

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.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 15 March, 1967, A.M.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1967.

An Act to make further provision with respect to the payment, under certain Acts, of compensation for the disablement or death of workers; for this and other purposes to amend the Workmen's Compensation (Broken Hill) Act, 1920-1965, the Workers' Compensation (Silicosis) Act, 1942-1965, and the Workers' Compensation Act, 1926-1966, in certain respects; and for purposes connected therewith.

BE

Workers' Compensation (Dust Diseases) 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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Workers' Compensation (Dust Diseases) Amendment Act, 1967". Short title and citation.

10 (2) The Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, is in this Act referred to as the Silicosis Act.

(3) The Silicosis Act, as amended by this Act, may be cited as the Workers' Compensation (Dust Diseases) Act, 15 1942-1967.

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

2. This Act is divided into Parts, as follows :— Division into Parts.

20 **PART I.—PRELIMINARY.**

PART II.—AMENDMENT OF THE SILICOSIS ACT.

PART III.—AMENDMENT OF THE PRINCIPAL ACT.

25 **PART IV.—AMENDMENT OF THE WORKMEN'S COMPENSATION (BROKEN HILL) ACT, 1920, AS AMENDED BY SUBSEQUENT ACTS.**

PART

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PART II.

AMENDMENT OF THE SILICOSIS ACT.

3. (1) The Silicosis Act is amended—

Amendment
of Act No.
14, 1942.

5 (a) (i) by omitting subsections three and four of section two and by inserting in lieu thereof the following subsection :—

Sec. 2.
(Repeal of
Workmen's
Compensa-
tion (Sili-
cosis) Act,
1920-1936,
and schemes
made there-
under.)

10 (3) (a) Any balance and investments at the credit of the Silicosis Fund immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, shall, as from that commencement, be transferred to the Fund established under this Act and any liability of the Silicosis Fund shall, as from that commencement be and become a liability of the Fund established under this Act.

Existing
assets and
debts of
Silicosis
Fund.

15 (b) All property, assets, rights, books and documents that, immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, were vested in or in the custody or possession of or under the control of the Silicosis Committee shall, as from that commencement be vested in, or transferred to the custody possession and control of, the board.

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

25 (5) Any worker who immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, was in receipt of continuing payments of compensation to which he was entitled

Certain
awards to
be a charge
against
the Fund.

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entitled under subsection four of this section, as enacted immediately before that commencement, shall be entitled to receive compensation from the Fund, as from such commencement, at the rate prescribed by or under this Act and appropriate to the case.

5

- (b) (i) by inserting in section three next before the definition of "Broken Hill mine" and "Broken Hill mine-owner" the following new definition :—

10

"Board" means the Workers' Compensation (Dust Diseases) Board constituted under this Act.

15

- (ii) by omitting from the same section the definition of "Committee";

- (iii) by omitting from the same section the definition of "Disease" and by inserting in lieu thereof the following definitions :—

20

"Dust" means dust of such a nature that the inhalation thereof may give rise to a dust disease.

25

"Dust disease" means any disease specified in the Schedule to this Act, and includes any pathological condition of the pulmonary organs, that is caused by dust and accompanies a disease so specified.

30

"Dust occupation" means industry or process prescribed as a dust occupation.

- (iv) by omitting from the definition of "Employer" in the same section the words "the disease" and by inserting in lieu thereof the words "a dust disease";

35

- (v) by omitting from the definition of "Fund" in the same section the word "Silicosis" and by inserting in lieu thereof the words "Dust Diseases";

(vi)

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(vi) by omitting from the same section the definition of "Silicosis" and by inserting in lieu thereof the following definitions :—

5 "Prescribed" means prescribed by regulations made under this Act.

"Process" includes occupation and any description of manual labour.

10 "Silicosis Account" means the Silicosis Contribution Account established under the Silicosis Act.

15 "Silicosis Act" means the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts passed before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967.

"Silicosis Committee" means the Workers' Compensation (Silicosis) Committee constituted under the Silicosis Act.

20 "Silicosis Fund" means the Workers' Compensation (Silicosis) Fund established under the Silicosis Act.

25 "Silicosis Reserve Fund" means the Silicosis Outstanding Liability Reserve Fund constituted under the Silicosis Act.

(c) (i) by omitting from paragraph (a) of subsection Sec. 5. one of section five the words "Workers' Com- (Workers' Compensation (Silicosis) Committee" and by Compensation inserting in lieu thereof the words "Workers' Silicosis Compensation (Dust Diseases) Board"; Committee.)

30 (ii) by omitting from the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";

35 (d) (i) by omitting from subsection one of section six Sec. 6. the words "Workers' Compensation (Silicosis) (Constitution of Fund)" and by inserting in lieu thereof the Fund.) words

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- words "Workers' Compensation (Dust Diseases) Fund";
- 5 (ii) by omitting paragraph (a) of the same subsection and by inserting in lieu thereof the following paragraph :—
- 10 (a) all balances, investments and moneys of which the Silicosis Fund consisted immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, and all moneys that, immediately before that commencement, were owing to the Silicosis Fund and are paid after that commencement.
- 15 (iii) by omitting from paragraph (b) of the same subsection the word "committee" and by inserting in lieu thereof the word "board";
- 20 (iv) by omitting from subsection two of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 25 (v) by omitting from subsection three of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 30 (vi) by omitting from the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease";
- 35 (vii) by omitting from subsection four of the same section the words "The committee shall as soon as practicable after the commencement of section three of the Workers' Compensation (Amendment) Act, 1945, make an estimate of the amount to be expended out of the fund for that portion of the year ending on the thirtieth day of June next following the date

of

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- of such commencement as is unexpired on that date. And thereafter the committee” and by inserting in lieu thereof the words “The board”;
- 5 (viii) by omitting from subsection five of the same section the words “the committee” wherever occurring and by inserting in lieu thereof the words “the board”;
- 10 (ix) by omitting from paragraph (d) of the same subsection the words “disease caused by silica dust” and by inserting in lieu thereof the words “dust disease”;
- 15 (x) by omitting from paragraph (b) of subsection (7A) of the same section the words “Committee for the purposes of the fund” and by inserting in lieu thereof the words “Silicosis Committee for the purposes of the Silicosis Fund”;
- 20 (xi) by omitting from subsection (7B) of the same section the word “Silicosis” and by inserting in lieu thereof the words “Dust Diseases”;
- 25 (xii) by omitting from subsection (7C) of the same section the word “Silicosis” wherever occurring and by inserting in lieu thereof the words “Dust Diseases”;
- 30 (xiii) by inserting in the same subsection after the word “section” where firstly occurring the words “and to which shall be paid all moneys which immediately before the commencement of Part II of the Workers’ Compensation (Dust Diseases) Amendment Act, 1967, stood to the credit of or were payable to the Silicosis Account”;
- 35 (xiv) by omitting from the same subsection the words “the committee” and by inserting in lieu thereof the words “the board”;

(xv)

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- (xv) by omitting from subsection (7D) of the same section the word "Silicosis" and by inserting in lieu thereof the words "Dust Diseases";
- 5 (xvi) by inserting in the same subsection after the words "consist of" the words "all moneys which immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, stood to the credit of the Silicosis Reserve Fund and";
- 10 (xvii) by omitting from subsection ten of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 15 (xviii) by omitting from the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease";
- 20 (xix) by omitting from the same subsection the word "committee's" and by inserting in lieu thereof the word "board's";
- (e) (i) by omitting from subsection one of section seven the words "the disease" and by inserting in lieu thereof the words "a dust disease"; Sec. 7. (Medical authority.)
- 25 (ii) by omitting from subsection three of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 30 (iii) by omitting from subsection five of the same section the words "except as to any of the matters found in an award made by the Commission in the circumstances mentioned in subsection five of section eight of this Act";
- (f) (i) by omitting from paragraph (a) of subsection one of section eight the words "the disease" where firstly occurring and by inserting in lieu thereof the words "a dust disease"; Sec. 8. (Certificate of medical authority.)
- 35 (ii) by omitting from the same paragraph the word "silica" wherever occurring;
- (iii)

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- (iii) by omitting from the same paragraph the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 5 (iv) by omitting from paragraph (b) of the same subsection the words "the disease" where firstly occurring and by inserting in lieu thereof the words "a dust disease";
- (v) by omitting from the same paragraph the word "silica" wherever occurring;
- 10 (vi) by omitting from the same paragraph the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (vii) by omitting from paragraph (c) of the same subsection the word "committee" where firstly occurring and by inserting in lieu thereof the words "board or of the Silicosis Committee";
- 15 (viii) by omitting from the same paragraph the word "committee" where secondly occurring and by inserting in lieu thereof the words "board or the Silicosis Committee";
- 20 (ix) by omitting from the same paragraph the word "committee" where thirdly, fourthly, fifthly, sixthly and seventhly occurring and by inserting in lieu thereof the word "board";
- 25 (x) by omitting from the same paragraph the word "committee" where eighthly occurring and by inserting in lieu thereof the words "the board or the Silicosis Committee";
- 30 (xi) by omitting from the same paragraph the word "silica" wherever occurring;
- (xii) by omitting from subparagraph (i) of the same paragraph the words "the disease" and by inserting in lieu thereof the words "a dust disease";

(xiii)

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- 5 (xiii) by omitting from paragraph (a) of subparagraph (ii) of the same paragraph the words "the disease" where firstly and thirdly occurring and by inserting in lieu thereof the words "a dust disease";
- (xiv) by omitting from subsection two of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 10 (xv) by omitting from the same subsection the words "the disease" wherever occurring and by inserting in lieu thereof the words "the dust disease";
- 15 (xvi) by omitting from subsection (2A) of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 20 (xvii) by omitting from subsection three of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (xviii) by omitting from subsection (3A) of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 25 (xix) by omitting from subsection four of the same section the word "committee" and by inserting in lieu thereof the word "board";
- (xx) by omitting subsection five of the same section;
- 30 (xxi) by omitting from paragraph (a) of subsection six of the same section the words "the disease" where firstly and secondly occurring and by inserting in lieu thereof the words "a dust disease";

(xxii)

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- (xxii) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words "the disease" and by inserting in lieu thereof the words "a dust disease";
- 5 (xxiii) by omitting from subsection seven of the same section the word "committee" and by inserting in lieu thereof the word "board";
- (g) (i) by omitting from section 8A the word "committee" where firstly occurring and by inserting in lieu thereof the words "Silicosis Committee or the board"; Sec. 8A. (Power to vary awards for certain purposes.)
- 10 (ii) by omitting from the same section the word "committee" where thirdly and fourthly occurring and by inserting in lieu thereof the word "board";
- 15 (h) by omitting from section 8B the word "committee" wherever occurring and by inserting in lieu thereof the word "board"; Sec. 8B. (Interim award.)
- (i) by omitting from section 8C the word "committee" and by inserting in lieu thereof the word "board"; Sec. 8C. (Power to terminate or vary awards.)
- 20 (j) (i) by omitting from section 8D the words "the committee's powers under"; Sec. 8D. (Power to resume weekly payments ended under section 60 of Principal Act.)
- 25 (ii) by inserting in the same section after the words "Principal Act" the words "as applied by subsection three of section eight of this Act";
- (iii) by omitting from the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 30 (k) (i) by omitting from section nine the words " , shall be deemed to be and to have been entitled to such payments, and any such person shall be deemed to" and by inserting in lieu thereof the words "shall, where such payments were,

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- 5 were, immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, being continued under this section as enacted immediately before that commencement.”;
- (ii) by omitting from the same section the words “committee constituted under this Act and the payments made to any such person in any such case are hereby validated” and by inserting in lieu thereof the word “board”;
- 10 (1) (i) by omitting from paragraph (a) of sub-^{Sec. 10.} section two of section ten the words “industry (Regula-^{tions.)} or process or group of industries or processes involving exposure to the risk of contracting a disease caused by silica dust,” wherever occurring and by inserting in lieu thereof the words “dust occupation”;
- 15 (ii) by omitting from subparagraph (iii) of the same paragraph the words “disease so caused” and by inserting in lieu thereof the words “dust disease”;
- 20 (iii) by omitting from subparagraph (iii) of paragraph (b) of the same subsection the word “committee” and by inserting in lieu thereof the word “board”;
- 25 (iv) by omitting from paragraph (c) of the same subsection the words “disease caused by silica dust” and by inserting in lieu thereof the words “dust disease”.
- 30 (m) by inserting at the end of the Act the following Schedule :—

SCHEDULE.

Sec. 3.

35 Aluminosis
Asbestosis
Bagassosis
Baritosis
Berylliosis

Boiler

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	Boiler scalers' and repairers' pneumoconiosis
	Byssinosis
	Carbon pneumoconiosis
	Carborundum pneumoconiosis
5	Cement dust pneumoconiosis
	Coal dust pneumoconiosis
	Diatomite pneumoconiosis
	Emery pneumoconiosis
	Farmers' lung
10	Graphite pneumoconiosis
	Hard metal pneumoconiosis
	Micatosis
	Pumice pneumoconiosis
	Siderosis
15	Silicosis
	Silico-tuberculosis
	Sillimanite pneumoconiosis
	Stannosis
	Talcosis
20	Titaniosis

(2) (a) The Workers' Compensation (Silicosis) Committee is hereby dissolved and the chairman, executive member and other members thereof shall, on and from the commencement of this Part of this Act, cease to hold office as
25 such.

(b) The persons who held office as the chairman and executive member and as the other members of the Workers' Compensation (Silicosis) Committee immediately before the commencement of this Part of this Act shall, on
30 and from that commencement, be deemed to have been appointed as the chairman and executive member and as the other members, respectively, of the Workers' Compensation (Dust Diseases) Board and shall, notwithstanding the provisions of section five of the Silicosis Act, hold office as such
35 for the balance of the term for which they were appointed as chairman and executive member, and as the other members, respectively, of the Workers' Compensation (Silicosis) Committee.

(c)

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(c) On and from the commencement of this Act, in the construction and for the purposes of any Act, by-law, regulation, ordinance or any other instrument or document whatsoever, of the same or a different kind or nature, any reference to, or to be read, deemed and taken to refer to the Workers' Compensation (Silicosis) Committee or to the Workers' Compensation (Silicosis) Fund constituted by the Silicosis Act shall be read, deemed and taken to refer respectively to the Workers' Compensation (Dust Diseases) Board and to the Workers' Compensation (Dust Diseases) Fund, respectively.

(d) Every award, finding, decision, or request of the said Workers' Compensation (Silicosis) Committee shall be deemed to have been an award, finding, decision or request of the Workers' Compensation (Dust Diseases) Board.

(e) Every application, inquiry, investigation or other proceeding commenced by or before the Workers' Compensation (Silicosis) Committee and pending at the commencement of this Act may be continued and completed as though it had been commenced by or before the Workers' Compensation (Dust Diseases) Board.

4. The Silicosis Act is further amended—

Further amendment of Act No. 14, 1942.

(a) by inserting in subsection two of section eight after the word "section" where firstly occurring the words "; not being an award to which subsection (2B) of this section applies,";

Sec. 8. (Certificate of medical authority.)

(b) by inserting next after subsection (2A) of the same section the following new subsections :—

(2B) (a) This subsection applies to every award of the board made, after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, pursuant to paragraph (b) or (c) of subsection one of this section in respect of the death before or after that commencement

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5 commencement of a person (in this subsection and in subsections (2c) and (2d) of this section referred to as "the worker") upon whom there was dependent for support, immediately before his death, the following and no other person or persons :—

(i) his widow; or

10 (ii) where the worker left no widow or no widow who was so dependent, one other person who, although not legally married to the worker, lived with him as his wife on a permanent and bona fide domestic basis for a period of not less than three years immediately preceding the death of the worker; or

15 (iii) either of the dependent persons referred to in subparagraphs (i) and (ii) of this paragraph and a child or children.

20 In this paragraph and in subsections (2c) and (2d) of this section "child" means a child or step-child of the worker under sixteen years of age and a child under that age to whom the worker stood in loco parentis and "children" has a corresponding meaning.

25 (b) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of this subsection was wholly dependent for support on the worker and an award to which this subsection applies is made by the board under paragraph (b) of subsection one of this section, the prescribed rates of compensation payable shall be—

30 (i) the sum of three thousand dollars;

(ii) a weekly payment of fifteen dollars per week, to continue until the marriage or death, whichever event first occurs, of that person; and

35 (iii) a weekly payment of four dollars and thirty cents per week in respect of each child who was wholly or partly dependent on the
worker

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worker for support, to continue in respect of each child until he attains the age of sixteen years or dies, whichever event first occurs.

5 (c) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of this subsection was wholly dependent for support on the worker and an award to which this subsection applies is made pursuant to paragraph (c) of subsection one of this section, the prescribed
10 rates of compensation payable shall be—

(i) where the disablement for work from the disease was total, the compensation payments prescribed by paragraph (b) of this subsection; or

15 (ii) where the disablement for work from the disease was partial, a percentage of the compensation payments prescribed by paragraph (b) of this subsection, such percentage being calculated in accordance with the
20 provisions, mutatis mutandis, of subparagraph (ii) of paragraph (c) of subsection two of this section.

(d) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of this subsection was partially dependent on the
25 worker for support the prescribed rate of compensation payable shall be such payments, not exceeding in any case the amount that would have been payable as compensation under the award had
30 that person been wholly dependent on the worker for support, as may be determined by the board to be reasonable and proportionate to the injury to that person.

35 (2c) (a) The board shall, on the application of a person who is, or at any time was, entitled under any award made pursuant to this Act before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967,

or

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5 or pursuant to any scheme made under the Workers' Compensation (Silicosis) Act, 1920, as amended by subsequent Acts, to compensation in respect of the death of another person, and the board may of its own motion, order that compensation in respect of such death shall be payable under that award in accordance with the provisions of this subsection.

10 (b) Where the board makes an order under paragraph (a) of this subsection in respect of an award referred to in that paragraph, there shall be payable under that award in addition to any other amounts paid or payable thereunder, such compensation as would have been payable by virtue of subsection (2B) of this section if—

15 (i) the award had been made after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967; and

20 (ii) that subsection had been amended by the omission therefrom of subparagraphs (i) and (iii) of paragraph (b) and the word "and" in subparagraph (ii) of that paragraph.

25 (c) Compensation payable under an award pursuant to paragraph (b) of this subsection shall be payable as from such date, not earlier than the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 30 1967, as the board, in its discretion, may specify in its order made under this subsection or subsequently determine.

35 (2D) (a) The provisions of section fifty-seven of the Principal Act shall not apply to or in respect of compensation payable under subsection (2B) or (2C) of this section.

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(b) All weekly compensation prescribed by subsection (2B) or (2C) of this section as payable in respect of a child of a worker shall—

- 5 (i) where the worker left a widow, be paid to such widow unless the board otherwise orders;
- 10 (ii) where the worker did not leave a widow or where the board otherwise orders under subparagraph (i) of this paragraph, be paid to such person or institution as the board may direct.

Where the board makes an order under this paragraph the compensation shall be paid in accordance with the terms of such order.

15 (c) All weekly compensation payable under subsection (2B) or (2C) of this section, other than compensation referred to in paragraph (b) of this subsection, shall be paid to the person entitled (otherwise than as a child of the worker) to compensation under the award.

20

(d) All compensation payable under subsection (2B) or (2C) of this section, other than weekly compensation, shall—

- 25 (i) where the board, being of opinion that by reason of the age or health of the person entitled to such compensation or any disability to which she may be subject or for any other reason it would be in her best interests that the compensation be paid in accordance with this subparagraph, so
- 30 orders, be invested, applied or otherwise dealt with by the board in such manner as the board thinks fit for the benefit of that person;
- 35 (ii) where the board does not make an order under subparagraph (i) of this paragraph, be paid to the person entitled to such compensation,

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compensation, in one or more lump sums determined by the board.

- (c) by inserting in subsection three of the same section after the words "mutatis mutandis," the words "subject to this section";
- (d) by inserting at the end of paragraph (b) of subsection six of the same section the following words:—

For the purposes of this paragraph the amount of any weekly payments prescribed by this Act as compensation payable in respect of the death of a person (not being payments in respect of a child or stepchild of such person or a child to whom he stood in loco parentis) shall be deemed to be a capital sum the amount of which shall be assessed by the board as the equivalent of such weekly payments. The board shall make such an assessment on the application of a person required to pay compensation under the Principal Act or a compensation Act in respect of that death and, for that purpose, may act upon or take into account such actuarial or other advice or information as it may think fit.

5. (1) The Silicosis Act is further amended—

Further amendment of Act No. 14, 1942.

- (a) by inserting next after subsection two of section five the following new subsection:—

Sec. 5.
(Workers' Compensation Silicosis Committee.)

- (2A) The chairman of the board may by writing under his hand summon any person to attend a meeting of the board at a time and place named in the summons and then and there to give evidence in relation to any application or other matter before the board, and to produce any books, documents, or writings in his custody or control which he is required by the summons to produce.

Any

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5 While such an order remains in force the compensation payable under the award shall be that which would have been payable there-
under had the disablement from the disease been total.

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

10 (6A) Where the board makes an award under this section in respect of the total or partial disablement for work of a person from a dust disease, or the death of a person from a dust disease, or the death of a person totally or partially disabled for work from a dust disease, and the board—

15 (a) has found that such person was a worker during only part of the time he was engaged in an occupation to the nature of which the disease was due; and

20 (b) is of the opinion, on the report of the medical authority, that the disablement of that person from the disease (if the award was not made in respect of his death from the disease) or his death from the disease (if the award was so made) was to a substantial extent attributable to his having been exposed to the inhalation of dust during such time as he was engaged in that occupa-
tion otherwise than as a worker,

25 the board shall by the terms of that award fix the rate of compensation to be paid there-
under at such rate, being a lesser rate than would otherwise have been payable under the award in accordance with the terms of this section, as the board considers to be appropriate having regard to the extent or likely extent to which his disablement or death was attributable to his having been so exposed to

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the inhalation of dust, and the prescribed rate of compensation payable under the award shall in such case be the rate of compensation as so fixed by the board.

- 5 (d) (i) by omitting from section 8A the words and figures "Act, 1947-1953" and by inserting in lieu thereof the word and figures "Act 1947";
- (ii) by inserting in the same section after the word "Australia," the words "as amended by subsequent Acts of that Parliament, or any other pension, allowance or benefit under any Act or Act of that Parliament,";

Sec. 8A.
(Power to vary awards for certain purposes.)

- 10 (e) by inserting next after the same section the following new section :—

New sec. 8AA.

- 15 8AA. (1) In this section "prescribed engagement" means engagement (whether before or after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967) in an occupation—

Compensation not payable in certain circumstances.

- 20 (a) as an employee within the meaning of the Commonwealth Employees Compensation Act 1930 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts of that Parliament; or
- 25 (b) under a contract of service or apprenticeship outside New South Wales.

- (2) (a) This subsection applies to any person who has received or is receiving compensation under any Act or ordinance of the Commonwealth of Australia or any State (other than New South Wales) or Territory of the Commonwealth of Australia or under any law of any country outside the Commonwealth of Australia in respect of—

- 30 (a) his disablement for work from a dust disease contracted in the course of a prescribed engagement; or

(b)

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(b) the death of another person from a dust disease contracted in the course of a prescribed engagement.

5 (b) Subject to this section, but notwithstanding anything elsewhere contained in this Act or any amendment thereof, no person to whom this subsection applies shall, if he or, as the case may be, the person in respect of whose death he has received or is receiving compensation as afore-
10 said was not after the cessation of his prescribed engagement engaged as a worker in an occupation to the nature of which the disease was due, be entitled to compensation from the Fund for that part of his disablement in respect of which he has
15 so received or is so receiving compensation, or for the death from the disease of that other person, as the case may be.

(3) Every person in receipt of or claiming
20 compensation from the Fund in respect of his total or partial disablement for work from a dust disease or the death of another person from a dust disease shall, on his receiving any compensation under an Act (other than this Act), ordinance or other law referred to in subsection two of this section in
25 respect of his total or partial disablement for work from the disease or the death from the disease of that other person, as the case may be, or on his being notified of his entitlement to any compensation in respect of such disablement or death by the
30 person, authority or body who or which would be liable under such Act, ordinance or law to pay the same, inform the board of such receipt or notification within seven days thereafter and if he does not do so shall be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred
35 dollars.

(4) The board may, if it is of the opinion that any person (in this subsection called the claimant) claiming or receiving compensation from
the

Workers' Compensation (Dust Diseases) Amendment.

5 the Fund in respect of his total or partial disable-
 ment for work from a dust disease is or may be
 entitled to other compensation in respect of that
 disablement or death, as the case may be, require
 the claimant to take all appropriate and reasonable
 steps to claim and recover such other compensation
 and may, if it is satisfied that the claimant having
 been so required has not complied with such require-
 10 ment, make an order reducing any compensation
 payable to him from the Fund in respect of such
 disablement or death by such amount or weekly
 amounts as the board may in its discretion deter-
 mine, not exceeding the amount or amounts his
 15 entitlement to which would in the opinion of the
 board be divested by subsection two of this section
 if he had received or were receiving that other
 compensation, and may at any time rescind any
 such order. While any such order remains in force
 the compensation payable to the claimant in respect
 20 of such disablement or death, as the case may be,
 shall, subject to this section but notwithstanding
 anything elsewhere contained in this Act or any
 amendment thereof, be reduced by the amount or
 amounts specified in the order.

25 In this subsection "other compensation" means,
 in relation to any claimant, compensation the
 receipt of which would under subsection two of this
 section divest in whole or in part the claimant's
 entitlement to compensation from the Fund.

30 (5) No person shall be liable by virtue of
 any provisions of this section to repay any money
 paid from the Fund.

(f) by inserting next after section 8D the following new New secs.
8E-8G.
 sections :—

35 8E. (1) Subject to this section, a person who
 has been engaged either before or after the com-
 mencement of Part II of the Workers' Compensation
 (Dust Diseases) Amendment Act, 1967—

40 (a) in any dust occupation otherwise than as a
 worker;

(b)

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5 (b) in any industry or process in Broken Hill
mines or mines to which the Coal Mines
Regulation Act, 1912, as amended by sub-
sequent Acts, applies which is of such a
nature that workers engaged therein are
exposed to the risk of contracting a dust
disease; or

10 (c) in an occupation of any kind outside New
South Wales, whether or not under a con-
tract of service or apprenticeship,

and who has not after ceasing to be so engaged or
(if he has been so engaged more than once) after
the cessation of his last such engagement, obtained
the prior consent of the board to his being employed
15 in a particular dust occupation shall, if after such
commencement he is engaged as a worker in that
dust occupation, be deemed for the purposes of
sections eight and 8AA of this Act to be engaged
therein otherwise than as a worker until he has
20 obtained that consent.

(2) Where a person applies for the consent
of the board pursuant to subsection one of this
section, the board shall not give that consent unless
25 it is of the opinion, on the report of the medical
authority, that during his engagement in any occupa-
tion, industry or process referred to in paragraph
(a), (b) or (c) of subsection one of this section
that person—

30 (a) was not exposed to any substantial risk of
the inhalation of dust, or

(b) was not affected by the inhalation of dust
to such an extent that he ought not to be
employed in that dust occupation.

35 (3) The consent of the board under this
section may be given in respect of a specified dust
occupation or occupations, or a specified class or
description of dust occupations, or all dust occupa-
tions except a specified occupation or occupations
or class or description thereof.

(4)

Workers' Compensation (Dust Diseases) Amendment.

(4) Subsection one of this section shall not apply to or in respect of any person—

5

(a) by reason only of his having been engaged, before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, in an occupation, industry or process referred to in paragraph (a), (b) or (c) of subsection one of this section if, after ceasing to be so engaged but before such commencement, he was engaged as a worker in a dust occupation; or

10

15

(b) by reason only of his engagement in an industry or process which at the time when the current period of such engagement commenced was not a dust occupation; or

20

25

(c) in respect of any period of engagement of that person in an industry or process that, but for that subsection would be a period of engagement as a worker, or any part of that period, if the board on the application, made at any subsequent time, of that person or his dependants is satisfied that his failure before that period or that part of a period, as the case may be, to seek the consent referred to in that subsection was due to mistake of, or ignorance of, fact or law, or due to other reasonable cause, and excuses such failure.

30

35

8F. There shall be kept constantly posted up in some conspicuous place at or near every mine, quarry, factory, or workshop wherein workers are employed in any dust occupation, where it may be conveniently read by the workers so employed, such information as to or summary of the provisions of this Act, regulations made thereunder, and those provisions of the Principal Act which are applicable to awards under this Act, and such information

Prescribed information to be posted up. cf. Act No. 15, 1926, s. 43.

as

Workers' Compensation (Dust Diseases) Amendment.

as to dust diseases, employment in dust occupations, and applications for awards under this Act, as may be prescribed.

5 In the event of any non-compliance with the provisions of this section, the owner, agent, or manager of the mine or quarry, or the occupier of the factory or workshop, shall be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred dollars.

10 8G. (1) Proceedings for an offence against this Act or the regulations made under this Act, other than an offence under subsection (7E) of section six of this Act, may be taken and prosecuted by any person acting with the authority of the Minister. Proceedings.

15 In a prosecution for any such offence an authority to prosecute, purporting to have been signed by the Minister, shall be prima facie proof of such authority without proof of the Minister's signature.

20 (2) All proceedings for offences against this Act or the regulations made under this Act may be disposed of summarily before a stipendiary magistrate.

25 (g) (i) by inserting next after paragraph (b) of subsection two of section ten the following new paragraphs : — Sec. 10. (Regulations.)

30 (b1) requiring persons to furnish to the board such information as may be specified in the regulations and such other information as the board may require, in relation to the employment and remuneration of applicants for awards of compensation under this Act, of persons receiving compensation under such awards, of persons claimed
35 to be dependent on any such applicant

or

Workers' Compensation (Dust Diseases) Amendment.

- or person receiving compensation, and of persons in respect of whose death application is made for such awards;
- 5 (b2) prescribing as a dust occupation any industry or process (other than an industry or process carried on in Broken Hill mines or mines to which the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, applies) that is of such a nature that workers engaged therein are exposed to the risk of contracting a dust disease;
- 10
- 15 (ii) by omitting subsection three of the same section.

(2) Every certificate of the medical authority under subparagraph (ii) of paragraph (a) or subparagraph (ii) of paragraph (b), or subparagraph (ii) of paragraph (b) of subparagraph (ii) of paragraph (c), of subsection one of 20 section eight of the Silicosis Act shall be deemed to be a finding by the Workers' Compensation (Dust Diseases) Board on the report of the medical authority.

(3) This Part of this Act shall commence upon a day to be appointed by the Governor and notified by proclama- 25 tion published in the Gazette.

PART III.

AMENDMENT OF THE PRINCIPAL ACT.

6. (1) In this Part "dust injury" means any injury, as defined in section six of the Principal Act immediately before 30 the commencement of this Part of this Act, not being an injury as defined in that section immediately after that commencement.

(2)

Workers' Compensation (Dust Diseases) Amendment.

(2) The Principal Act is amended—

(a) (i) by omitting from subsection one of section Sec. 6. six the definition of "Disease caused by silica (Definitions.) dust";

5 (ii) by omitting from the definition of "Injury" in the same subsection the words "disease caused by silica dust" where firstly occurring and by inserting in lieu thereof the words
10 "dust disease, as defined by the Workers' Compensation (Dust Diseases) Act, 1942–1967, or any Act amending or replacing that Act";

15 (iii) by omitting from the same definition the words "disease caused by silica dust" where secondly occurring and by inserting in lieu thereof the words "dust disease, as so defined";

(b) (i) by omitting from subsection one of section Sec. 18. eighteen the words "forty thousand dollars" (Compul- and by inserting in lieu thereof the words sory in-
20 "fifty thousand dollars"; surance.)

(ii) by inserting in the same subsection after the words "in force :—" the following words :—

25 In its application to this section the defini- tion of "Injury" in subsection one of section six of this Act shall be deemed to be amended by the omission therefrom of the words "but
30 does not, save in the case of a worker employed in or about a mine to which the Coal Mines Regulation Act, 1912, as amended by subse- quent Acts, applies, include a dust disease, as defined by the Workers' Compensation (Dust Diseases) Act, 1942–1967, or any Act amend- ing or replacing that Act, or the aggravation, acceleration, exacerbation or deterioration of
35 a dust disease, as so defined".

(iii)

Workers' Compensation (Dust Diseases) Amendment.

(iii) by inserting next after subsection (6A) of the same section the following new subsection :—

5 (6B) For the purposes of any contract of insurance or indemnity obtained by an employer after the commencement of Part III of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, or obtained by him before and being maintained in force after
10 such commencement, the liability of the employer, independently of this Act, for an injury, being an occupational disease, to a worker shall be deemed to have arisen when the worker was last employed by the employer in an employment to the nature of which the
15 disease was due.

In this paragraph "occupational disease" means a disease which is of such a nature as to be contracted by a gradual process, and
20 includes the condition known as boilermaker's deafness, or any deafness of the like origin, and total or partial loss of sight which is of gradual onset.

(3) (a) A person who, immediately before the com-
25 mencement of this Part of this Act, was in receipt of continuing payments of compensation under the Principal Act in respect of a dust injury or who is entitled to obtain compensation under the Principal Act in respect of the death, before that commencement, of any person as a result of a
30 dust injury or who is entitled under an award of the Workers' Compensation Commission of New South Wales to compensation in respect of a dust injury shall, if the injury was—

(i) to himself or another person, have in respect of
35 that injury the same entitlement to compensation under the Principal Act and the same rights and powers, and be subject in respect thereof to the same duties and liabilities as he would have had, or been subject to, if this Act had not been enacted;

(ii)

Workers' Compensation (Dust Diseases) Amendment.

(ii) to himself, not be entitled to compensation under the Silicosis Act or any amendment thereof in respect of his total or partial disablement from the injury.

5 (b) Subject to paragraph (a) of this subsection, on and from the commencement of this Part of this Act—

(i) no person shall be entitled under the Principal Act to compensation in respect of a dust injury received before or after such commencement;

10 (ii) for the purposes of every application, award, certificate, finding and report made or given under the Silicosis Act, as amended by this Act, in respect of the total or partial disablement for work, or the death, of any person from a dust disease, the
15 Workers' Compensation (Dust Diseases) Board and the medical authority constituted under that Act, as so amended, shall, whether or not the disease was one to which the Silicosis Act applied before such commencement, have regard to any
20 occupations in which that person was engaged before such commencement as well as to those, if any, in which he was engaged after such commencement.

(4) Subject to paragraph (b) of subsection three of
25 this section, no amendment made by this Act shall affect the operation of any award made under the Principal Act before or after the commencement of this Part of this Act or any jurisdiction, right, power, duty or liability of the Workers' Compensation Commission of New South Wales
30 or any person in relation to any such award.

(5) (a) On the death, after the commencement of this Part of this Act, of a worker who, immediately before his death, was receiving, or entitled under an award of the Workers' Compensation Commission of New South Wales to
35 receive, continuing weekly payments of compensation in

respect

Workers' Compensation (Dust Diseases) Amendment.

respect of his total or partial disablement for work from a dust injury, he shall, for the purposes of section eight of the Silicosis Act, as amended by this Act, be deemed to have been receiving, immediately before his death, continuing payments of compensation at the prescribed rates from the Fund constituted under that Act, as so amended, in respect of his disablement for work from a dust disease.

(b) Where the disablement for work of a worker referred to in paragraph (a) of this subsection was partial, the percentage referred to in subparagraph (ii) of paragraph (c) of subsection two of section eight of the Silicosis Act, as amended by this Act, shall be deemed to be the proportion, expressed as a percentage, that the weekly payment of compensation received by him immediately before his death bore to the weekly compensation that, had his disablement been total, would have been payable to him at that time under the Principal Act or any amendment thereof.

(c) No person shall be entitled under the Principal Act or any amendment thereof to compensation in respect of the death of a worker referred to in paragraph (a) of this subsection.

(6) (a) In every policy of insurance or indemnity obtained pursuant to section eighteen of the Principal Act before the commencement of this Part of this Act and being maintained in force at such commencement the word "injury" shall have the extended meaning to be ascribed thereto in that section pursuant to the amendment made by paragraph (b) of subsection two of this section.

(b) Any such policy so obtained, and being so maintained in force shall, where such policy does not insure the employer against his liability independently of the Principal Act for an amount of at least fifty thousand dollars for any injury to any worker employed by him, be deemed to insure the employer against his liability independently of that Act to the extent of fifty thousand dollars in respect of any injury to any worker employed by him.

(c)

Workers' Compensation (Dust Diseases) Amendment.

(c) This subsection shall apply only to and in respect of injuries received or deemed to have been received after the commencement of this Part of this Act.

5 (7) The Principal Act, as amended by this Act, may be cited as the Workers' Compensation Act, 1926-1967.

(8) This Part of this Act shall commence upon the day upon which Part II of this Act commences.

PART IV.

AMENDMENT OF THE WORKMEN'S COMPENSATION (BROKEN HILL) ACT, 1920, AS AMENDED BY SUBSEQUENT ACTS.

7. (1) The Workmen's Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts, is amended— Amendment of Act No. 36, 1920.

15 (a) by omitting from paragraph 6 of Part II of the Schedule the words "The rates" and by inserting in lieu thereof the words "Subject to clause (2) of this paragraph, the rates"; Schedule, par. 6.

(b) by omitting from subparagraph (a) of the same paragraph the following words and figures :—

20 "Provided that the total additional sum in respect of dependants shall not exceed 11 50";

(c) by omitting from the same paragraph the following words :—

25 "Provided that except to the extent provided for in paragraph 6A of this scheme in no case shall the total weekly payment to be made under this scheme exceed the sum of twenty-one dollars per week :";

(d)

Workers' Compensation (Dust Diseases) Amendment.

(d) by inserting at the end of the same paragraph the following new clause :—

5 (2) (a) Where, but for this clause, the rate of compensation payable under clause (1) of this paragraph to a beneficiary (not being a person who immediately before the commencement of Part IV of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, was in receipt of compensation under this scheme) in respect of his
10 disablement, together with any additional amount per week he is eligible to be paid under paragraph 6A of this scheme, would exceed his average weekly earnings, such excess shall be deducted from the rate of compensation that would otherwise be payable to him under clause (1) of this paragraph.
15

(b) For the purposes of this clause "average weekly earnings" means the weekly sum to which the total weekly payment of compensation would have been for the time being limited by subsection two of section nine of the Workers' Compensation Act, 1926, as amended by subsequent Acts (whether enacted before or after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967)—
20

25 (i) if the disablement in respect of which the beneficiary is entitled to compensation under this scheme were an injury as defined by the Workers' Compensation Act, 1926, as so amended; and

30 (ii) if the beneficiary were entitled under that Act, as so amended, to a weekly payment of compensation for incapacity for work resulting from such injury.

(2) The amendments made by paragraphs (b) and
35 (c) of subsection one of this section shall be deemed to extend to, and from the commencement of this Part of this Act, apply

in

Workers' Compensation (Dust Diseases) Amendment.

in respect of all persons who were immediately before such commencement in receipt of compensation under the Workmen's Compensation (Broken Hill) Act, 1920-1965, as well as to all persons becoming entitled to compensation there-
5 under after such commencement.

(3) 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, 1920-1967.

10 (4) This Part of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967
[30c]

The following information is being furnished to you for your information and use. It is based on the records of the Department of the Interior, Bureau of Land Management, and is subject to change without notice.

The land described herein is located in the State of California, County of [County Name], and is more particularly described as follows:

[Detailed description of land parcels, including acreage, location, and ownership details.]

The land is owned by [Owner Name], and is being offered for sale to the highest bidder. The sale will take place on [Date] at [Location].

10

No. , 1967.

A BILL

To make further provision with respect to the payment, under certain Acts, of compensation for the disablement or death of workers; for this and other purposes to amend the Workmen's Compensation (Broken Hill) Act, 1920-1965, the Workers' Compensation (Silicosis) Act, 1942-1965, and the Workers' Compensation Act, 1926-1966, in certain respects; and for purposes connected therewith.

[MR WILLIS—9 March, 1967.]

BE

Workers' Compensation (Dust Diseases) 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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Workers' Compensation (Dust Diseases) Amendment Act, 1967". Short title and citation.

10 (2) The Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, is in this Act referred to as the Silicosis Act.

(3) The Silicosis Act, as amended by this Act, may be cited as the Workers' Compensation (Dust Diseases) Act, 15 1942-1967.

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

2. This Act is divided into Parts, as follows :— Division into Parts.

20 PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE SILICOSIS ACT.

PART III.—AMENDMENT OF THE PRINCIPAL ACT.

25 PART IV.—AMENDMENT OF THE WORKMEN'S COMPENSATION (BROKEN HILL) ACT, 1920, AS AMENDED BY SUBSEQUENT ACTS.

PART

Workers' Compensation (Dust Diseases) Amendment.

PART II.

AMENDMENT OF THE SILICOSIS ACT.

3. (1) The Silicosis Act is amended—

Amendment
of Act No.
14, 1942.

5 (a) (i) by omitting subsections three and four of section two and by inserting in lieu thereof the following subsection :—

Sec. 2.
(Repeal of
Workmen's
Compensa-
tion (Sili-
cosis) Act,
1920-1936,
and schemes
made there-
under.)

10 (3) (a) Any balance and investments at the credit of the Silicosis Fund immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, shall, as from that commencement, be transferred to the Fund established under this Act and any liability of the Silicosis Fund shall, as from that commencement be and become a liability of the Fund established under this Act.

Existing
assets and
debts of
Silicosis
Fund.

20 (b) All property, assets, rights, books and documents that, immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, were vested in or in the custody or possession of or under the control of the Silicosis Committee shall, as from that commencement be vested in, or transferred to the custody possession and control of, the board.

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

30 (5) Any worker who immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, was in receipt of continuing payments of compensation to which he was entitled

Certain
awards to
be a charge
against
the Fund.

Workers' Compensation (Dust Diseases) Amendment.

5 entitled under subsection four of this section, as enacted immediately before that commencement, shall be entitled to receive compensation from the Fund, as from such commencement, at the rate prescribed by or under this Act and appropriate to the case.

- 10 (b) (i) by inserting in section three next before the definition of "Broken Hill mine" and "Broken Hill mine-owner" the following new definition :—

"Board" means the Workers' Compensation (Dust Diseases) Board constituted under this Act.

- 15 (ii) by omitting from the same section the definition of "Committee";
- (iii) by omitting from the same section the definition of "Disease" and by inserting in lieu thereof the following definitions :—

20 "Dust" means dust of such a nature that the inhalation thereof may give rise to a dust disease.

25 "Dust disease" means any disease specified in the Schedule to this Act, and includes any pathological condition of the pulmonary organs, that is caused by dust and accompanies a disease so specified.

"Dust occupation" means industry or process prescribed as a dust occupation.

- 30 (iv) by omitting from the definition of "Employer" in the same section the words "the disease" and by inserting in lieu thereof the words "a dust disease";

35 (v) by omitting from the definition of "Fund" in the same section the word "Silicosis" and by inserting in lieu thereof the words "Dust Diseases";

(vi)

Workers' Compensation (Dust Diseases) Amendment.

(vi) by omitting from the same section the definition of "Silicosis" and by inserting in lieu thereof the following definitions :—

5

"Prescribed" means prescribed by regulations made under this Act.

"Process" includes occupation and any description of manual labour.

10

"Silicosis Account" means the Silicosis Contribution Account established under the Silicosis Act.

15

"Silicosis Act" means the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts passed before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967.

20

"Silicosis Committee" means the Workers' Compensation (Silicosis) Committee constituted under the Silicosis Act.

"Silicosis Fund" means the Workers' Compensation (Silicosis) Fund established under the Silicosis Act.

25

"Silicosis Reserve Fund" means the Silicosis Outstanding Liability Reserve Fund constituted under the Silicosis Act.

30

(c) (i) by omitting from paragraph (a) of subsection one of section five the words "Workers' Compensation (Silicosis) Committee" and by inserting in lieu thereof the words "Workers' Compensation (Dust Diseases) Board";

(ii) by omitting from the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";

35

(d) (i) by omitting from subsection one of section six the words "Workers' Compensation (Silicosis) Fund" and by inserting in lieu thereof the words

Sec. 5.
(Workers' Compensation
Silicosis Committee.)

Sec. 6.
(Constitution of
Fund.)

Workers' Compensation (Dust Diseases) Amendment.

- words "Workers' Compensation (Dust Diseases) Fund";
- 5 (ii) by omitting paragraph (a) of the same subsection and by inserting in lieu thereof the following paragraph :—
- 10 (a) all balances, investments and moneys of which the Silicosis Fund consisted immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, and all moneys that, immediately before that commencement, were owing to the Silicosis Fund and are paid after that commencement.
- 15 (iii) by omitting from paragraph (b) of the same subsection the word "committee" and by inserting in lieu thereof the word "board";
- 20 (iv) by omitting from subsection two of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (v) by omitting from subsection three of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 25 (vi) by omitting from the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease";
- 30 (vii) by omitting from subsection four of the same section the words "The committee shall as soon as practicable after the commencement of section three of the Workers' Compensation (Amendment) Act, 1945, make an estimate of the amount to be expended out of the fund for that portion of the year ending on the thirtieth day of June next following the date
- 35

of

Workers' Compensation (Dust Diseases) Amendment.

- of such commencement as is unexpired on that date. And thereafter the committee" and by inserting in lieu thereof the words "The board";
- 5 (viii) by omitting from subsection five of the same section the words "the committee" wherever occurring and by inserting in lieu thereof the words "the board";
- 10 (ix) by omitting from paragraph (d) of the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease";
- 15 (x) by omitting from paragraph (b) of subsection (7A) of the same section the words "Committee for the purposes of the fund" and by inserting in lieu thereof the words "Silicosis Committee for the purposes of the Silicosis Fund";
- 20 (xi) by omitting from subsection (7B) of the same section the word "Silicosis" and by inserting in lieu thereof the words "Dust Diseases";
- 25 (xii) by omitting from subsection (7C) of the same section the word "Silicosis" wherever occurring and by inserting in lieu thereof the words "Dust Diseases";
- 30 (xiii) by inserting in the same subsection after the word "section" where firstly occurring the words "and to which shall be paid all moneys which immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, stood to the credit of or were payable to the Silicosis Account";
- 35 (xiv) by omitting from the same subsection the words "the committee" and by inserting in lieu thereof the words "the board";

(xv)

Workers' Compensation (Dust Diseases) Amendment.

- (xv) by omitting from subsection (7D) of the same section the word "Silicosis" and by inserting in lieu thereof the words "Dust Diseases";
- 5 (xvi) by inserting in the same subsection after the words "consist of" the words "all moneys which immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, stood to the credit of the Silicosis Reserve Fund and";
- 10 (xvii) by omitting from subsection ten of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 15 (xviii) by omitting from the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease";
- 20 (xix) by omitting from the same subsection the word "committee's" and by inserting in lieu thereof the word "board's";
- (e) (i) by omitting from subsection one of section ^{Sec. 7.} seven the words "the disease" and by inserting ^(Medical authority.) in lieu thereof the words "a dust disease";
- 25 (ii) by omitting from subsection three of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 30 (iii) by omitting from subsection five of the same section the words "except as to any of the matters found in an award made by the Commission in the circumstances mentioned in subsection five of section eight of this Act";
- (f) (i) by omitting from paragraph (a) of subsection ^{Sec. 8.} one of section eight the words "the disease" ^(Certificate of medical authority.) where firstly occurring and by inserting in lieu thereof the words "a dust disease";
- 35 (ii) by omitting from the same paragraph the word "silica" wherever occurring;
- (iii)

Workers' Compensation (Dust Diseases) Amendment.

- (iii) by omitting from the same paragraph the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 5 (iv) by omitting from paragraph (b) of the same subsection the words "the disease" where firstly occurring and by inserting in lieu thereof the words "a dust disease";
- (v) by omitting from the same paragraph the word "silica" wherever occurring;
- 10 (vi) by omitting from the same paragraph the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (vii) by omitting from paragraph (c) of the same subsection the word "committee" where firstly occurring and by inserting in lieu thereof the words "board or of the Silicosis Committee";
- 15 (viii) by omitting from the same paragraph the word "committee" where secondly occurring and by inserting in lieu thereof the words "board or the Silicosis Committee";
- 20 (ix) by omitting from the same paragraph the word "committee" where thirdly, fourthly, fifthly, sixthly and seventhly occurring and by inserting in lieu thereof the word "board";
- 25 (x) by omitting from the same paragraph the word "committee" where eighthly occurring and by inserting in lieu thereof the words "the board or the Silicosis Committee";
- (xi) by omitting from the same paragraph the word "silica" wherever occurring;
- 30 (xii) by omitting from subparagraph (i) of the same paragraph the words "the disease" and by inserting in lieu thereof the words "a dust disease";

(xiii)

Workers' Compensation (Dust Diseases) Amendment.

- 5 (xiii) by omitting from paragraph (a) of subparagraph (ii) of the same paragraph the words "the disease" where firstly and thirdly occurring and by inserting in lieu thereof the words "a dust disease";
- (xiv) by omitting from subsection two of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 10 (xv) by omitting from the same subsection the words "the disease" wherever occurring and by inserting in lieu thereof the words "the dust disease";
- 15 (xvi) by omitting from subsection (2A) of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 20 (xvii) by omitting from subsection three of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (xviii) by omitting from subsection (3A) of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 25 (xix) by omitting from subsection four of the same section the word "committee" and by inserting in lieu thereof the word "board";
- (xx) by omitting subsection five of the same section;
- 30 (xxi) by omitting from paragraph (a) of subsection six of the same section the words "the disease" where firstly and secondly occurring and by inserting in lieu thereof the words "a dust disease";

(xxii)

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- (xxii) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words "the disease" and by inserting in lieu thereof the words "a dust disease";
- 5 (xxiii) by omitting from subsection seven of the same section the word "committee" and by inserting in lieu thereof the word "board";
- (g) (i) by omitting from section 8A the word "committee" where firstly occurring and by inserting in lieu thereof the words "Silicosis Committee or the board"; Sec. 8A.
(Power to vary awards for certain purposes.)
- 10
- (ii) by omitting from the same section the word "committee" where thirdly and fourthly occurring and by inserting in lieu thereof the word "board";
- 15
- (h) by omitting from section 8B the word "committee" wherever occurring and by inserting in lieu thereof the word "board"; Sec. 8B.
(Interim award.)
- (i) by omitting from section 8C the word "committee" and by inserting in lieu thereof the word "board"; Sec. 8C.
(Power to terminate or vary awards.)
- 20
- (j) (i) by omitting from section 8D the words "the committee's powers under"; Sec. 8D.
(Power to resume weekly payments ended under section 60 of Principal Act.)
- (ii) by inserting in the same section after the words "Principal Act" the words "as applied by subsection three of section eight of this Act";
- 25
- (iii) by omitting from the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (k) (i) by omitting from section nine the words "shall be deemed to be and to have been entitled to such payments, and any such person shall be deemed to" and by inserting in lieu thereof the words "shall, where such payments
- 30
- Sec. 9.
(Allowances for "hard luck" cases.)
- were,

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- 5 were, immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, being continued under this section as enacted immediately before that commencement,";
- (ii) by omitting from the same section the words "committee constituted under this Act and the payments made to any such person in any such case are hereby validated" and by inserting in lieu thereof the word "board";
- 10 (1) (i) by omitting from paragraph (a) of sub-^{Sec. 10.} section two of section ten the words "industry (Regula-_{tions.}) or process or group of industries or processes involving exposure to the risk of contracting a disease caused by silica dust," wherever occurring and by inserting in lieu thereof the words "dust occupation";
- 15 (ii) by omitting from subparagraph (iii) of the same paragraph the words "disease so caused" and by inserting in lieu thereof the words "dust disease";
- 20 (iii) by omitting from subparagraph (iii) of paragraph (b) of the same subsection the word "committee" and by inserting in lieu thereof the word "board";
- 25 (iv) by omitting from paragraph (c) of the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease".
- 30 (m) by inserting at the end of the Act the following Schedule :—

SCHEDULE.

Sec. 3.

35 Aluminosis
Asbestosis
Bagassosis
Baritosis
Berylliosis

Boiler

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	Boiler scalers' and repairers' pneumoconiosis
	Byssinosis
	Carbon pneumoconiosis
	Carborundum pneumoconiosis
5	Cement dust pneumoconiosis
	Coal dust pneumoconiosis
	Diatomite pneumoconiosis
	Emery pneumoconiosis
	Farmers' lung
10	Graphite pneumoconiosis
	Hard metal pneumoconiosis
	Micatosis
	Pumice pneumoconiosis
	Siderosis
15	Silicosis
	Silico-tuberculosis
	Sillimanite pneumoconiosis
	Stannosis
	Talcosis
20	Titaniosis

(2) (a) The Workers' Compensation (Silicosis) Committee is hereby dissolved and the chairman, executive member and other members thereof shall, on and from the commencement of this Part of this Act, cease to hold office as
25 such.

(b) The persons who held office as the chairman and executive member and as the other members of the Workers' Compensation (Silicosis) Committee immediately before the commencement of this Part of this Act shall, on
30 and from that commencement, be deemed to have been appointed as the chairman and executive member and as the other members, respectively, of the Workers' Compensation (Dust Diseases) Board and shall, notwithstanding the provisions of section five of the Silicosis Act, hold office as such
35 for the balance of the term for which they were appointed as chairman and executive member, and as the other members, respectively, of the Workers' Compensation (Silicosis) Committee.

(c)

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(c) On and from the commencement of this Act, in the construction and for the purposes of any Act, by-law, regulation, ordinance or any other instrument or document whatsoever, of the same or a different kind or nature, any reference to, or to be read, deemed and taken to refer to the Workers' Compensation (Silicosis) Committee or to the Workers' Compensation (Silicosis) Fund constituted by the Silicosis Act shall be read, deemed and taken to refer respectively to the Workers' Compensation (Dust Diseases) Board and to the Workers' Compensation (Dust Diseases) Fund, respectively.

(d) Every award, finding, decision, or request of the said Workers' Compensation (Silicosis) Committee shall be deemed to have been an award, finding, decision or request of the Workers' Compensation (Dust Diseases) Board.

(e) Every application, inquiry, investigation or other proceeding commenced by or before the Workers' Compensation (Silicosis) Committee and pending at the commencement of this Act may be continued and completed as though it had been commenced by or before the Workers' Compensation (Dust Diseases) Board.

4. The Silicosis Act is further amended—

Further amendment of Act No. 14, 1942.

(a) by inserting in subsection two of section eight after the word "section" where firstly occurring the words " , not being an award to which subsection (2B) of this section applies," ;

Sec. 8. (Certificate of medical authority.)

(b) by inserting next after subsection (2A) of the same section the following new subsections :—

(2B) (a) This subsection applies to every award of the board made, after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, pursuant to paragraph (b) or (c) of subsection one of this section in respect of the death before or after that commencement

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5 commencement of a person (in this subsection and in subsections (2C) and (2D) of this section referred to as "the worker") upon whom there was dependent for support, immediately before his death, the following and no other person or persons :—

(i) his widow; or

10 (ii) where the worker left no widow or no widow who was so dependent, one other person who, although not legally married to the worker, lived with him as his wife on a permanent and bona fide domestic basis for a period of not less than three years immediately preceding the death of the worker; or

15 (iii) either of the dependent persons referred to in subparagraphs (i) and (ii) of this paragraph and a child or children.

20 In this paragraph and in subsections (2C) and (2D) of this section "child" means a child or step-child of the worker under sixteen years of age and a child under that age to whom the worker stood in loco parentis and "children" has a corresponding meaning.

25 (b) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of this subsection was wholly dependent for support on the worker and an award to which this subsection applies is made by the board under paragraph (b) of subsection one of this section, the prescribed rates of compensation payable shall be—

30 (i) the sum of three thousand dollars;

(ii) a weekly payment of fifteen dollars per week, to continue until the marriage or death, whichever event first occurs, of that person; and

35 (iii) a weekly payment of four dollars and thirty cents per week in respect of each child who was wholly or partly dependent on the
worker

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worker for support, to continue in respect of each child until he attains the age of sixteen years or dies, whichever event first occurs.

5 (c) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of this subsection was wholly dependent for support on the worker and an award to which this subsection applies is made pursuant to paragraph (c) of subsection one of this section, the prescribed
10 rates of compensation payable shall be—

(i) where the disablement for work from the disease was total, the compensation payments prescribed by paragraph (b) of this subsection ; or

15 (ii) where the disablement for work from the disease was partial, a percentage of the compensation payments prescribed by paragraph (b) of this subsection, such percentage being calculated in accordance with the
20 provisions, mutatis mutandis, of subparagraph (ii) of paragraph (c) of subsection two of this section.

(d) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of
25 this subsection was partially dependent on the worker for support the prescribed rate of compensation payable shall be such payments, not exceeding in any case the amount that would have
30 been payable as compensation under the award had that person been wholly dependent on the worker for support, as may be determined by the board to be reasonable and proportionate to the injury to that person.

35 (2c) (a) The board shall, on the application of a person who is, or at any time was, entitled under any award made pursuant to this Act before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967,

or

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5 or pursuant to any scheme made under the Workers' Compensation (Silicosis) Act, 1920, as amended by subsequent Acts, to compensation in respect of the death of another person, and the board may of its own motion, order that compensation in respect of such death shall be payable under that award in accordance with the provisions of this subsection.

10 (b) Where the board makes an order under paragraph (a) of this subsection in respect of an award referred to in that paragraph, there shall be payable under that award in addition to any other amounts paid or payable thereunder, such compensation as would have been payable by virtue of subsection (2B) of this section if—

- 15 (i) the award had been made after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967; and
- 20 (ii) that subsection had been amended by the omission therefrom of subparagraphs (i) and (iii) of paragraph (b) and the word "and" in subparagraph (ii) of that paragraph.

25 (c) Compensation payable under an award pursuant to paragraph (b) of this subsection shall be payable as from such date, not earlier than the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, as the board, in its discretion, may specify in

30 its order made under this subsection or subsequently determine.

35 (2D) (a) The provisions of section fifty-seven of the Principal Act shall not apply to or in respect of compensation payable under subsection (2B) or (2C) of this section.

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(b) All weekly compensation prescribed by subsection (2B) or (2C) of this section as payable in respect of a child of a worker shall—

- 5 (i) where the worker left a widow, be paid to such widow unless the board otherwise orders;
- (ii) where the worker did not leave a widow or where the board otherwise orders under subparagraph (i) of this paragraph, be paid 10 to such person or institution as the board may direct.

Where the board makes an order under this paragraph the compensation shall be paid in accordance with the terms of such order.

15 (c) All weekly compensation payable under subsection (2B) or (2C) of this section, other than compensation referred to in paragraph (b) of this subsection, shall be paid to the person 20 entitled (otherwise than as a child of the worker) to compensation under the award.

(d) All compensation payable under subsection (2B) or (2C) of this section, other than weekly compensation, shall—

- 25 (i) where the board, being of opinion that by reason of the age or health of the person entitled to such compensation or any disability to which she may be subject or for any other reason it would be in her best interests that the compensation be paid in 30 accordance with this subparagraph, so orders, be invested, applied or otherwise dealt with by the board in such manner as the board thinks fit for the benefit of that person;
- 35 (ii) where the board does not make an order under subparagraph (i) of this paragraph, be paid to the person entitled to such compensation,

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compensation, in one or more lump sums determined by the board.

- 5 (c) by inserting in subsection three of the same section after the words "mutatis mutandis," the words "subject to this section";
- (d) by inserting at the end of paragraph (b) of subsection six of the same section the following words :—

10 For the purposes of this paragraph the amount of any weekly payments prescribed by this Act as compensation payable in respect of the death of a person (not being payments in respect of a child or stepchild of such person or a child to whom he stood in loco parentis) shall be deemed to be a

15 capital sum the amount of which shall be assessed by the board as the equivalent of such weekly payments. The board shall make such an assessment on the application of a person required to pay compensation under the Principal Act or a compensation Act in respect of that death and, for that

20 purpose, may act upon or take into account such actuarial or other advice or information as it may think fit.

5. (1) The Silicosis Act is further amended—

Further amendment of Act No. 14, 1942.

- 25 (a) by inserting next after subsection two of section five the following new subsection :—

Sec. 5.
(Workers' Compensation Silicosis Committee.)

30 (2A) The chairman of the board may by writing under his hand summon any person to attend a meeting of the board at a time and place named in the summons and then and there to give evidence in relation to any application or other matter before the board, and to produce any books, documents, or writings in his custody or control which he is required by the summons to

35 produce.

Any

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Any person so summoned who disobeys the summons shall be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred dollars.

5 The chairman may require a person attending a meeting of the board, whether or not in obedience to such a summons, in connection with any application or matter, to give evidence on oath in relation thereto, and for that purpose shall have authority
10 to administer an oath to any such person.

(b) by inserting in subsection (7E) of section six after Sec. 6. the words "shall be" the words "guilty of an offence (Constitution of Fund.) against this Act and";

15 (c) (i) by omitting from subsection one of section Sec. 8. eight the words "the medical authority further (Certificate of medical authority.) certifies" wherever occurring and by inserting in lieu thereof the words ", on the report of the medical authority, further finds";

20 (ii) by inserting in subsection two of the same section after the word "shall" where firstly occurring the words ", subject to this section,";

(iii) by inserting next after subsection (3A) of the same section the following new subsection :—

25 (3B) Where the board is satisfied that a person who pursuant to this Act is receiving or entitled to receive weekly payments of compensation under an award in respect of his partial disablement for work from a dust disease has taken all reasonable steps to obtain,
30 and has failed to obtain employment of a kind suited to a person so partially disabled, and that his failure to obtain such employment is a consequence, wholly or mainly, of such disablement, the board may order that his
35 disablement shall be treated as total disablement, and the board may at any time rescind any such order.

While

Workers' Compensation (Dust Diseases) Amendment.

While such an order remains in force the compensation payable under the award shall be that which would have been payable there-
under had the disablement from the disease been total.

5

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

(6A) Where the board makes an award under this section in respect of the total or partial disablement for work of a person from a dust disease, or the death of a person from a dust disease, or the death of a person totally or partially disabled for work from a dust disease, and the board—

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(a) has found that such person was a worker during only part of the time he was engaged in an occupation to the nature of which the disease was due; and

20

(b) is of the opinion, on the report of the medical authority, that the disablement of that person from the disease (if the award was not made in respect of his death from the disease) or his death from the disease (if the award was so made) was to a substantial extent attributable to his having been exposed to the inhalation of dust during such time as he was engaged in that occupation otherwise than as a worker,

25

30

the board shall by the terms of that award fix the rate of compensation to be paid there-
under at such rate, being a lesser rate than would otherwise have been payable under the award in accordance with the terms of this section, as the board considers to be appropriate having regard to the extent or likely extent to which his disablement or death was attributable to his having been so exposed to

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the inhalation of dust, and the prescribed rate of compensation payable under the award shall in such case be the rate of compensation as so fixed by the board.

- 5 (d) (i) by omitting from section 8A the words and figures "Act, 1947-1953" and by inserting in lieu thereof the word and figures "Act 1947"; Sec. 8A. (Power to vary awards for certain purposes.)
- 10 (ii) by inserting in the same section after the word "Australia," the words "as amended by subsequent Acts of that Parliament, or any other pension, allowance or benefit under any Act or Act of that Parliament,";
- (e) by inserting next after the same section the following New sec. 8AA.
new section :—
- 15 8AA. (1) In this section "prescribed engagement" means engagement (whether before or after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967) in an occupation— Compensation not payable in certain circumstances.
- 20 (a) as an employee within the meaning of the Commonwealth Employees Compensation Act 1930 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts of that Parliament; or
- 25 (b) under a contract of service or apprenticeship outside New South Wales.
- 30 (2) (a) This subsection applies to any person who has received or is receiving compensation under any Act or ordinance of the Commonwealth of Australia or any State (other than New South Wales) or Territory of the Commonwealth of Australia or under any law of any country outside the Commonwealth of Australia in respect of—
- 35 (a) his disablement for work from a dust disease contracted in the course of a prescribed engagement; or
- (b)

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(b) the death of another person from a dust disease contracted in the course of a prescribed engagement.

5 (b) Subject to this section, but notwithstanding anything elsewhere contained in this Act or any amendment thereof, no person to whom this subsection applies shall, if he or, as the case may be, the person in respect of whose death he has received or is receiving compensation as afore-
10 said was not after the cessation of his prescribed engagement engaged as a worker in an occupation to the nature of which the disease was due, be entitled to compensation from the Fund for that
15 part of his disablement in respect of which he has so received or is so receiving compensation, or for the death from the disease of that other person, as the case may be.

(3) Every person in receipt of or claiming
20 compensation from the Fund in respect of his total or partial disablement for work from a dust disease or the death of another person from a dust disease shall, on his receiving any compensation under an Act (other than this Act), ordinance or other law referred to in subsection two of this section in
25 respect of his total or partial disablement for work from the disease or the death from the disease of that other person, as the case may be, or on his being notified of his entitlement to any compensation in respect of such disablement or death by the
30 person, authority or body who or which would be liable under such Act, ordinance or law to pay the same, inform the board of such receipt or notification within seven days thereafter and if he does not do so shall be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred
35 dollars.

(4) The board may, if it is of the opinion that any person (in this subsection called the claimant) claiming or receiving compensation from

the

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5 the Fund in respect of his total or partial disable-
 ment for work from a dust disease is or may be
 entitled to other compensation in respect of that
 disablement or death, as the case may be, require
 the claimant to take all appropriate and reasonable
 steps to claim and recover such other compensation
 and may, if it is satisfied that the claimant having
 been so required has not complied with such require-
 10 ment, make an order reducing any compensation
 payable to him from the Fund in respect of such
 disablement or death by such amount or weekly
 amounts as the board may in its discretion deter-
 mine, not exceeding the amount or amounts his
 15 entitlement to which would in the opinion of the
 board be divested by subsection two of this section
 if he had received or were receiving that other
 compensation, and may at any time rescind any
 such order. While any such order remains in force
 the compensation payable to the claimant in respect
 20 of such disablement or death, as the case may be,
 shall, subject to this section but notwithstanding
 anything elsewhere contained in this Act or any
 amendment thereof, be reduced by the amount or
 amounts specified in the order.

25 In this subsection "other compensation" means,
 in relation to any claimant, compensation the
 receipt of which would under subsection two of this
 section divest in whole or in part the claimant's
 entitlement to compensation from the Fund.

30 (5) No person shall be liable by virtue of
 any provisions of this section to repay any money
 paid from the Fund.

(f) by inserting next after section 8D the following new New secs.
8E-8G.
 sections :—

35 8E. (1) Subject to this section, a person who Board's
consent
to employ-
ment to be
obtained
in certain
cases.
 has been engaged either before or after the com-
 mencement of Part II of the Workers' Compensation
 (Dust Diseases) Amendment Act, 1967—

40 (a) in any dust occupation otherwise than as a
 worker;

(b)

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5 (b) in any industry or process in Broken Hill
mines or mines to which the Coal Mines
Regulation Act, 1912, as amended by sub-
sequent Acts, applies which is of such a
nature that workers engaged therein are
exposed to the risk of contracting a dust
disease; or

10 (c) in an occupation of any kind outside New
South Wales, whether or not under a con-
tract of service or apprenticeship,

15 and who has not after ceasing to be so engaged or
(if he has been so engaged more than once) after
the cessation of his last such engagement, obtained
the prior consent of the board to his being employed
in a particular dust occupation shall, if after such
commencement he is engaged as a worker in that
dust occupation, be deemed for the purposes of
sections eight and 8AA of this Act to be engaged
therein otherwise than as a worker until he has
20 obtained that consent.

(2) Where a person applies for the consent
of the board pursuant to subsection one of this
section, the board shall not give that consent unless
25 it is of the opinion, on the report of the medical
authority, that during his engagement in any occupa-
tion, industry or process referred to in paragraph
(a), (b) or (c) of subsection one of this section
that person—

30 (a) was not exposed to any substantial risk of
the inhalation of dust, or

(b) was not affected by the inhalation of dust
to such an extent that he ought not to be
employed in that dust occupation.

35 (3) The consent of the board under this
section may be given in respect of a specified dust
occupation or occupations, or a specified class or
description of dust occupations, or all dust occupa-
tions except a specified occupation or occupations
or class or description thereof.

(4)

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(4) Subsection one of this section shall not apply to or in respect of any person—

- 5 (a) by reason only of his having been engaged, before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, in an occupation, industry or process referred to in paragraph (a), (b) or (c) of subsection one of this section if, after ceasing to be so engaged but before such commencement, he was engaged as a worker in a dust occupation; or
- 10
- 15 (b) by reason only of his engagement in an industry or process which at the time when the current period of such engagement commenced was not a dust occupation; or
- 20 (c) in respect of any period of engagement of that person in an industry or process that, but for that subsection would be a period of engagement as a worker, or any part of that period, if the board on the application, made at any subsequent time, of that person or his dependants is satisfied that his failure before that period or that part
- 25 of a period, as the case may be, to seek the consent referred to in that subsection was due to mistake of, or ignorance of, fact or law, or due to other reasonable cause, and excuses such failure.

30 8F. There shall be kept constantly posted up in some conspicuous place at or near every mine, quarry, factory, or workshop wherein workers are employed in any dust occupation, where it may be conveniently read by the workers so employed, such information as to or summary of the provisions of this Act, regulations made thereunder, and those provisions of the Principal Act which are applicable to awards under this Act, and such information

as

Prescribed information to be posted up. cf. Act No. 15, 1926, s. 43.

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as to dust diseases, employment in dust occupations, and applications for awards under this Act, as may be prescribed.

5 In the event of any non-compliance with the provisions of this section, the owner, agent, or manager of the mine or quarry, or the occupier of the factory or workshop, shall be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred dollars.

10 8G. (1) Proceedings for an offence against this Act or the regulations made under this Act, other than an offence under subsection (7E) of section six of this Act, may be taken and prosecuted by any person acting with the authority of the Minister. Proceedings.

15 In a prosecution for any such offence an authority to prosecute, purporting to have been signed by the Minister, shall be prima facie proof of such authority without proof of the Minister's signature.

20 (2) All proceedings for offences against this Act or the regulations made under this Act may be disposed of summarily before a stipendiary magistrate.

25 (g) (i) by inserting next after paragraph (b) of subsection two of section ten the following new paragraphs : — Sec. 10. (Regulations.)

30 (b1) requiring persons to furnish to the board such information as may be specified in the regulations and such other information as the board may require, in relation to the employment and remuneration of applicants for awards of compensation under this Act, of persons receiving compensation under such awards, of persons claimed to be dependent on any such applicant

35

or

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or person receiving compensation, and of persons in respect of whose death application is made for such awards;

5 (b2) prescribing as a dust occupation any industry or process (other than an industry or process carried on in Broken Hill mines or mines to which the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, applies) that is of such a nature that workers engaged therein are exposed to the risk of contracting a dust disease;

15 (ii) by omitting subsection three of the same section.

(2) Every certificate of the medical authority under subparagraph (ii) of paragraph (a) or subparagraph (ii) of paragraph (b), or subparagraph (ii) of paragraph (b) of subparagraph (ii) of paragraph (c), of subsection one of section eight of the Silicosis Act shall be deemed to be a finding by the Workers' Compensation (Dust Diseases) Board on the report of the medical authority.

(3) This Part of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

PART III.

AMENDMENT OF THE PRINCIPAL ACT.

6. (1) In this Part "dust injury" means any injury, as defined in section six of the Principal Act immediately before the commencement of this Part of this Act, not being an injury as defined in that section immediately after that commencement.

Amendment of Act No. 15, 1926.

(2)

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(2) The Principal Act is amended—

- (a) (i) by omitting from subsection one of section Sec. 6. six the definition of "Disease caused by silica (Defini- dust"; tions.)
- 5 (ii) by omitting from the definition of "Injury" in the same subsection the words "disease caused by silica dust" where firstly occurring and by inserting in lieu thereof the words
10 "dust disease, as defined by the Workers' Compensation (Dust Diseases) Act, 1942–1967, or any Act amending or replacing that Act";
- (iii) by omitting from the same definition the words
15 "disease caused by silica dust" where secondly occurring and by inserting in lieu thereof the words "dust disease, as so defined";
- (b) (i) by omitting from subsection one of section Sec. 18. eighteen the words "forty thousand dollars" (Compul- and by inserting in lieu thereof the words sory in- "fifty thousand dollars"; surance.)
- 20 (ii) by inserting in the same subsection after the words "in force :—" the following words :—

25 In its application to this section the definition of "Injury" in subsection one of section six of this Act shall be deemed to be amended by the omission therefrom of the words "but does not, save in the case of a worker employed in or about a mine to which the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, applies, include a dust disease, as defined by the Workers' Compensation (Dust Diseases) Act, 1942–1967, or any Act amending or replacing that Act, or the aggravation, acceleration, exacerbation or deterioration of
30 a dust disease, as so defined".

35

(iii)

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(iii) by inserting next after subsection (6A) of the same section the following new subsection :—

5 (6B) For the purposes of any contract of insurance or indemnity obtained by an employer after the commencement of Part III of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, or obtained by him before and being maintained in force after
10 such commencement, the liability of the employer, independently of this Act, for an injury, being an occupational disease, to a worker shall be deemed to have arisen when the worker was last employed by the employer
15 in an employment to the nature of which the disease was due.

20 In this paragraph "occupational disease" means a disease which is of such a nature as to be contracted by a gradual process, and includes the condition known as boilermaker's deafness, or any deafness of the like origin, and total or partial loss of sight which is of gradual onset.

25 (3) (a) A person who, immediately before the commencement of this Part of this Act, was in receipt of continuing payments of compensation under the Principal Act in respect of a dust injury or who is entitled to obtain compensation under the Principal Act in respect of the death, before that commencement, of any person as a result of a
30 dust injury or who is entitled under an award of the Workers' Compensation Commission of New South Wales to compensation in respect of a dust injury shall, if the injury was—

35 (i) to himself or another person, have in respect of that injury the same entitlement to compensation under the Principal Act and the same rights and powers, and be subject in respect thereof to the same duties and liabilities as he would have had, or been subject to, if this Act had not been enacted;

(ii)

Workers' Compensation (Dust Diseases) Amendment.

(ii) to himself, not be entitled to compensation under the Silicosis Act or any amendment thereof in respect of his total or partial disablement from the injury.

5 (b) Subject to paragraph (a) of this subsection,
on and from the commencement of this Part of this Act—

(i) no person shall be entitled under the Principal Act to compensation in respect of a dust injury received before or after such commencement;

10 (ii) for the purposes of every application, award, certi-
15 ficate, finding and report made or given under the
20 Silicosis Act, as amended by this Act, in respect of
the total or partial disablement for work, or the
death, of any person from a dust disease, the
Workers' Compensation (Dust Diseases) Board
and the medical authority constituted under that
Act, as so amended, shall, whether or not the
disease was one to which the Silicosis Act applied
before such commencement, have regard to any
occupations in which that person was engaged
before such commencement as well as to those, if
any, in which he was engaged after such
commencement.

(4) Subject to paragraph (b) of subsection three of
25 this section, no amendment made by this Act shall affect
the operation of any award made under the Principal Act
before or after the commencement of this Part of this Act
or any jurisdiction, right, power, duty or liability of the
Workers' Compensation Commission of New South Wales
30 or any person in relation to any such award.

(5) (a) On the death, after the commencement of
this Part of this Act, of a worker who, immediately before
his death, was receiving, or entitled under an award of the
Workers' Compensation Commission of New South Wales to
35 receive, continuing weekly payments of compensation in

respect

Workers' Compensation (Dust Diseases) Amendment.

respect of his total or partial disablement for work from a dust injury, he shall, for the purposes of section eight of the Silicosis Act, as amended by this Act, be deemed to have been receiving, immediately before his death, continuing payments of compensation at the prescribed rates from the Fund constituted under that Act, as so amended, in respect of his disablement for work from a dust disease.

(b) Where the disablement for work of a worker referred to in paragraph (a) of this subsection was partial, the percentage referred to in subparagraph (ii) of paragraph (c) of subsection two of section eight of the Silicosis Act, as amended by this Act, shall be deemed to be the proportion, expressed as a percentage, that the weekly payment of compensation received by him immediately before his death bore to the weekly compensation that, had his disablement been total, would have been payable to him at that time under the Principal Act or any amendment thereof.

(c) No person shall be entitled under the Principal Act or any amendment thereof to compensation in respect of the death of a worker referred to in paragraph (a) of this subsection.

(6) (a) In every policy of insurance or indemnity obtained pursuant to section eighteen of the Principal Act before the commencement of this Part of this Act and being maintained in force at such commencement the word "injury" shall have the extended meaning to be ascribed thereto in that section pursuant to the amendment made by paragraph (b) of subsection two of this section.

(b) Any such policy so obtained, and being so maintained in force shall, where such policy does not insure the employer against his liability independently of the Principal Act for an amount of at least fifty thousand dollars for any injury to any worker employed by him, be deemed to insure the employer against his liability independently of that Act to the extent of fifty thousand dollars in respect of any injury to any worker employed by him.

(c)

Workers' Compensation (Dust Diseases) Amendment.

(c) This subsection shall apply only to and in respect of injuries received or deemed to have been received after the commencement of this Part of this Act.

(7) The Principal Act, as amended by this Act, may
5 be cited as the Workers' Compensation Act, 1926-1967.

(8) This Part of this Act shall commence upon the day upon which Part II of this Act commences.

PART IV.

AMENDMENT OF THE WORKMEN'S COMPENSATION (BROKEN
10 HILL) ACT, 1920, AS AMENDED BY SUBSEQUENT ACTS.

7. (1) The Workmen's Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts, is amended— Amendment of Act No. 36, 1920.

(a) by omitting from paragraph 6 of Part II of the Schedule, Schedule, par. 6.
15 the words "The rates" and by inserting in lieu thereof the words "Subject to clause (2) of this paragraph, the rates";

(b) by omitting from subparagraph (a) of the same paragraph the following words and figures :—

20 "Provided that the total additional sum in respect of dependants shall not exceed 11 50 ";

(c) by omitting from the same paragraph the following words :—

25 "Provided that except to the extent provided for in paragraph 6A of this scheme in no case shall the total weekly payment to be made under this scheme exceed the sum of twenty-one dollars per week :";

(d)

Workers' Compensation (Dust Diseases) Amendment.

(d) by inserting at the end of the same paragraph the following new clause :—

5 (2) (a) Where, but for this clause, the rate of compensation payable under clause (1) of this paragraph to a beneficiary (not being a person who immediately before the commencement of Part IV of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, was in receipt of compensation under this scheme) in respect of his
10 disablement, together with any additional amount per week he is eligible to be paid under paragraph 6A of this scheme, would exceed his average weekly earnings, such excess shall be deducted from the rate of compensation that would otherwise be payable to him under clause (1) of this paragraph.
15

(b) For the purposes of this clause "average weekly earnings" means the weekly sum to which the total weekly payment of compensation would have been for the time being limited by subsection two of section nine of the Workers' Compensation Act, 1926, as amended by subsequent Acts (whether enacted before or after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967)—
20

25 (i) if the disablement in respect of which the beneficiary is entitled to compensation under this scheme were an injury as defined by the Workers' Compensation Act, 1926, as so amended; and

30 (ii) if the beneficiary were entitled under that Act, as so amended, to a weekly payment of compensation for incapacity for work resulting from such injury.

(2) The amendments made by paragraphs (b) and
35 (c) of subsection one of this section shall be deemed to extend to, and from the commencement of this Part of this Act, apply

in

Workers' Compensation (Dust Diseases) Amendment.

5 in respect of all persons who were immediately before such commencement in receipt of compensation under the Workmen's Compensation (Broken Hill) Act, 1920-1965, as well as to all persons becoming entitled to compensation thereunder after such commencement.

(3) 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, 1920-1967.

10 (4) This Part of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES-1967
[30c]

In regard to the...
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The...
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[Signature]

PROOF

WORKERS' COMPENSATION (DUST DISEASES) AMENDMENT BILL, 1967

EXPLANATORY NOTE

THE objects of this Bill are to amend the Workers' Compensation (Silicosis) Act, 1942-1965—

- (a) to widen the scope of the Act so as to provide for the payment of compensation thereunder for the death or disablement of workers by certain dust diseases to which the Act does not at present apply;
- (b) to provide for the administration of the Act by a Workers' Compensation (Dust Diseases) Board in lieu of the present Committee;
- (c) to prescribe, in place of the lump sum compensation now payable under the Act to a worker's widow in respect of his death, a smaller lump sum together with weekly compensation payable until her death or remarriage, and to provide for the payment of such weekly compensation to widows who obtained awards before the commencement of the amending legislation as well as those who obtain awards in future;
- (d) to entitle a worker partially disabled by a dust disease to receive compensation as though he were totally disabled if the Board is satisfied that he has taken reasonable steps to obtain suitable employment but that by reason of his disablement he has been unable to do so;
- (e) to provide that in certain circumstances a person before being employed in an occupation in which there is a danger to health from the inhalation of dust must obtain the consent of the Board to such employment, and that if he does not do so he shall be deemed for the purposes of the Act to have been engaged in the occupation otherwise than as a worker;
- (f) to debar a worker from entitlement to compensation under the Act for his total or partial disablement, and the dependants of a worker from entitlement to compensation under the Act in respect of his death, if in respect of the worker's last employment in the occupation which gave rise to the disablement or death the worker or dependants have received or are receiving or entitled to receive compensation for the same degree of disablement, or for such death, under the workers' compensation laws of the Commonwealth or another State or Territory, or of any country outside Australia;
- (g) to enable the Board, where it is of the opinion that the disablement or death of a person in respect of which he or his dependants are entitled to compensation under the Act was to a substantial extent attributable to employment otherwise than as a worker, to reduce such compensation accordingly. ("Employment otherwise than as a worker" comprises work as a self-employed person, or outside the State, or in a coal or shale mine or Broken Hill mine.);

- (h) to transfer from the Medical Authority to the Board the duty of deciding whether or not the disablement through a dust disease or death through a dust disease of a person who has been engaged both as a worker and otherwise than a worker in an occupation which gave rise to the disease was reasonably attributable to his engagement as a worker ;
- (i) to empower the Chairman of the Board to summon persons as witnesses before the Board and administer oaths to such witnesses ;
- (j) to enable regulations to be made requiring applicants for and recipients of compensation and their dependants, and the employer of any such person or of a worker in respect of whose death compensation is claimed, to furnish to the Board, at its request, information as to employment and wages ;
- (k) to require summaries of the Act and certain other prescribed information to be posted up at places of employment ; and
- (l) to make provisions of a machinery nature or consequential on the foregoing.

It is also proposed, by the Bill, to amend the Workers' Compensation Act, 1926-1966—

- (a) to provide that insurance policies obtained by employers pursuant to the Act shall in future contain provision for the indemnification of employers against common law liability in respect of the disablement and death of workers through silicosis and certain other dust diseases ;
- (b) to increase from \$40,000 to \$50,000 the minimum indemnity under such policies in respect of employers' common law liability for employment injuries including diseases ; and
- (c) to make provisions ancillary to and consequential on the foregoing.

It is also proposed, by the Bill, to amend the Workmen's Compensation (Broken Hill) Act, 1920-1965—

- (a) to enable compensation to be claimed in respect of all dependant children of a worker ;
- (b) to bring the maximum compensation payable under the Act into conformity with that provided for in the Workers' Compensation Act, 1926-1966 ;
- (c) to make provisions of a machinery nature or consequential on the foregoing.

PROOF

No. , 1967.

A BILL

To make further provision with respect to the payment, under certain Acts, of compensation for the disablement or death of workers; for this and other purposes to amend the Workmen's Compensation (Broken Hill) Act, 1920-1965, the Workers' Compensation (Silicosis) Act, 1942-1965, and the Workers' Compensation Act, 1926-1966, in certain respects; and for purposes connected therewith.

[MR WILLIS—9 March, 1967.]

BE

Workers' Compensation (Dust Diseases) 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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Workers' Compensation (Dust Diseases) Amendment Act, 1967". Short title and citation.

10 (2) The Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts, is in this Act referred to as the Silicosis Act.

(3) The Silicosis Act, as amended by this Act, may be cited as the Workers' Compensation (Dust Diseases) Act, 15 1942-1967.

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

2. This Act is divided into Parts, as follows :— Division into Parts.

20 **PART I.—PRELIMINARY.**

PART II.—AMENDMENT OF THE SILICOSIS ACT.

PART III.—AMENDMENT OF THE PRINCIPAL ACT.

25 **PART IV.—AMENDMENT OF THE WORKMEN'S COMPENSATION (BROKEN HILL) ACT, 1920, AS AMENDED BY SUBSEQUENT ACTS.**

PART

Workers' Compensation (Dust Diseases) Amendment.

PART II.

AMENDMENT OF THE SILICOSIS ACT.

3. (1) The Silicosis Act is amended—

Amendment
of Act No.
14, 1942.

5 (a) (i) by omitting subsections three and four of section two and by inserting in lieu thereof the following subsection :—

Sec. 2.
(Repeal of
Workmen's
Compensa-
tion (Sili-
cosis) Act,
1920-1936,
and schemes
made there-
under.)

10 (3) (a) Any balance and investments at the credit of the Silicosis Fund immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, shall, as from that commencement, be transferred to the Fund established under this Act and any liability of the Silicosis Fund shall, as from that commencement be and become a liability of the Fund established under this Act.

Existing
assets and
debts of
Silicosis
Fund.

15 (b) All property, assets, rights, books and documents that, immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, were vested in or in the custody or possession of under the control of the Silicosis Committee shall, as from that commencement be vested in, or transferred to the custody possession and control of, the board.

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

25 (5) Any worker who immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, was in receipt of continuing payments of compensation to which he was entitled

Certain
awards to
be a charge
against
the Fund.

Workers' Compensation (Dust Diseases) Amendment.

entitled under subsection four of this section, as enacted immediately before that commencement, shall be entitled to receive compensation from the Fund, as from such commencement, at the rate prescribed by or under this Act and appropriate to the case.

- (b) (i) by inserting in section three next before the definition of "Broken Hill mine" and "Broken Hill mine-owner" the following new definition :—

"Board" means the Workers' Compensation (Dust Diseases) Board constituted under this Act.

- (ii) by omitting from the same section the definition of "Committee";

- (iii) by omitting from the same section the definition of "Disease" and by inserting in lieu thereof the following definitions :—

"Dust" means dust of such a nature that the inhalation thereof may give rise to a dust disease.

"Dust disease" means any disease specified in the Schedule to this Act, and includes any pathological condition of the pulmonary organs, that is caused by dust and accompanies a disease so specified.

"Dust occupation" means industry or process prescribed as a dust occupation.

- (iv) by omitting from the definition of "Employer" in the same section the words "the disease" and by inserting in lieu thereof the words "a dust disease";

- (v) by omitting from the definition of "Fund" in the same section the word "Silicosis" and by inserting in lieu thereof the words "Dust Diseases";

(vi)

Workers' Compensation (Dust Diseases) Amendment.

(vi) by omitting from the same section the definition of "Silicosis" and by inserting in lieu thereof the following definitions :—

5 "Prescribed" means prescribed by regulations made under this Act.

"Process" includes occupation and any description of manual labour.

10 "Silicosis Account" means the Silicosis Contribution Account established under the Silicosis Act.

15 "Silicosis Act" means the Workers' Compensation (Silicosis) Act, 1942, as amended by subsequent Acts passed before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967.

"Silicosis Committee" means the Workers' Compensation (Silicosis) Committee constituted under the Silicosis Act.

20 "Silicosis Fund" means the Workers' Compensation (Silicosis) Fund established under the Silicosis Act.

25 "Silicosis Reserve Fund" means the Silicosis Outstanding Liability Reserve Fund constituted under the Silicosis Act.

30 (c) (i) by omitting from paragraph (a) of subsection Sec. 5. one of section five the words "Workers' Compensation (Silicosis) Committee" and by inserting in lieu thereof the words "Workers' Compensation (Dust Diseases) Board";

(ii) by omitting from the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";

35 (d) (i) by omitting from subsection one of section six Sec. 6. the words "Workers' Compensation (Silicosis) Fund" and by inserting in lieu thereof the words

Workers' Compensation (Dust Diseases) Amendment.

- words "Workers' Compensation (Dust Diseases) Fund";
- 5 (ii) by omitting paragraph (a) of the same subsection and by inserting in lieu thereof the following paragraph :—
- 10 (a) all balances, investments and moneys of which the Silicosis Fund consisted immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, and all moneys that, immediately before that commencement, were owing to the Silicosis Fund and are paid after that commencement.
- 15 (iii) by omitting from paragraph (b) of the same subsection the word "committee" and by inserting in lieu thereof the word "board";
- 20 (iv) by omitting from subsection two of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 25 (v) by omitting from subsection three of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 30 (vi) by omitting from the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease";
- 35 (vii) by omitting from subsection four of the same section the words "The committee shall as soon as practicable after the commencement of section three of the Workers' Compensation (Amendment) Act, 1945, make an estimate of the amount to be expended out of the fund for that portion of the year ending on the thirtieth day of June next following the date

of

Workers' Compensation (Dust Diseases) Amendment.

- of such commencement as is unexpired on that date. And thereafter the committee" and by inserting in lieu thereof the words "The board";
- 5 (viii) by omitting from subsection five of the same section the words "the committee" wherever occurring and by inserting in lieu thereof the words "the board";
- 10 (ix) by omitting from paragraph (d) of the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease";
- 15 (x) by omitting from paragraph (b) of subsection (7A) of the same section the words "Committee for the purposes of the fund" and by inserting in lieu thereof the words "Silicosis Committee for the purposes of the Silicosis Fund";
- 20 (xi) by omitting from subsection (7B) of the same section the word "Silicosis" and by inserting in lieu thereof the words "Dust Diseases";
- 25 (xii) by omitting from subsection (7C) of the same section the word "Silicosis" wherever occurring and by inserting in lieu thereof the words "Dust Diseases";
- 30 (xiii) by inserting in the same subsection after the word "section" where firstly occurring the words "and to which shall be paid all moneys which immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, stood to the credit of or were payable to the Silicosis Account";
- 35 (xiv) by omitting from the same subsection the words "the committee" and by inserting in lieu thereof the words "the board";

(xv)

Workers' Compensation (Dust Diseases) Amendment.

- (xv) by omitting from subsection (7D) of the same section the word "Silicosis" and by inserting in lieu thereof the words "Dust Diseases";
- 5 (xvi) by inserting in the same subsection after the words "consist of" the words "all moneys which immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, stood to the credit of the Silicosis Reserve Fund and";
- 10 (xvii) by omitting from subsection ten of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 15 (xviii) by omitting from the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease";
- 20 (xix) by omitting from the same subsection the word "committee's" and by inserting in lieu thereof the word "board's";
- (e) (i) by omitting from subsection one of section ^{Sec. 7.} seven the words "the disease" and by inserting ^(Medical authority.) in lieu thereof the words "a dust disease";
- 25 (ii) by omitting from subsection three of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 30 (iii) by omitting from subsection five of the same section the words "except as to any of the matters found in an award made by the Commission in the circumstances mentioned in subsection five of section eight of this Act";
- (f) (i) by omitting from paragraph (a) of subsection ^{Sec. 8.} one of section eight the words "the disease" ^(Certificate of medical authority.) where firstly occurring and by inserting in lieu thereof the words "a dust disease";
- 35 (ii) by omitting from the same paragraph the word "silica" wherever occurring;
- (iii)

Workers' Compensation (Dust Diseases) Amendment.

- (iii) by omitting from the same paragraph the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 5 (iv) by omitting from paragraph (b) of the same subsection the words "the disease" where firstly occurring and by inserting in lieu thereof the words "a dust disease";
- (v) by omitting from the same paragraph the word "silica" wherever occurring;
- 10 (vi) by omitting from the same paragraph the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (vii) by omitting from paragraph (c) of the same subsection the word "committee" where firstly occurring and by inserting in lieu thereof the words "board or of the Silicosis Committee";
- 15 (viii) by omitting from the same paragraph the word "committee" where secondly occurring and by inserting in lieu thereof the words "board or the Silicosis Committee";
- 20 (ix) by omitting from the same paragraph the word "committee" where thirdly, fourthly, fifthly, sixthly and seventhly occurring and by inserting in lieu thereof the word "board";
- 25 (x) by omitting from the same paragraph the word "committee" where eighthly occurring and by inserting in lieu thereof the words "the board or the Silicosis Committee";
- 30 (xi) by omitting from the same paragraph the word "silica" wherever occurring;
- (xii) by omitting from subparagraph (i) of the same paragraph the words "the disease" and by inserting in lieu thereof the words "a dust disease";

(xiii)

Workers' Compensation (Dust Diseases) Amendment.

- 5 (xiii) by omitting from paragraph (a) of subparagraph (ii) of the same paragraph the words "the disease" where firstly and thirdly occurring and by inserting in lieu thereof the words "a dust disease";
- (xiv) by omitting from subsection two of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 10 (xv) by omitting from the same subsection the words "the disease" wherever occurring and by inserting in lieu thereof the words "the dust disease";
- 15 (xvi) by omitting from subsection (2A) of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 20 (xvii) by omitting from subsection three of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- (xviii) by omitting from subsection (3A) of the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 25 (xix) by omitting from subsection four of the same section the word "committee" and by inserting in lieu thereof the word "board";
- (xx) by omitting subsection five of the same section;
- 30 (xxi) by omitting from paragraph (a) of subsection six of the same section the words "the disease" where firstly and secondly occurring and by inserting in lieu thereof the words "a dust disease";

(xxii)

Workers' Compensation (Dust Diseases) Amendment.

- (xxii) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words "the disease" and by inserting in lieu thereof the words "a dust disease";
- 5 (xxiii) by omitting from subsection seven of the same section the word "committee" and by inserting in lieu thereof the word "board";
- 10 (g) (i) by omitting from section 8A the word "committee" where firstly occurring and by inserting in lieu thereof the words "Silicosis Committee or the board"; Sec. 8A. (Power to vary awards for certain purposes.)
- (ii) by omitting from the same section the word "committee" where thirdly and fourthly occurring and by inserting in lieu thereof the word "board";
- 15 (h) by omitting from section 8B the word "committee" wherever occurring and by inserting in lieu thereof the word "board"; Sec. 8B. (Interim award.)
- 20 (i) by omitting from section 8c the word "committee" and by inserting in lieu thereof the word "board"; Sec. 8c. (Power to terminate or vary awards.)
- (j) (i) by omitting from section 8D the words "the committee's powers under"; Sec. 8D. (Power to resume weekly payments ended under section 60 of Principal Act.)
- 25 (ii) by inserting in the same section after the words "Principal Act" the words "as applied by subsection three of section eight of this Act";
- (iii) by omitting from the same section the word "committee" wherever occurring and by inserting in lieu thereof the word "board";
- 30 (k) (i) by omitting from section nine the words " , shall be deemed to be and to have been entitled to such payments, and any such person shall be deemed to" and by inserting in lieu thereof the words "shall, where such payments
- were,

Workers' Compensation (Dust Diseases) Amendment.

- 5 were, immediately before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, being continued under this section as enacted immediately before that commencement,";
- 10 (ii) by omitting from the same section the words "committee constituted under this Act and the payments made to any such person in any such case are hereby validated" and by inserting in lieu thereof the word "board";
- 15 (l) (i) by omitting from paragraph (a) of sub-Sec. 10. (Regulations.) section two of section ten the words "industry or process or group of industries or processes involving exposure to the risk of contracting a disease caused by silica dust," wherever occurring and by inserting in lieu thereof the words "dust occupation";
- 20 (ii) by omitting from subparagraph (iii) of the same paragraph the words "disease so caused" and by inserting in lieu thereof the words "dust disease";
- 25 (iii) by omitting from subparagraph (iii) of paragraph (b) of the same subsection the word "committee" and by inserting in lieu thereof the word "board";
- (iv) by omitting from paragraph (c) of the same subsection the words "disease caused by silica dust" and by inserting in lieu thereof the words "dust disease".
- 30 (m) by inserting at the end of the Act the following Schedule :—

SCHEDULE.

Sec. 3.

35 Aluminosis
Asbestosis
Bagassosis
Baritosis
Berylliosis

Boiler

Workers' Compensation (Dust Diseases) Amendment.

	Boiler scalers' and repairers' pneumoconiosis
	Byssinosis
	Carbon pneumoconiosis
	Carborundum pneumoconiosis
5	Cement dust pneumoconiosis
	Coal dust pneumoconiosis
	Diatomite pneumoconiosis
	Emery pneumoconiosis
	Farmers' lung
10	Graphite pneumoconiosis
	Hard metal pneumoconiosis
	Micatosis
	Pumice pneumoconiosis
	Siderosis
15	Silicosis
	Silico-tuberculosis
	Sillimanite pneumoconiosis
	Stannosis
	Talcosis
20	Titaniosis

(2) (a) The Workers' Compensation (Silicosis) Committee is hereby dissolved and the chairman, executive member and other members thereof shall, on and from the commencement of this Part of this Act, cease to hold office as
25 such.

(b) The persons who held office as the chairman and executive member and as the other members of the Workers' Compensation (Silicosis) Committee immediately before the commencement of this Part of this Act shall, on
30 and from that commencement, be deemed to have been appointed as the chairman and executive member and as the other members, respectively, of the Workers' Compensation (Dust Diseases) Board and shall, notwithstanding the provisions of section five of the Silicosis Act, hold office as such
35 for the balance of the term for which they were appointed as chairman and executive member, and as the other members, respectively, of the Workers' Compensation (Silicosis) Committee.

(c)

Workers' Compensation (Dust Diseases) Amendment.

(c) On and from the commencement of this Act, in the construction and for the purposes of any Act, by-law, regulation, ordinance or any other instrument or document whatsoever, of the same or a different kind or nature, any reference to, or to be read, deemed and taken to refer to the Workers' Compensation (Silicosis) Committee or to the Workers' Compensation (Silicosis) Fund constituted by the Silicosis Act shall be read, deemed and taken to refer respectively to the Workers' Compensation (Dust Diseases) Board and to the Workers' Compensation (Dust Diseases) Fund, respectively.

(d) Every award, finding, decision, or request of the said Workers' Compensation (Silicosis) Committee shall be deemed to have been an award, finding, decision or request of the Workers' Compensation (Dust Diseases) Board.

(e) Every application, inquiry, investigation or other proceeding commenced by or before the Workers' Compensation (Silicosis) Committee and pending at the commencement of this Act may be continued and completed as though it had been commenced by or before the Workers' Compensation (Dust Diseases) Board.

4. The Silicosis Act is further amended—

Further amendment of Act No. 14, 1942.

(a) by inserting in subsection two of section eight after the word "section" where firstly occurring the words ", not being an award to which subsection (2B) of this section applies,";

Sec. 8. (Certificate of medical authority.)

(b) by inserting next after subsection (2A) of the same section the following new subsections :—

(2B) (a) This subsection applies to every award of the board made, after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, pursuant to paragraph (b) or (c) of subsection one of this section in respect of the death before or after that commencement

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5 commencement of a person (in this subsection and in subsections (2c) and (2D) of this section referred to as "the worker") upon whom there was dependent for support, immediately before his death, the following and no other person or persons :—

(i) his widow; or

10 (ii) where the worker left no widow or no widow who was so dependent, one other person who, although not legally married to the worker, lived with him as his wife on a permanent and bona fide domestic basis for a period of not less than three years immediately preceding the death of the worker; or

15 (iii) either of the dependent persons referred to in subparagraphs (i) and (ii) of this paragraph and a child or children.

20 In this paragraph and in subsections (2c) and (2D) of this section "child" means a child or step-child of the worker under sixteen years of age and a child under that age to whom the worker stood in loco parentis and "children" has a corresponding meaning.

25 (b) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of this subsection was wholly dependent for support on the worker and an award to which this subsection applies is made by the board under paragraph (b) of subsection one of this section, the prescribed rates of compensation payable shall be—

30 (i) the sum of three thousand dollars;

(ii) a weekly payment of fifteen dollars per week, to continue until the marriage or death, whichever event first occurs, of that person; and

35 (iii) a weekly payment of four dollars and thirty cents per week in respect of each child who was wholly or partly dependent on the
worker

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worker for support, to continue in respect of each child until he attains the age of sixteen years or dies, whichever event first occurs.

5 (c) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of this subsection was wholly dependent for support on the worker and an award to which this subsection applies is made pursuant to paragraph (c) of subsection one of this section, the prescribed
10 rates of compensation payable shall be—

- (i) where the disablement for work from the disease was total, the compensation payments prescribed by paragraph (b) of this subsection; or
- 15 (ii) where the disablement for work from the disease was partial, a percentage of the compensation payments prescribed by paragraph (b) of this subsection, such percentage being calculated in accordance with the
20 provisions, mutatis mutandis, of subparagraph (ii) of paragraph (c) of subsection two of this section.

(d) Where the dependent person referred to in subparagraph (i) or (ii) of paragraph (a) of
25 this subsection was partially dependent on the worker for support the prescribed rate of compensation payable shall be such payments, not exceeding in any case the amount that would have
30 been payable as compensation under the award had that person been wholly dependent on the worker for support, as may be determined by the board to be reasonable and proportionate to the injury to that person.

35 (2c) (a) The board shall, on the application of a person who is, or at any time was, entitled under any award made pursuant to this Act before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967,

or

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5 or pursuant to any scheme made under the Workers' Compensation (Silicosis) Act, 1920, as amended by subsequent Acts, to compensation in respect of the death of another person, and the board may of its own motion, order that compensation in respect of such death shall be payable under that award in accordance with the provisions of this subsection.

10 (b) Where the board makes an order under paragraph (a) of this subsection in respect of an award referred to in that paragraph, there shall be payable under that award in addition to any other amounts paid or payable thereunder, such compensation as would have been payable by virtue of subsection (2B) of this section if—

- 15 (i) the award had been made after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, and
- 20 (ii) that subsection had been amended by the omission therefrom of subparagraphs (i) and (iii) of paragraph (b) and the word "and" in subparagraph (ii) of that paragraph.

25 (c) Compensation payable under an award pursuant to paragraph (b) of this subsection shall be payable as from such date, not earlier than the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, as the board, in its discretion, may specify in its order made under this subsection or subsequently determine.

30 (2D) (a) The provisions of section fifty-seven of the Principal Act shall not apply to or in respect of compensation payable under subsection (2B) or (2C) of this section.

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(b) All weekly compensation prescribed by subsection (2B) or (2C) of this section as payable in respect of a child of a worker shall—

- 5 (i) where the worker left a widow, be paid to such widow unless the board otherwise orders;
- 10 (ii) where the worker did not leave a widow or where the board otherwise orders under subparagraph (i) of this paragraph, be paid to such person or institution as the board may direct.

Where the board makes an order under this paragraph the compensation shall be paid in accordance with the terms of such order.

15 (c) All weekly compensation payable under subsection (2B) or (2C) of this section, other than compensation referred to in paragraph (b) of this subsection, shall be paid to the person entitled (otherwise than as a child of the worker) to compensation under the award.

20

(d) All compensation payable under subsection (2B) or (2C) of this section, other than weekly compensation, shall—

- 25 (i) where the board, being of opinion that by reason of the age or health of the person entitled to such compensation or any disability to which she may be subject or for any other reason it would be in her best interests that the compensation be paid in accordance with this subparagraph, so orders, be invested, applied or otherwise dealt with by the board in such manner as the board thinks fit for the benefit of that person;
- 30
- 35 (ii) where the board does not make an order under subparagraph (i) of this paragraph, be paid to the person entitled to such compensation,

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compensation, in one or more lump sums determined by the board.

- 5 (c) by inserting in subsection three of the same section after the words "mutatis mutandis," the words "subject to this section";
- (d) by inserting at the end of paragraph (b) of subsection six of the same section the following words:—

10 For the purposes of this paragraph the amount of any weekly payments prescribed by this Act as compensation payable in respect of the death of a person (not being payments in respect of a child or stepchild of such person or a child to whom he stood in loco parentis) shall be deemed to be a
 15 capital sum the amount of which shall be assessed by the board as the equivalent of such weekly payments. The board shall make such an assessment on the application of a person required to pay
 20 compensation under the Principal Act or a compensation Act in respect of that death and, for that purpose, may act upon or take into account such actuarial or other advice or information as it may think fit.

5. (1) The Silicosis Act is further amended—

Further amendment of Act No. 14, 1942.

- 25 (a) by inserting next after subsection two of section five the following new subsection:—

Sec. 5. (Workers' Compensation Silicosis Committee.)

30 (2A) The chairman of the board may by writing under his hand summon any person to attend a meeting of the board at a time and place named in the summons and then and there to give
 35 evidence in relation to any application or other matter before the board, and to produce any books, documents, or writings in his custody or control which he is required by the summons to produce.

Any

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Any person so summoned who disobeys the summons shall be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred dollars.

5 The chairman may require a person attending a meeting of the board, whether or not in obedience to such a summons, in connection with any application or matter, to give evidence on oath in relation thereto, and for that purpose shall have authority
10 to administer an oath to any such person.

(b) by inserting in subsection (7E) of section six after the words "shall be" the words "guilty of an offence against this Act and"; Sec. 6. (Constitution of Fund.)

15 (c) (i) by omitting from subsection one of section eight the words "the medical authority further certifies" wherever occurring and by inserting in lieu thereof the words ", on the report of the medical authority, further finds"; Sec. 8. (Certificate of medical authority.)

20 (ii) by inserting in subsection two of the same section after the word "shall" where firstly occurring the words ", subject to this section,";

(iii) by inserting next after subsection (3A) of the same section the following new subsection :—

25 (3B) Where the board is satisfied that a person who pursuant to this Act is receiving or entitled to receive weekly payments of compensation under an award in respect of his partial disablement for work from a dust disease has taken all reasonable steps to obtain, and has failed to obtain employment of a kind suited to a person so partially disabled, and that his failure to obtain such employment is a consequence, wholly or mainly, of such disablement, the board may order that his
30 disablement shall be treated as total disablement, and the board may at any time rescind any such order.
35

While

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5 While such an order remains in force the compensation payable under the award shall be that which would have been payable there-
under had the disablement from the disease been total.

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

10 (6A) Where the board makes an award under this section in respect of the total or partial disablement for work of a person from a dust disease, or the death of a person from a dust disease, or the death of a person totally or partially disabled for work from a dust disease, and the board—

15 (a) has found that such person was a worker during only part of the time he was engaged in an occupation to the nature of which the disease was due; and

20 (b) is of the opinion, on the report of the medical authority, that the disablement of that person from the disease (if the award was not made in respect of his death from the disease) or his death from the disease (if the award was so made) was to a substantial extent attributable to his having been exposed to the inhalation of dust during such time as he was engaged in that occupa-
30 tion otherwise than as a worker,

the board shall by the terms of that award fix the rate of compensation to be paid there-
under at such rate, being a lesser rate than would otherwise have been payable under the
35 award in accordance with the terms of this section, as the board considers to be appropriate having regard to the extent or likely extent to which his disablement or death was attributable to his having been so exposed to

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the inhalation of dust, and the prescribed rate of compensation payable under the award shall in such case be the rate of compensation as so fixed by the board.

- 5 (d) (i) by omitting from section 8A the words and figures "Act, 1947-1953" and by inserting in lieu thereof the word and figures "Act 1947";
- (ii) by inserting in the same section after the word "Australia," the words "as amended by subsequent Acts of that Parliament, or any other pension, allowance or benefit under any Act or Act of that Parliament,";

Sec. 8A. (Power to vary awards for certain purposes.)

- 10 (e) by inserting next after the same section the following new section : —

New sec. 8AA.

15 8AA. (1) In this section "prescribed engagement" means engagement (whether before or after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967) in an occupation—

Compensation not payable in certain circumstances.

- 20 (a) as an employee within the meaning of the Commonwealth Employees Compensation Act 1930 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts of that Parliament; or
- 25 (b) under a contract of service or apprenticeship outside New South Wales.

30 (2) (a) This subsection applies to any person who has received or is receiving compensation under any Act or ordinance of the Commonwealth of Australia or any State (other than New South Wales) or Territory of the Commonwealth of Australia or under any law of any country outside the Commonwealth of Australia in respect of—

- 35 (a) his disablement for work from a dust disease contracted in the course of a prescribed engagement; or

(b)

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(b) the death of another person from a dust disease contracted in the course of a prescribed engagement.

5 (b) Subject to this section, but notwithstanding anything elsewhere contained in this Act or any amendment thereof, no person to whom this subsection applies shall, if he or, as the case may be, the person in respect of whose death he has received or is receiving compensation as aforesaid was not after the cessation of his prescribed engagement engaged as a worker in an occupation to the nature of which the disease was due, be entitled to compensation from the Fund for that part of his disablement in respect of which he has so received or is so receiving compensation, or for the death from the disease of that other person, as the case may be.

10
15
20 (3) Every person in receipt of or claiming compensation from the Fund in respect of his total or partial disablement for work from a dust disease or the death of another person from a dust disease shall, on his receiving any compensation under an Act (other than this Act), ordinance or other law referred to in subsection two of this section in respect of his total or partial disablement for work from the disease or the death from the disease of that other person, as the case may be, or on his being notified of his entitlement to any compensation in respect of such disablement or death by the person, authority or body who or which would be liable under such Act, ordinance or law to pay the same, inform the board of such receipt or notification within seven days thereafter and if he does not do so shall be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred dollars.

25
30
35 (4) The board may, if it is of the opinion that any person (in this subsection called the claimant) claiming or receiving compensation from
the

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5 the Fund in respect of his total or partial disable-
 ment for work from a dust disease is or may be
 entitled to other compensation in respect of that
 disablement or death, as the case may be, require
 the claimant to take all appropriate and reasonable
 steps to claim and recover such other compensation
 and may, if it is satisfied that the claimant having
 been so required has not complied with such require-
 10 ment, make an order reducing any compensation
 payable to him from the Fund in respect of such
 disablement or death by such amount or weekly
 amounts as the board may in its discretion deter-
 mine, not exceeding the amount or amounts his
 15 entitlement to which would in the opinion of the
 board be divested by subsection two of this section
 if he had received or were receiving that other
 compensation, and may at any time rescind any
 such order. While any such order remains in force
 the compensation payable to the claimant in respect
 20 of such disablement or death, as the case may be,
 shall, subject to this section but notwithstanding
 anything elsewhere contained in this Act or any
 amendment thereof, be reduced by the amount or
 amounts specified in the order.

25 In this subsection "other compensation" means,
 in relation to any claimant, compensation the
 receipt of which would under subsection two of this
 section divest in whole or in part the claimant's
 entitlement to compensation from the Fund.

30 (5) No person shall be liable by virtue of
 any provisions of this section to repay any money
 paid from the Fund.

(f) by inserting next after section 8D the following new New secs.
8E-8G.
 sections :—

35 8E. (1) Subject to this section, a person who Board's
consent
to employ-
ment to be
obtained
in certain
cases.
 has been engaged either before or after the com-
 mencement of Part II of the Workers' Compensation
 (Dust Diseases) Amendment Act, 1967—

40 (a) in any dust occupation otherwise than as a
 worker;

(b)

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5 (b) in any industry or process in Broken Hill mines or mines to which the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, applies which is of such a nature that workers engaged therein are exposed to the risk of contracting a dust disease; or

10 (c) in an occupation of any kind outside New South Wales, whether or not under a contract of service or apprenticeship,

15 and who has not after ceasing to be so engaged or (if he has been so engaged more than once) after the cessation of his last such engagement, obtained the prior consent of the board to his being employed in a particular dust occupation shall, if after such commencement he is engaged as a worker in that dust occupation, be deemed for the purposes of sections eight and 8AA of this Act to be engaged therein otherwise than as a worker until he has
20 obtained that consent.

(2) Where a person applies for the consent of the board pursuant to subsection one of this section, the board shall not give that consent unless it is of the opinion, on the report of the medical authority, that during his engagement in any occupation, industry or process referred to in paragraph (a), (b) or (c) of subsection one of this section that person—
25

30 (a) was not exposed to any substantial risk of the inhalation of dust, or

(b) was not affected by the inhalation of dust to such an extent that he ought not to be employed in that dust occupation.

35 (3) The consent of the board under this section may be given in respect of a specified dust occupation or occupations, or a specified class or description of dust occupations, or all dust occupations except a specified occupation or occupations or class or description thereof.

(4)

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(4) Subsection one of this section shall not apply to or in respect of any person—

5 (a) by reason only of his having been engaged, before the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, in an occupation, industry or process referred to in paragraph (a), (b) or (c) of subsection one of this section if, after ceasing to be so engaged
10 but before such commencement, he was engaged as a worker in a dust occupation; or

15 (b) by reason only of his engagement in an industry or process which at the time when the current period of such engagement commenced was not a dust occupation; or

20 (c) in respect of any period of engagement of that person in an industry or process that, but for that subsection would be a period of engagement as a worker, or any part of that period, if the board on the application, made at any subsequent time, of that person or his dependants is satisfied that
25 his failure before that period or that part of a period, as the case may be, to seek the consent referred to in that subsection was due to mistake of, or ignorance of, fact or law, or due to other reasonable cause, and excuses such failure.

30 8F. There shall be kept constantly posted up in some conspicuous place at or near every mine, quarry, factory, or workshop wherein workers are employed in any dust occupation, where it may be conveniently read by the workers so employed, such
35 information as to or summary of the provisions of this Act, regulations made thereunder, and those provisions of the Principal Act which are applicable to awards under this Act, and such information

as

Prescribed information to be posted up. cf. Act No. 15, 1926, s. 43.

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as to dust diseases, employment in dust occupations, and applications for awards under this Act, as may be prescribed.

5 In the event of any non-compliance with the provisions of this section, the owner, agent, or manager of the mine or quarry, or the occupier of the factory or workshop, shall be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred dollars.

10 8G. (1) Proceedings for an offence against this Act or the regulations made under this Act, other than an offence under subsection (7E) of section six of this Act, may be taken and prosecuted by any person acting with the authority of the Minister. Proceedings.

15 In a prosecution for any such offence an authority to prosecute, purporting to have been signed by the Minister, shall be prima facie proof of such authority without proof of the Minister's signature.

20 (2) All proceedings for offences against this Act or the regulations made under this Act may be disposed of summarily before a stipendiary magistrate.

25 (g) (i) by inserting next after paragraph (b) of subsection two of section ten the following new paragraphs :— Sec. 10. (Regulations.)

30 (b1) requiring persons to furnish to the Board such information as may be specified in the regulations and such other information as the board may require, in relation to the employment and remuneration of applicants for awards of compensation under this Act, of persons receiving compensation under such awards, of persons claimed

35 to be dependent on any such applicant

or

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or person receiving compensation, and of persons in respect of whose death application is made for such awards;

5 (b2) prescribing as a dust occupation any industry or process (other than an industry or process carried on in Broken Hill mines or mines to which the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, applies) that is of such a nature that
10 workers engaged therein are exposed to the risk of contracting a dust disease;

15 (ii) by omitting subsection three of the same section.

(2) Every certificate of the medical authority under subparagraph (ii) of paragraph (a) or subparagraph (ii) of paragraph (b), or subparagraph (ii) of paragraph (b) of subparagraph (ii) of paragraph (c), of subsection one of
20 section eight of the Silicosis Act shall be deemed to be a finding by the Workers' Compensation (Dust Diseases) Board on the report of the medical authority.

(3) This Part of this Act shall commence upon a day to be appointed by the Governor and notified by proclama-
25 tion published in the Gazette.

PART III.

AMENDMENT OF THE PRINCIPAL ACT.

6. (1) In this Part "dust injury" means any injury, as defined in section six of the Principal Act immediately before
30 the commencement of this Part of this Act, not being an injury as defined in that section immediately after that commencement.

Amendment of Act No. 15, 1926.

(2)

Workers' Compensation (Dust Diseases) Amendment.

(2) The Principal Act is amended—

(a) (i) by omitting from subsection one of section Sec. 6. six the definition of "Disease caused by silica (Definitions.) dust";

5 (ii) by omitting from the definition of "Injury" in the same subsection the words "disease caused by silica dust" where firstly occurring and by inserting in lieu thereof the words
10 "dust disease, as defined by the Workers' Compensation (Dust Diseases) Act, 1942–1967, or any Act amending or replacing that Act";

15 (iii) by omitting from the same definition the words "disease caused by silica dust" where secondly occurring and by inserting in lieu thereof the words "dust disease, as so defined";

20 (b) (i) by omitting from subsection one of section Sec. 18. eighteen the words "forty thousand dollars" (Compulsory in-
surance.) and by inserting in lieu thereof the words "fifty thousand dollars";

(ii) by inserting in the same subsection after the words "in force :—" the following words :—

25 In its application to this section the definition of "Injury" in subsection one of section six of this Act shall be deemed to be amended by the omission therefrom of the words "but
30 does not, save in the case of a worker employed in or about a mine to which the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, applies, include a dust disease, as defined by the Workers' Compensation (Dust Diseases) Act, 1942–1967, or any Act amending or replacing that Act, or the aggravation, acceleration, exacerbation or deterioration of
35 a dust disease, as so defined".

(iii)

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(iii) by inserting next after subsection (6A) of the same section the following new subsection :—

5 (6B) For the purposes of any contract of insurance or indemnity obtained by an employer after the commencement of Part III of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, or obtained by him before and being maintained in force after 10 such commencement, the liability of the employer, independently of this Act, for an injury, being an occupational disease, to a worker shall be deemed to have arisen when 15 the worker was last employed by the employer in an employment to the nature of which the disease was due.

20 In this paragraph "occupational disease" means a disease which is of such a nature as to be contracted by a gradual process, and includes the condition known as boilermaker's deafness, or any deafness of the like origin, and total or partial loss of sight which is of gradual onset.

25 (3) (a) A person who, immediately before the commencement of this Part of this Act, was in receipt of continuing payments of compensation under the Principal Act in respect of a dust injury or who is entitled to obtain compensation under the Principal Act in respect of the death, before that commencement, of any person as a result of a 30 dust injury or who is entitled under an award of the Workers' Compensation Commission of New South Wales to compensation in respect of a dust injury shall, if the injury was—

35 (i) to himself or another person, have in respect of that injury the same entitlement to compensation under the Principal Act and the same rights and powers, and be subject in respect thereof to the same duties and liabilities as he would have had, or been subject to, if this Act had not been enacted;

(ii)

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(ii) to himself, not be entitled to compensation under the Silicosis Act or any amendment thereof in respect of his total or partial disablement from the injury.

5 (b) Subject to paragraph (a) of this subsection, on and from the commencement of this Part of this Act—

(i) no person shall be entitled under the Principal Act to compensation in respect of a dust injury received before or after such commencement;

10 (ii) for the purposes of every application, award, certificate, finding and report made or given under the Silicosis Act, as amended by this Act, in respect of the total or partial disablement for work, or the death, of any person from a dust disease, the
15 Workers' Compensation (Dust Diseases) Board and the medical authority constituted under that Act, as so amended, shall, whether or not the disease was one to which the Silicosis Act applied before such commencement, have regard to any
20 occupations in which that person was engaged before such commencement as well as to those, if any, in which he was engaged after such commencement.

(4) Subject to paragraph (b) of subsection three of
25 this section, no amendment made by this Act shall affect the operation of any award made under the Principal Act before or after the commencement of this Part of this Act or any jurisdiction, right, power, duty or liability of the Workers' Compensation Commission of New South Wales
30 or any person in relation to any such award.

(5) (a) On the death, after the commencement of this Part of this Act, of a worker who, immediately before his death, was receiving, or entitled under an award of the Workers' Compensation Commission of New South Wales to
35 receive, continuing weekly payments of compensation in

respect

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respect of his total or partial disablement for work from a dust injury, he shall, for the purposes of section eight of the Silicosis Act, as amended by this Act, be deemed to have been receiving, immediately before his death, continuing payments of compensation at the prescribed rates from the Fund constituted under that Act, as so amended, in respect of his disablement for work from a dust disease.

(b) Where the disablement for work of a worker referred to in paragraph (a) of this subsection was partial, the percentage referred to in subparagraph (ii) of paragraph (c) of subsection two of section eight of the Silicosis Act, as amended by this Act, shall be deemed to be the proportion, expressed as a percentage, that the weekly payment of compensation received by him immediately before his death bore to the weekly compensation that, had his disablement been total, would have been payable to him at that time under the Principal Act or any amendment thereof.

(c) No person shall be entitled under the Principal Act or any amendment thereof to compensation in respect of the death of a worker referred to in paragraph (a) of this subsection.

(6) (a) In every policy of insurance or indemnity obtained pursuant to section eighteen of the Principal Act before the commencement of this Part of this Act and being maintained in force at such commencement the word "injury" shall have the extended meaning to be ascribed thereto in that section pursuant to the amendment made by paragraph (b) of subsection two of this section.

(b) Any such policy so obtained, and being so maintained in force shall, where such policy does not insure the employer against his liability independently of the Principal Act for an amount of at least fifty thousand dollars for any injury to any worker employed by him, be deemed to insure the employer against his liability independently of that Act to the extent of fifty thousand dollars in respect of any injury to any worker employed by him.

(c)

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(c) This subsection shall apply only to and in respect of injuries received or deemed to have been received after the commencement of this Part of this Act.

(7) The Principal Act, as amended by this Act, may
5 be cited as the Workers' Compensation Act, 1926-1967.

(8) This Part of this Act shall commence upon the day upon which Part II of this Act commences.

PART IV.

AMENDMENT OF THE WORKMEN'S COMPENSATION (BROKEN
10 HILL) ACT, 1920, AS AMENDED BY SUBSEQUENT ACTS.

7. (1) The Workmen's Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts, is amended— Amendment of Act No. 36, 1920.

(a) by omitting from paragraph 6 of Part II of the Schedule, Schedule, par. 6.
15 in lieu thereof the words "Subject to clause (2) of this paragraph, the rates";

(b) by omitting from subparagraph (a) of the same paragraph the following words and figures :—

20 "Provided that the total additional sum in respect of dependants shall not exceed
11 50";

(c) by omitting from the same paragraph the following words :—

25 "Provided that except to the extent provided for in paragraph 6A of this scheme in no case shall the total weekly payment to be made under this scheme exceed the sum of twenty-one dollars per week :";

(d)

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(d) by inserting at the end of the same paragraph the following new clause :—

5 (2) (a) Where, but for this clause, the rate of compensation payable under clause (1) of this paragraph to a beneficiary (not being a person who immediately before the commencement of Part IV of the Workers' Compensation (Dust Diseases) Amendment Act, 1967, was in receipt of compensation under this scheme) in respect of his
10 disablement, together with any additional amount per week he is eligible to be paid under paragraph 6A of this scheme, would exceed his average weekly earnings, such excess shall be deducted from the rate of compensation that would otherwise be payable to him under clause one of this paragraph.
15

(b) For the purposes of this clause "average weekly earnings" means the weekly sum to which the total weekly payment of compensation would have been for the time being limited by subsection two of section nine of the Workers' Compensation Act, 1926, as amended by subsequent Acts (whether enacted before or after the commencement of Part II of the Workers' Compensation (Dust Diseases) Amendment Act, 1967)—
20

25 (i) if the disablement in respect of which the beneficiary is entitled to compensation under this scheme were an injury as defined by the Workers' Compensation Act, 1926, as so amended; and

30 (ii) if the beneficiary were entitled under that Act, as so amended, to a weekly payment of compensation for incapacity for work resulting from such injury.

(2) The amendments made by paragraphs (b) and
35 (c) of subsection one of this section shall be deemed to extend to, and from the commencement of this Part of this Act, apply

in

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in respect of all persons who were immediately before such commencement in receipt of compensation under the Workmen's Compensation (Broken Hill) Act, 1920-1965, as well as to all persons becoming entitled to compensation there-
5 under after such commencement.

(3) 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, 1920-1967.

10 (4) This Part of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES-1967

