section and as substituted by that Act.

(c) The amendments made by subparagraphs (iii) and (iv) of paragraph (k) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and sixty-one.

(d) (i) The amendments made by paragraphs (q), (s) and (t) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and twenty-six.

(ii)

Workers' Compensation (Amendment).

(ii) Nothing in this paragraph shall affect the rights of any parties to any claim, action, suit or proceeding which has before the commencement of this Act been determined where the time within which an appeal, including an application to Her Majesty in Council, from any such determination might have been made has expired before such commencement.

Further amendment of Act No. 15, 1926.

4. The Principal Act is further amended—

Subst. sec. 17A.

- (a) by omitting section 17A and by inserting in lieu thereof the following section :—

Bush fire fighters compensation.

17A. This Part of this Act shall not apply to or in respect of—

- (a) an injury received by a fire fighter arising out of or in the course of fighting a bush fire, or the destruction of or any damage to wearing apparel or personal effects upon a fire fighter whilst fighting a bush fire, or the destruction of or any damage to the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, of a fire fighter whilst he was fighting a bush fire—if the place at which he was fighting the bush fire was within a fire district constituted under the Fire Brigades Act, 1909, as amended by subsequent Acts;
- (b) an injury received by a fire fighter arising out of or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which the fire fighter was called, and the bush fire, or the destruction of or any damage

Workers' Compensation (Amendment).

damage to wearing apparel or personal effects upon a fire fighter or his crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses, while so journeying or the destruction of or any damage to any vehicle used for his conveyance between his place of abode or place of employment, or the place from which he was called, and the bush fire—if the place to which he was journeying or being conveyed for the purpose of fighting the bush fire, or from which he was journeying to his place of abode, place of employment, or place from which he was called, as the case may be, was within a fire district so constituted;

- (c) the destruction of or any damage to any vehicle, equipment or thing used in connection with fire fighting at or near the scene of a bush fire and owned by or in the possession or custody of a fire fighter—if the destruction or damage was sustained within a fire district so constituted,

unless in any such case the bush fire was one to or from which a bush fire brigade was proceeding or at which a bush fire brigade operated or was in attendance for the purpose of its control or suppression.

- (b) by omitting from subsection one of section 17B the definitions of "Council" and "Insurance company"; (Interpretation.)
- (c) by inserting in subsection three of section 17C after the word "twelve," the figures and letter "12A,";
- (d) (Compensation payable to fire fighters for injury received.)

Workers' Compensation (Amendment).

Sec. 17D.
(Indemnity
for destruction of or
damage to
personal
effects,
vehicles,
etc.)

(d) (i) by omitting paragraph (a) of section 17D and by inserting in lieu thereof the following paragraph : —

(a) the crutches, artificial members, eyes or teeth, other artificial aids, or spectacle glasses of, or wearing apparel or personal effects upon—

(i) a fire fighter whilst fighting a bush fire or in the course of journeying between the place of abode or place of employment of the fire fighter, or place from which he was called, and the bush fire, when such journeying was made exclusively and bona fide for the purpose of engaging in fighting a bush fire; or

(ii) the captain, deputy captain, or any member of a bush fire brigade or the group captain or deputy group captain of any bush fire brigades whilst carrying out bush fire preventive operations or preparatory work or in the course of journeying between the place of abode or place of employment of such captain, deputy captain, member, group captain or deputy group captain and the place where bush fire preventive operations were or are to be carried out or preparatory work was or is to be carried out, when such journeying was made exclusively and bona fide

for

Workers' Compensation (Amendment).

for the purpose of engaging in the carrying out of such preventive operations or preparatory work;

(ii) by omitting paragraph (i) of the proviso to the same section and by inserting in lieu thereof the following paragraph :—

(i) the amount payable under paragraph (a) of this subsection shall not exceed—

(a) in respect of all destruction of and damage to the crutches, artificial members, eyes, teeth, artificial aids, or spectacle glasses of a person, sustained on any one occasion—the amount applicable in respect of damage referred to in section 10A of this Act;

(b) in respect of all destruction of and damage to wearing apparel or personal effects upon a person, sustained on any one occasion—the amount applicable in respect of damage referred to in section 10B of this Act;

(e) by omitting from subsection two of section 17E the words "All moneys received under this Part of this Act shall be paid into such Fund, and the" and by inserting in lieu thereof the words "Such Fund shall consist of the amount standing to its credit at the commencement of the Workers' Compensation (Amendment) Act, 1964, together with amounts transferred thereto pursuant to this Part of this Act. The";

Sec. 17E.
(Bush Fire
Fighters
Compensa-
tion Fund.)

(f)

Workers' Compensation (Amendment).

Sec. 17F.
(Returns by
insurance
companies.)

(f) by omitting section 17F;

Subst.
sec. 17G.

(g) by omitting section 17G and by inserting in lieu thereof the following section : —

Assessment
and payment
of contribu-
tions.

17G. The Commission shall as soon as is reasonably practicable before the thirtieth day of June, one thousand nine hundred and sixty-five, and as early as is reasonably practicable in each succeeding financial year terminating on the thirtieth day of June, determine whether any contribution to the Bush Fire Fighters Compensation Fund will be necessary in order to maintain that Fund on a sound financial basis during the next following financial year, and if it determines that such a contribution will be necessary shall assess the amount thereof.

The Commission shall cause notice of each such determination and assessment to be given to the Minister for Local Government.

On the first day of July next following the notification as aforesaid of each such assessment an amount as so assessed shall be transferred to the said Fund from the Eastern and Central Divisions Bush Fire Fighting Fund established under the Bush Fires Act, 1949, as amended by subsequent Acts. Amounts so transferred shall for the purposes of the said Act, as so amended, be deemed to be expenditure from the last mentioned Fund.

The provisions of this section shall have effect notwithstanding anything contained in the Bush Fires Act, 1949, as amended by subsequent Acts.

Workers' Compensation (Amendment).

5. The Principal Act is further amended—

Further
amendment
of Act No.
15, 1926.

- (a) (i) by omitting from the definition of "Insurer" in subsection one of section six the word "authorised" and by inserting in lieu thereof the word "licensed"; Sec. 6. (Definitions.)
- (ii) by omitting from the definition of "Self-insurer" in the same subsection the word "authorised" and by inserting in lieu thereof the word "licensed";
- (b) (i) by omitting from subsection one of section eighteen the word "Every" and by inserting in lieu thereof the words "Subject to subsection (1A) of this section, every"; Sec. 18. (Compulsory insurance.)
- (ii) by omitting from the same subsection the words "Provided that the Commission may authorise any employer to undertake the liability referred to in this subsection who furnishes to the Commission a certified copy of his balance-sheets for his last three trading years, and such other particulars as may be required. The Commission may at any time upon notice to the employer concerned, and consideration of such evidence as he desires to submit, review and continue, suspend or terminate, any such authority as it may deem expedient.
- "Employer" in this proviso includes a racing club or association."
- (iii) by inserting in the same subsection after the words "In this Act—" the following words :—
- "'license' means a license granted or deemed to have been granted under this Part of this Act, and 'licensee' and 'licensed' have corresponding meanings."

(iv)

Workers' Compensation (Amendment).

(iv) by inserting next after the same subsection the following new subsection : —

(1A) On application made by an employer to the Commission in the form and manner and accompanied by the information prescribed by rules made under this Act and upon consideration of such evidence as the employer may submit and of such information, documents, particulars, and other evidence as the Commission may receive, the Commission may after due inquiry grant without limitation of time or for such period, and without conditions or subject to such conditions, as the Commission deems fit a license to the employer to undertake himself the liabilities referred to in subsection one of this section, or the Commission may refuse such application. The provisions of subsection one of this section shall not apply to an employer while a license granted to him under this subsection is in force.

An employer so licensed who fails to comply in all respects with the conditions of his license shall be guilty of an offence against this Act.

Any authority granted to an employer under subsection one of this section as enacted before the commencement of the Workers' Compensation (Amendment) Act, 1964, and in force at such commencement, shall be deemed to be a license granted under this subsection.

The Commission may at any time upon notice to an employer so licensed, after due inquiry and consideration of such evidence as he may submit and of such information, documents, particulars and other evidence as
the

Workers' Compensation (Amendment).

the Commission may receive, suspend or terminate any such license, or limit or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof.

(v) by omitting subsection four of the same section;

(c) by omitting subsection four of section nineteen and by inserting in lieu thereof the following subsection :— Sec. 19.
(Deposits by insurers.)

(4) Subsection three of this section shall not operate to require—

(a) a self-insurer to enter into any contract of reinsurance unless he is an insurer licensed under section twenty-seven of this Act, or

(b) an insurer to enter into any such contract if he confines his operations to indemnifying one employer, or a group of employers engaged in one industry, trade, or business in respect of the liability to workers under this Act and at common law. The operations of a racing or recreation club shall for the purposes of this paragraph be deemed to be its trade or business.

(d) by omitting subsection one of section twenty and by inserting in lieu thereof the following subsection :— Sec. 20.
(Amount of deposit.)

(1) (a) An employer licensed as a self-insurer shall on the granting of his license deposit with the Treasurer a sum of money the amount of which shall be determined by the Commission and the license shall be deemed not to be in force unless and until the employer so deposits that sum.

(b)

Workers' Compensation (Amendment).

(b) The Commission may from time to time by notice to an employer so licensed direct the employer to deposit with the Treasurer such sums, additional to any sums so deposited whether before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, as the Commission may determine. An employer who fails to comply with any such direction shall be guilty of an offence against this Act.

(c) The Commission may from time to time authorise the Treasurer to refund to such an employer any part of the amount or, as the case may require, any part of the total of the amounts, deposited by that employer pursuant to this subsection or the subsection which this subsection replaces.

(d) In this section "employer" includes a racing club or association.

Sec. 24.
(Application
of deposit.)

(e) by inserting in subsection one of section twenty-four after the words "at common law" the words "or, in the case of an employer licensed under subsection (1A) of section eighteen of this Act, in respect of the liabilities referred to in subsection one of that section,";

Subst. sec.
25A.

(f) by omitting section 25A and by inserting in lieu thereof the following section :—

Return of
deposits to
self-
insurers.

25A. An employer who has either before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, deposited any sum or sums of money pursuant to subsection one of section twenty of this Act or the subsection replaced by that subsection may in the event of his ceasing

to

Workers' Compensation (Amendment).

to be licensed under subsection (1A) of section eighteen of this Act withdraw all sums so deposited by him and standing to his credit—

- (a) on the expiration of three months after service on the Treasurer of a request in writing duly signed by or on behalf of the employer for the refund of such sums; and
 - (b) on satisfying the Treasurer that all the accrued, continuing, future, and contingent liabilities of the employer under this Act in respect of workers employed by him while he was so licensed have been discharged or suitably and adequately provided for.
- (g) by inserting in section twenty-six after the word "complaint" the words "or information"; Sec. 26.
(Evidence.)
- (h) by omitting sections twenty-seven, twenty-eight, twenty-nine and thirty and by inserting in lieu thereof the following sections :—

27. (1) On application made by any person to the Commission in the form and manner and accompanied by the information prescribed by rules made under this Act and upon consideration of such evidence as he may submit and of such information, documents, particulars, and other evidence as the Commission may receive, the Commission may after due inquiry grant to that person without limitation of time or for such period, and without conditions or subject to such conditions, as the Commission deems fit a license to carry on in New South Wales the business of insurance of employers against their liability to their workers under this Act, and independently of this Act for injuries to

their

Workers' Compensation (Amendment).

their workers, or the Commission may refuse such application. An insurer so licensed who fails to comply in all respects with the conditions of his license shall be guilty of an offence against this Act.

(2) Any license granted under the section which this section replaces, and in force at the commencement of the Workers' Compensation (Amendment) Act, 1964, shall be deemed to be a license granted under this section.

Information,
etc., to be
supplied by
licensees.

28. (1) Every person licensed under subsection (1A) of section eighteen or section twenty-seven of this Act—

(a) shall furnish to the Commission within the time specified in the notice hereinafter referred to such information, particulars, accounts, documents and copies of accounts and documents as to his business and financial position as the Commission may by notice in writing to the licensee from time to time require;

(b) being a corporation, shall notify the Commission in writing of any of the following matters, events, or things within twenty-one days of the happening thereof (whether within or outside the State), namely:—

(i) any default by such licensee or its holding corporation in the payment of principal or interest under any debenture issued by such licensee or corporation;

(ii) the appointment of a liquidator, receiver or manager of the property of such licensee or corporation;

(iii)

Workers' Compensation (Amendment).

- (iii) that such licensee or corporation has resolved by special resolution that it be wound up voluntarily or by a court;
- (iv) that a person claiming to be a creditor by assignment or otherwise of such licensee or corporation for a sum exceeding fifty pounds then due has served on such licensee or corporation by leaving at its registered office a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring such licensee or corporation to pay the sum so claimed to be due, and such licensee or corporation has for three weeks thereafter failed to pay the sum or to secure or compound for it to the satisfaction of the person claiming to be a creditor;
- (v) the return unsatisfied in whole or part of execution or other process issued on a judgment, decree or order of any court in favour of a creditor of such licensee or corporation;
- (vi) the receipt by such licensee or corporation, or the giving, or causing to be given by such licensee or corporation, of any notice or statement mentioned in subsection two of section one hundred and eighty-four of the Companies Act, 1961, as amended by subsequent Acts;
- (vii)

Workers' Compensation (Amendment).

- (vii) the making of an order for the winding-up of such licensee or corporation by any court;
- (viii) the receipt by such licensee or corporation of any notice of an application for an order for the winding-up of such licensee or corporation by any court.

In this subsection "holding corporation" means a corporation of which the licensee is a subsidiary.

(2) A licensee who fails to comply with any of the provisions of subsection one of this section shall be guilty of an offence against this Act.

Termination
of licenses.

29. (1) Subject to the provisions of this section the Commission may suspend, or terminate, any license granted under section twenty-seven of this Act, or limit, or vary the period thereof, or attach any conditions thereto, or vary the conditions thereof, if it is satisfied of one or more of the following matters, events or things :—

- (a) that the licensee is unable to pay his debts;
- (b) that the licensee being a corporation has resolved that it be wound up voluntarily or by a court;
- (c) that the licensee has not commenced the business for which he is licensed for a year from the date at which his license was granted, or has suspended his said business for a whole year;
- (d) that in the case of the licensee being a company an inspector appointed under section one hundred and sixty-nine or section one hundred and seventy of the

Companies

Workers' Compensation (Amendment).

Companies Act, 1961, as amended by subsequent Acts, or under any equivalent provision of any Act or ordinance relating to companies for the time being in force in any other State or Territory of the Commonwealth, has reported that he is of the opinion—

- (i) that the company cannot pay its debts and should be wound up, or
 - (ii) that it is in the interests of the public or of the shareholders or of the creditors that the company should be wound up;
- (e) that the licensee has failed to comply with any provision of this Act and such failure constitutes a substantial breach of the requirements of this Act;
- (f) that the licensee has been guilty of repeated breaches of this Act, whether of the same kind or of different kinds;
- (g) that the licensee has failed to arrange suitable and adequate reinsurance of liabilities undertaken by him under policies of insurance or indemnity issued by him;
- (h) that the licensee has failed to make suitable and adequate provision for his accrued, continuing, future, and contingent liabilities under policies of insurance or indemnity issued by him;
- (i) that the licensee has failed to comply with the conditions of his license;
- (j)

Workers' Compensation (Amendment).

- (j) that the licensee has unreasonably failed, or unreasonably refused, to satisfy an award made by the Commission against an employer insured or indemnified by the licensee against the liability of the employer thereunder;
- (k) that the conduct of the licensee, his employees, and officers, and the arrangement of his affairs have been such that, in the opinion of the Commission, he should not continue to hold a license.

(2) For the purposes of this section a licensee shall be deemed to be unable to pay his debts if—

- (a) a creditor by assignment or otherwise to whom the licensee is indebted in a sum exceeding fifty pounds then due has served on the licensee by leaving at his usual place of business or if such licensee is a corporation at the registered office thereof a demand under his hand or under the hand of his agent thereunto lawfully authorised requiring the licensee to pay the sum so due, and the licensee has for three weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor; or
- (b) execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the licensee is returned unsatisfied in whole or in part; or
- (c) it is proved to the satisfaction of the Commission that the licensee is unable to pay his debts and in determining whether a licensee is unable to pay his debts the
Commission

Workers' Compensation (Amendment).

Commission shall take into account the accrued, continuing, future and contingent liabilities of the licensee.

(3) (a) Proceedings on any ground specified in subsection one of this section or subsection seven of section 18C of this Act for the suspension or termination of a license or for limiting or varying the period of a license or attaching any conditions thereto or varying the conditions thereof shall be instituted by application by the Registrar in the form and manner prescribed by rules made under this Act, setting forth the ground or grounds of the application, and thereupon the Commission shall give notice in such form and manner as is so prescribed to the licensee mentioned in such application calling upon him to show cause why his license should not be dealt with as aforesaid.

(b) The Commission shall hear evidence in support of and in answer to the application, and after due inquiry shall decide whether or not the license should be dealt with as aforesaid, giving reasons for the decision.

(c) An appeal from any decision given by the Commission on such application shall lie to the Supreme Court in its equitable jurisdiction. Such appeal shall be instituted by notice of appeal filed in the Equity Office within thirty days after the giving of the decision appealed from and the Court on such appeal may make any such orders as the Commission might have made on such application. The provisions of section thirty-seven of this Act shall not apply to and in respect of any such decision.

(d)

Workers' Compensation (Amendment).

(d) A decision of the Commission dealing with a license as aforesaid shall unless otherwise thereby provided have effect from the time that the same is given but the licensee may before the expiration of the time limited for appeal or while an appeal is pending apply to the Commission or at his option to the Supreme Court in its equitable jurisdiction and the Commission or the Court as the case may be may thereupon on such terms and for such time as it may think fit suspend in whole or in part the operation of the Commission's decision pending the determination of an appeal.

(e) In every appeal under this section the costs of the appeal, including the costs of any issue therein, shall be in the discretion of the Court.

Construc-
tion.

29A. Terms and expressions used in sections twenty-eight and twenty-nine of this Act shall unless a contrary intention appears have meanings corresponding to the meanings ascribed to such terms and expressions in the Companies Act, 1961, as amended by subsequent Acts, or other relevant Acts or ordinances relating to companies for the time being in force in any other State or Territory of the Commonwealth.

Termination,
etc. of
licenses at
request of
licensees.

30. The Commission may at the request of a licensee suspend or terminate his license or limit or vary the period or vary the conditions thereof.

Sec. 30A.
(Insurance
Premiums
Committee.)

(i) (i) by inserting at the end of subsection one of section 30A the following new paragraph :—

This section shall apply to and in respect of licensed insurers under section twenty-seven of this Act.

(ii)

Workers' Compensation (Amendment).

(ii) by omitting from paragraph (c) of subsection (13A) of the same section the words "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" and by inserting in lieu thereof the words "for the purposes of section twenty-eight of this Act to constitute a substantial breach of the requirements of this Act";

(j) by inserting next after section 30A the following new sections : — New secs.
30B-30E.

30B. (1) If on an application made to a member of the Commission in chambers by the Registrar there is shown to be reasonable cause to believe that a licensee, or any person employed by a licensee, has committed an offence against this Act or that there is reasonable cause to believe that grounds exist for the license of a licensee being dealt with under any provision of this Act and that evidence of the committing of the offence or of the existence of any such grounds is to be found in any books, documents, papers or records of or under the control of the licensee, such member of the Commission may make an order—

Inspection
of books
and papers
of licensees.

- (a) authorising any person named therein to inspect and make copies of or extracts from such books, documents, papers or records or any of them ; or
- (b) requiring the licensee or any employee of the licensee named or designated in the order to produce such books, documents, papers or records or any of them to a person and at a place named in the order.

(2)

Workers' Compensation (Amendment).

(2) Any person hindering or preventing a person authorised thereto by such order from inspecting or making copies of or extracts from any such books, documents, papers or records and any licensee or any employee of the licensee named or designated in any such order who refuses or neglects to produce any such books, documents, papers or records in accordance with any such order, shall be guilty of an offence against this Act.

Records
and notifica-
tions.

30c. (1) The Commission shall keep records in relation to all licenses which records shall include particulars of the granting, refusal, duration, suspension and termination of licenses, the conditions thereof and such other matters pertaining thereto as the Commission may think fit.

(2) A certificate purporting to be signed by the Registrar or deputy or assistant registrar of the Commission or other prescribed officer certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified or referred to in subsection one of this section did or did not appear on or from such records shall, in all courts and upon all occasions whatsoever, without proof of the signature or of the official character of the person purporting to have signed the certificate and without the production of any record or document upon which the certificate is founded, be prima facie evidence of the particulars certified in and by the certificate.

(3) An applicant for a license shall if so required by the Commission give such notice of his application by advertisement or otherwise as the Commission may determine and if he fails to do so the application shall be deemed not to have been duly made.

(4)

Workers' Compensation (Amendment).

(4) The Commission shall cause notification of every suspension or termination of a license to be published in the Gazette.

30D. (1) (a) A license which has been terminated or the period of which has expired or which is for the time being suspended shall be deemed not to be in force. Penalties.

(b) Every person who carries on the business of insurance of employers against their liability to their workers under this Act, or independently of this Act, for injuries to their workers, shall unless a license has been granted to him under section twenty-seven of this Act and is for the time being in force be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred pounds for every day during which such business is carried on.

(2) Every person who commits an offence under this Part of this Act shall where no other pecuniary penalty is provided be liable to a penalty not exceeding two hundred pounds or imprisonment for a term not exceeding six months, and after the date of conviction of any such offence shall from time to time be liable to further penalties not exceeding fifty pounds for every week during which he continues to commit the offence.

30E. No contract of insurance or indemnity and no term or condition thereof shall be void or unenforceable by reason only of the fact that the person issuing the policy was not licensed pursuant to section twenty-seven of this Act or that the issue thereof by a person so licensed was contrary to the conditions of his license. Saving of policies.

(k)

Workers' Compensation (Amendment).

Sec. 41.
(Constitu-
tion of
fund.)

- (k) (i) by inserting in subsection four of section forty-one after the word "insurer" where firstly occurring the words "licensed under section twenty-seven of this Act";
- (ii) by omitting from subsection seven of the same section the word "authorised" and by inserting in lieu thereof the words "licensed under this Act".

Further
amendment
of Act No.
15, 1926.
Fisher v.
Hebburn
Limited,
105 C.L.R.
188.

6. (1) The Principal Act is further amended—

Sec. 6.
(Defini-
tions.)

- (a) (i) by omitting from the definition of "Dependants" in subsection one of section six the words "upon the earnings of" and by inserting in lieu thereof the words "for support upon";
- (ii) by omitting from the same definition the words "his earnings" wherever occurring and by inserting in lieu thereof the word "him";

Sec. 8.
(Compensa-
tion pay-
ments
(Death).)

- (b) (i) by omitting from subsection one of section eight the words "upon his earnings" and by inserting in lieu thereof the words "for support upon the worker";
- (ii) by omitting from paragraph (b) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
- (iii) by omitting from subsection two of the same section the words "his earnings" where firstly occurring and by inserting in lieu thereof the words "him for support";

(iv)

Workers' Compensation (Amendment).

- (iv) by omitting from the same subsection the words "dependent upon his earnings" where secondly occurring and by inserting in lieu thereof the words "so dependent";
 - (v) by omitting from paragraph (a) of subsection five of the same section the words "upon the earnings of" wherever occurring and by inserting in lieu thereof the words "for support upon";
 - (c) (i) by omitting from paragraph (b) of subsection **Sec. 9.** one of section nine the words "on the earnings of" wherever occurring and by inserting in lieu thereof the words "for support on"; (Total or partial incapacity.)
 - (ii) by omitting from paragraph (c) of the same subsection the words "on the earnings of" wherever occurring and by inserting in lieu thereof the words "for support on";
 - (iii) by omitting from paragraph (d) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
 - (iv) by omitting from paragraph (e) of the same subsection the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
 - (v) by omitting from subsection seven of the same section the words "on the earnings of" and by inserting in lieu thereof the words "for support on";
 - (vi) by omitting from the same subsection the words "upon the earnings of" and by inserting in lieu thereof the words "for support on";
- (d)

Workers' Compensation (Amendment).

Sec. 18.
(Compulsory
insurance.)

(d) by inserting next after subsection six of section eighteen the following new subsection:—

(6A) Where before or after the commencement of the Workers' Compensation (Amendment) Act, 1964, an employer has become liable under this Act to pay compensation to a worker in respect of incapacity resulting from an injury referred to in subsection four or (4A) of section seven of this Act or has become liable under section sixteen of this Act to pay compensation to a worker in respect of an injury referred to in subsection (1A) of that section, then for the purpose of determining whether any insurer or which of two or more insurers is liable under a contract of insurance or indemnity in respect of that compensation, the liability of the employer shall notwithstanding the provisions of subsection five of the said section seven and of subsection (1A) of the said section sixteen be deemed to have arisen immediately before the worker ceased to be employed by the employer.

(2) (a) A person who would have been entitled to compensation under any provision of the Workers' Compensation Act, 1926, or any amendment thereof, had dependency for support on a worker in lieu of dependency on the earnings of a worker been a determining factor shall be deemed to be and always to have been so entitled.

(b) Nothing in this subsection shall affect the rights of any parties to any claim, action, suit or proceeding which has before the commencement of this Act been determined where the time within which an appeal, including an application to Her Majesty in Council, from any such determination might have been made has expired before such commencement.

Workers' Compensation (Amendment).

7. Any policy of insurance against liability under the Workers' Compensation Act, 1926, or any amendment of that Act, being maintained in force at the commencement of this Act shall be deemed to insure the employer and always to have insured the employer against any additional liability to which he may become liable during the currency of the policy under any amendment of the Principal Act made by this Act. Where a person is in receipt of compensation at the commencement of this Act and such compensation is payable by an insurer such insurer shall be liable to pay any additional compensation to which such person becomes entitled by virtue of any amendment made by this Act.

Subsisting
policies.
Act No. 58,
1960, s. 5.

8. (1) This section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Commence-
ment.

(2) The Workmen's Compensation (Broken Hill) Act, 1920-1964, is amended—

Amendment
of Act No.
36, 1920.

- (a) (i) by omitting from the definition of "Beneficiary" in subparagraph (a) of paragraph 2 of Part I of the Schedule the words "under the school leaving age" where firstly occurring and by inserting in lieu thereof the words ", under the age of sixteen years or being a student,";
- (ii) by omitting from the same definition the words "under the school leaving age" where secondly occurring;
- (iii) by inserting at the end of the same definition the words "where such sister or brother or illegitimate or adopted child is under the age of sixteen years or is a student";

Schedule,
par. 2.

(iv)

Workers' Compensation (Amendment).

- (iv) by inserting in the same subparagraph next after the definition of "Mine worker" the following new definition :—

"Student" means person of or over the age of sixteen years but under the age of twenty-one years who is receiving full time education at a school, college or university;

- (v) by omitting subparagraph (b) of the same paragraph;

Schedule,
par. 6.

- (b) (i) by omitting from subparagraph (a) of paragraph 6 of Part II of the Schedule the words "the school leaving age" where firstly occurring and by inserting in lieu thereof the words "the age of sixteen years or being a student";

- (ii) by omitting from the same subparagraph the words "under the school leaving age" where secondly occurring and by inserting in lieu thereof the words "any member of which is under the age of sixteen years or a student";

- (iii) by omitting from subparagraph (b) of the same paragraph the words "the school leaving age" and by inserting in lieu thereof the words "the age of sixteen years or being a student";

- (iv) by omitting from subparagraph (d) of the same paragraph the words "the school leaving age" and by inserting in lieu thereof the words "the age of sixteen years or being a student";

(c)

Workers' Compensation (Amendment).

- (c) (i) by omitting from subparagraph (b) of paragraph 6A of Part II of the Schedule the figures "5 10 0" wherever occurring and by inserting in lieu thereof the figures "6 15 0";
- (ii) by omitting from the same subparagraph the figures "1 0 0" and by inserting in lieu thereof the figures "1 3 0";
- (iii) by omitting from the same subparagraph the figures "3 2 6" and by inserting in lieu thereof the figures "4 0 0";
- (iv) by omitting from paragraph (i) of subparagraph (c) of the same paragraph the words "Social Services Consolidation Act 1947-1949 of the Parliament of the Commonwealth" and by inserting in lieu thereof the words "Social Services Consolidation Act 1947 of the Parliament of the Commonwealth, or any Act amending or replacing that Act".

(3) The amendments made by subsection two of this section shall be deemed to extend to, and from the commencement of this section, apply in respect of all persons who were immediately before such commencement in receipt of compensation under the Workmen's Compensation (Broken Hill) Act, 1920-1964, as well as to all persons becoming entitled to compensation thereunder after such commencement.

(4) The Workmen's Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts and by this Act, may be cited as the Workmen's Compensation (Broken Hill) Act, 1920-1964.

Workers' Compensation (Amendment).

Amendment
of Act No.
21, 1899.
Sec. 142.
(Judgment
debts to
carry
interest.)

9. (1) The Common Law Procedure Act, 1899, as amended by subsequent Acts, is amended by inserting in subsection one of section one hundred and forty-two after the word "thereon" the words ": Provided that where pursuant to section sixty-three or sixty-four of the Workers' Compensation Act, 1926, as amended by subsequent Acts, any payment is to the extent of the amount thereof a satisfaction of the judgment, so much of the amount of the verdict as is equivalent to that payment shall if the payment was made—

- (a) before the verdict was obtained, carry no interest;
- (b) after the verdict was obtained, carry interest only until the time when the payment was made."

(2) The Common Law Procedure Act, 1899, as amended by subsequent Acts and by this Act, may be cited as the Common Law Procedure Act, 1899-1964.

In the name and on behalf of Her Majesty I assent to this Act.

E. W. WOODWARD,
Governor.

*Government House,
Sydney, 16th December, 1964.*

WORKERS' COMPENSATION (AMENDMENT) BILL.

*Schedule of the Amendment referred to in Legislative Council's
Message of 4 December, 1964.*

Page 6, clause 3, line 7. *After "remedial medical gymnast" insert "or speech therapist".*

1914

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 101

LECTURE NOTES