

FIRST PRINT

WORKERS' COMPENSATION (AMENDMENT) BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Workers' Compensation Act 1926 so as to remove the requirement for employers to obtain workers' compensation insurance in respect of trainees under the Australian Traineeship System and to provide for the Government to meet the cost of workers' compensation for those trainees.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 defines the Principal Act.

Clause 4 is a formal provision that gives effect to the Schedule amending the Principal Act.

Clause 5 is a transitional provision to provide workers' compensation insurance cover for any trainees whose traineeship commences before the commencement of the proposed Act.

Schedule 1 inserts new subsections (2A)–(2K) into section 18 (compulsory insurance) of the Principal Act.

Proposed subsection (2A) defines "trainee" for the purposes of the proposed new provisions. "Trainee" means a person who is a trainee under a traineeship approved by the Commerce and Industry Training Council of New South Wales for the purposes of the Australian Traineeship System, and includes, where the Chairperson of that Council or a delegate of the Chairperson has determined that a person should be regarded as a trainee for the purposes of subsections (2B)-(2K) during a specified period prior to the time when an application for approval by that Council of a traineeship for the purposes of the Australian Traineeship System in respect of that person is dealt with, that person during that period.

Proposed subsection (2B) provides that an employer is not required to obtain a workers' compensation insurance policy in respect of a trainee.

Proposed subsection (2C) deems an employer of a trainee to hold a workers' compensation insurance policy with the Government Insurance Office in respect of the trainee.

Proposed subsection (2D) provides that a deemed policy of insurance shall contain such provisions as are prescribed by regulation.

Proposed subsection (2E) provides that employers under deemed policies of insurance who are not self-insurers shall pay the first \$500 of each claim where the total of their annual premiums (including premiums that would have been payable in respect of trainees) exceeds \$2,000.

Proposed subsection (2F) provides that employers under deemed policies of insurance who are self-insurers shall pay the first \$500 of each claim. In effect, this puts self-insurers in the position they would be in if they were employers paying premiums.

Proposed subsection (2G) exempts any insurer under a policy that would normally cover trainees from liability in respect of those trainees.

Proposed subsection (2H) is a consequential provision.

Proposed subsection (2I) authorises the making of regulations providing that the provisions of the Principal Act or the regulations shall apply, modified as prescribed, or shall not apply, to trainees, employers, insurers, etc., in respect of whom a deemed policy is in force.

Proposed subsection (2J) appropriates out of the Consolidated Fund such sums as the Treasurer directs to reimburse the Government Insurance Office in respect of its liability under deemed policies and for associated expenses.

Proposed subsection (2K) authorises the making of regulations requiring employers to furnish information in respect of the employment of trainees.

WORKERS' COMPENSATION (AMENDMENT) BILL 1986

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Principal Act
4. Amendment of Act No. 15, 1926
5. Transitional provision

SCHEDULE 1—AMENDMENT TO THE PRINCIPAL ACT

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 351

WORKERS' COMPENSATION (AMENDMENT) BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the Workers' Compensation Act 1926 to make provision with respect to workers' compensation for trainees under the Australian Traineeship System.

Workers' Compensation (Amendment) 1986

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:

5 Short title

1. This Act may be cited as the "Workers' Compensation (Amendment) Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

15 3. The Workers' Compensation Act 1926 is referred to in this Act as the Principal Act.

Amendment of Act No. 15, 1926

4. The Principal Act is amended in the manner set forth in Schedule 1.

Transitional provision

20 5. Where the Chairperson of the Commerce and Industry Training Council, or a delegate of the Chairperson, determines that a person would, had this Act been in force at a time prior to the day appointed and notified under section 2 (2), have been a "trainee" as defined in section 18 (2A) of the Principal Act from a time or for a period specified in the determination,
25 the provisions of section 18 (2B)-(2K) of the Principal Act and any regulations made for the purposes of those provisions shall apply to and in respect of that person as if this Act and those regulations had come into force at that time or were in force during that period.

SCHEDULE 1

(Sec. 4)

AMENDMENT TO THE PRINCIPAL ACT

Section 18 (**Compulsory insurance**)—

5 Section 18 (2A)–(2K)—

After section 18 (2), insert:

(2A) In subsections (2B)–(2K)—

10 “trainee” means a person who is a trainee under a traineeship approved by the Commerce and Industry Training Council of New South Wales for the purposes of the Australian Traineeship System, and includes, where the Chairperson of that Council or a delegate of the Chairperson has determined that a person should be regarded as a trainee for the purposes of subsections (2B)–(2K) during a specified period prior to the time when an application for approval by that Council of a traineeship for the purposes of the Australian Traineeship System in respect of that person is dealt with, that person during that period.

20 (2B) Subsection (1) does not require an employer to obtain a policy of insurance or indemnity in respect of a trainee.

(2C) The employer of a trainee shall be deemed to hold a policy of insurance with the Government Insurance Office—

(a) for the full amount of the employer’s liability under this Act in respect of that trainee; and

25 (b) for an unlimited amount in respect of the employer’s liability independently of this Act for any injury to that trainee.

30 (2D) A policy of insurance deemed by subsection (2C) to be held by an employer shall contain such provisions as are prescribed.

Workers' Compensation (Amendment) 1986

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT—*continued*

5 (2E) A policy of insurance deemed by subsection (2C) to be held by an employer who is not a self-insurer shall, in addition to containing the provisions referred to in subsection (2D), contain such provisions as are prescribed for, or in relation to, requiring the employer under the policy to pay the first \$500 of each claim under the policy where the total of the premiums for policies of insurance or indemnity payable by the employer (together with the premium that would have been payable had the employer been required to obtain a policy of insurance or indemnity in place of the deemed policy of insurance) for the current year exceeds \$2,000.

10 (2F) A policy of insurance deemed by subsection (2C) to be held by an employer who is a self-insurer shall, in addition to containing the provisions referred to in subsection (2D), contain such provisions as are prescribed for, or in relation to, requiring the employer under the policy to pay the first \$500 of each claim under the policy.

15 (2G) An insurer (other than the Government Insurance Office) shall not be subject to any liability in respect of a trainee to the extent that the employer of the trainee is indemnified under a policy of insurance deemed by subsection (2C) to be held by the employer.

20 (2H) A reference in this Act, other than in subsections (2A)–(2K) and subsection (3), to a policy of insurance or indemnity includes a reference to a policy of insurance deemed by subsection (2C) to be held by an employer.

25 (2I) The regulations may provide that any provision of this Act (other than a provision of subsections (2A)–(2K)) or the regulations—

30 (a) shall apply with such modifications as are prescribed; or

(b) shall not apply,

to or in respect of—

(c) a trainee;

*Workers' Compensation (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT—*continued*

- (d) the employer or a person deemed to be the employer (including an employer who is a self-insurer) of a trainee;
- (e) the insurer of an employer of a trainee;
- 5 (f) a policy of insurance deemed by subsection (2c) to be held by an employer;
- (g) a policy of insurance or indemnity held by the employer of a trainee; or
- (h) the Government Insurance Office in its role of deemed insurer under subsection (2c),

10 and those provisions shall apply, or not apply, accordingly.

(2j) There shall be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly) in such sums and at such times as the Treasurer directs any amount necessary to reimburse the Government Insurance Office for payments in respect of any liability under a policy of insurance deemed by subsection (2c) to be held by an employer and for any associated administrative or other expenses.

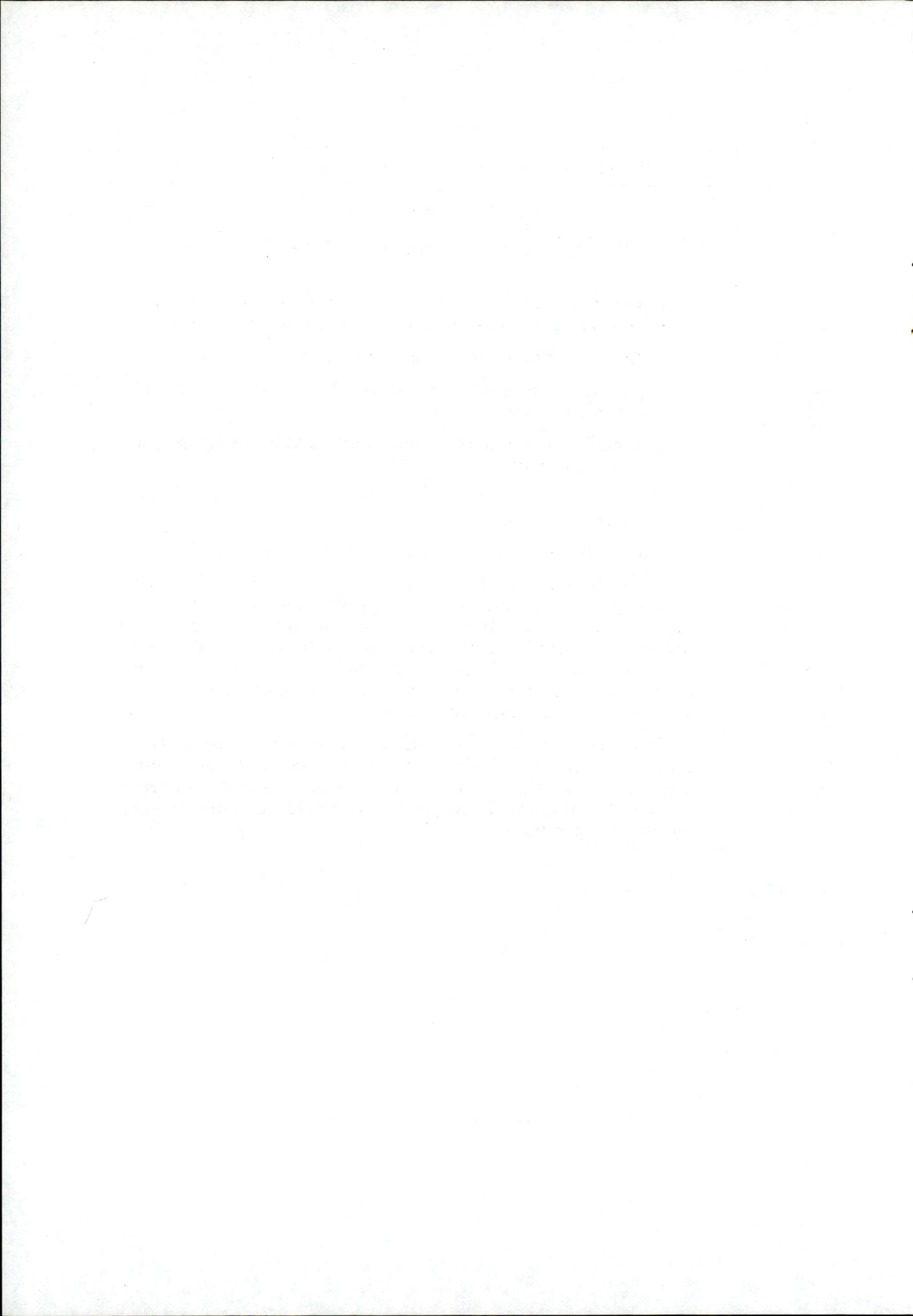
15

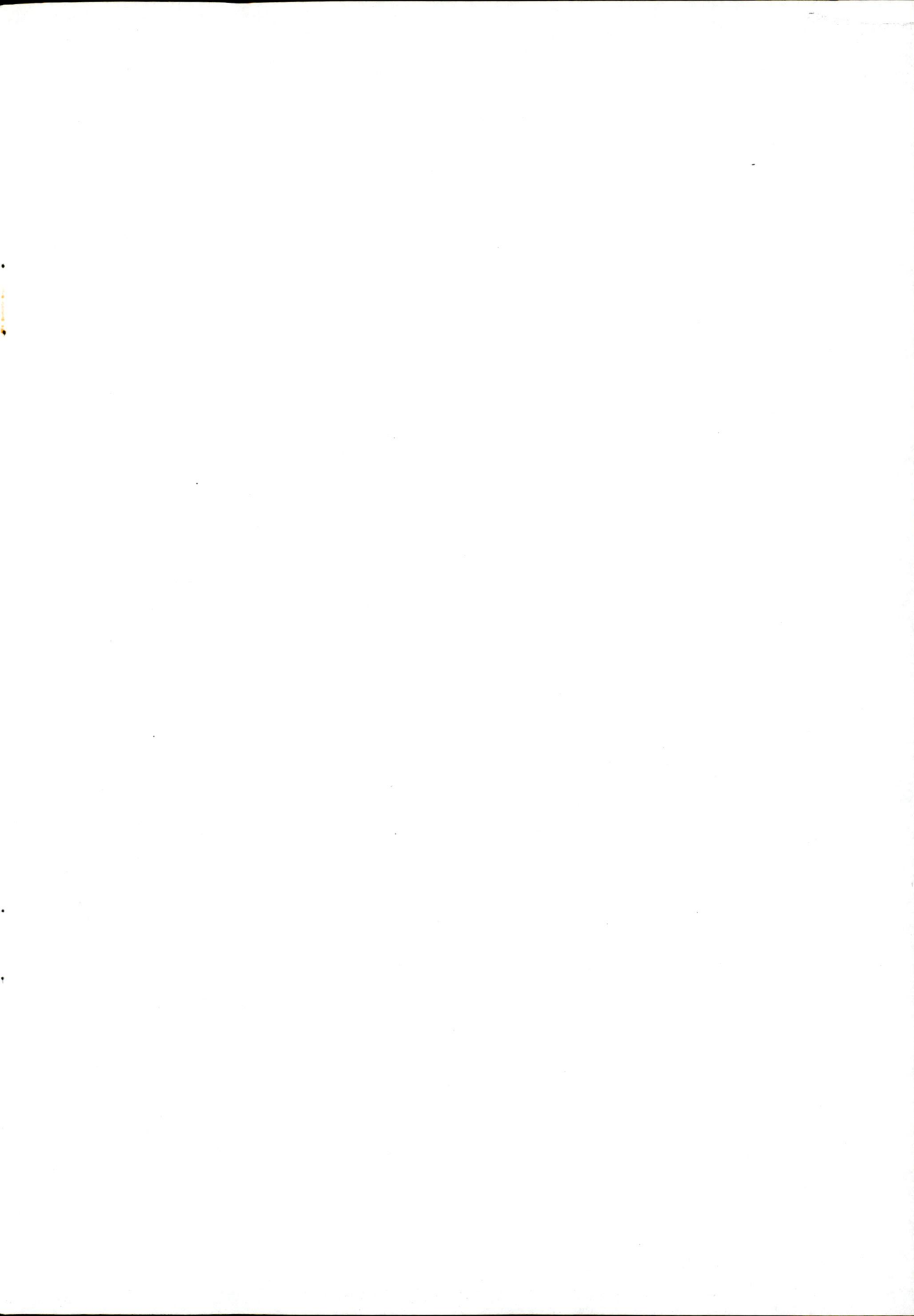
(2k) The regulations may require an employer to furnish to a prescribed person or body, at the prescribed times or within prescribed periods, such information with respect to trainees employed or formerly employed by the employer as may be set out in the regulations.

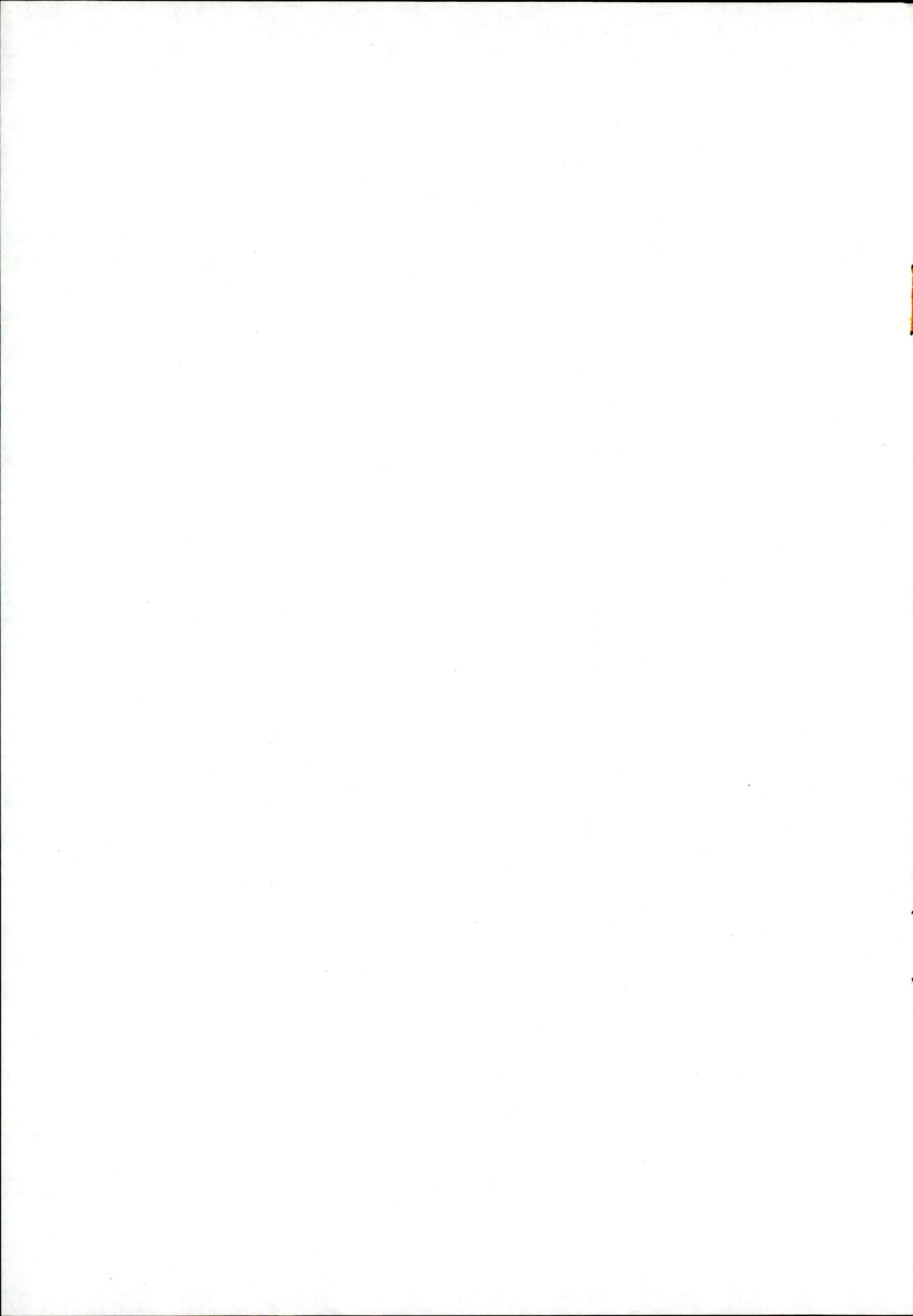
20

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986







WORKERS' COMPENSATION (AMENDMENT) ACT 1986
No. 75

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Principal Act
4. Amendment of Act No. 15, 1926
5. Transitional provision

SCHEDULE 1—AMENDMENT TO THE PRINCIPAL ACT



WORKERS' COMPENSATION (AMENDMENT) ACT 1986 No. 75

NEW SOUTH WALES



Act No. 75, 1986

An Act to amend the Workers' Compensation Act 1926 to make provision with respect to workers' compensation for trainees under the Australian Traineeship System. [Assented to, 21 May 1986]

Workers' Compensation (Amendment) 1986

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

Short title

1. This Act may be cited as the "Workers' Compensation (Amendment) Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

3. The Workers' Compensation Act 1926 is referred to in this Act as the Principal Act.

Amendment of Act No. 15, 1926

4. The Principal Act is amended in the manner set forth in Schedule 1.

Transitional provision

5. Where the Chairperson of the Commerce and Industry Training Council, or a delegate of the Chairperson, determines that a person would, had this Act been in force at a time prior to the day appointed and notified under section 2 (2), have been a "trainee" as defined in section 18 (2A) of the Principal Act from a time or for a period specified in the determination, the provisions of section 18 (2B)-(2K) of the Principal Act and any regulations made for the purposes of those provisions shall apply to and in respect of that person as if this Act and those regulations had come into force at that time or were in force during that period.

SCHEDULE 1

(Sec. 4)

AMENDMENT TO THE PRINCIPAL ACT

Section 18 (**Compulsory insurance**)—

Section 18 (2A)–(2K)—

After section 18 (2), insert:

(2A) In subsections (2B)–(2K)—

“trainee” means a person who is a trainee under a traineeship approved by the Commerce and Industry Training Council of New South Wales for the purposes of the Australian Traineeship System, and includes, where the Chairperson of that Council or a delegate of the Chairperson has determined that a person should be regarded as a trainee for the purposes of subsections (2B)–(2K) during a specified period prior to the time when an application for approval by that Council of a traineeship for the purposes of the Australian Traineeship System in respect of that person is dealt with, that person during that period.

(2B) Subsection (1) does not require an employer to obtain a policy of insurance or indemnity in respect of a trainee.

(2C) The employer of a trainee shall be deemed to hold a policy of insurance with the Government Insurance Office—

(a) for the full amount of the employer's liability under this Act in respect of that trainee; and

(b) for an unlimited amount in respect of the employer's liability independently of this Act for any injury to that trainee.

(2D) A policy of insurance deemed by subsection (2C) to be held by an employer shall contain such provisions as are prescribed.

Workers' Compensation (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENT TO THE PRINCIPAL ACT—*continued*

(2E) A policy of insurance deemed by subsection (2C) to be held by an employer who is not a self-insurer shall, in addition to containing the provisions referred to in subsection (2D), contain such provisions as are prescribed for, or in relation to, requiring the employer under the policy to pay the first \$500 of each claim under the policy where the total of the premiums for policies of insurance or indemnity payable by the employer (together with the premium that would have been payable had the employer been required to obtain a policy of insurance or indemnity in place of the deemed policy of insurance) for the current year exceeds \$2,000.

(2F) A policy of insurance deemed by subsection (2C) to be held by an employer who is a self-insurer shall, in addition to containing the provisions referred to in subsection (2D), contain such provisions as are prescribed for, or in relation to, requiring the employer under the policy to pay the first \$500 of each claim under the policy.

(2G) An insurer (other than the Government Insurance Office) shall not be subject to any liability in respect of a trainee to the extent that the employer of the trainee is indemnified under a policy of insurance deemed by subsection (2C) to be held by the employer.

(2H) A reference in this Act, other than in subsections (2A)–(2K) and subsection (3), to a policy of insurance or indemnity includes a reference to a policy of insurance deemed by subsection (2C) to be held by an employer.

(2I) The regulations may provide that any provision of this Act (other than a provision of subsections (2A)–(2K)) or the regulations—

- (a) shall apply with such modifications as are prescribed; or
- (b) shall not apply,

to or in respect of—

- (c) a trainee;

Workers' Compensation (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENT TO THE PRINCIPAL ACT—*continued*

- (d) the employer or a person deemed to be the employer (including an employer who is a self-insurer) of a trainee;
- (e) the insurer of an employer of a trainee;
- (f) a policy of insurance deemed by subsection (2c) to be held by an employer;
- (g) a policy of insurance or indemnity held by the employer of a trainee; or
- (h) the Government Insurance Office in its role of deemed insurer under subsection (2c),

and those provisions shall apply, or not apply, accordingly.

(2j) There shall be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly) in such sums and at such times as the Treasurer directs any amount necessary to reimburse the Government Insurance Office for payments in respect of any liability under a policy of insurance deemed by subsection (2c) to be held by an employer and for any associated administrative or other expenses.

(2k) The regulations may require an employer to furnish to a prescribed person or body, at the prescribed times or within prescribed periods, such information with respect to trainees employed or formerly employed by the employer as may be set out in the regulations.

