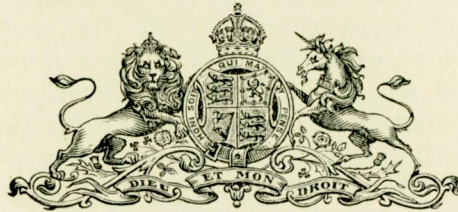


This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.

RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 25 September, 1913, A.M.

New South Wales.



ANNO QUARTO

GEORGII V REGIS.

Act No. , 1913.

An Act to amend the Workmen's Compensation Act, 1910; to provide for compensation to workmen and their families for certain diseases due to the nature of their employment, and for personal injuries other than by accident; to amend certain Acts; and for purposes consequent thereon and incidental thereto.

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

Workmen's Compensation (Amendment).

1. This Act may be cited as the "Workmen's Compensation (Amendment) Act, 1913." Short title and commencement.

It shall commence and come into force on the first day of January, one thousand nine hundred and fourteen.

5 2. Section two of the Workmen's Compensation Act, 1910, is hereby repealed, together with the First Schedule to the said Act, and the following section is substituted for the said section :— Definitions. English Act, 1906, s. 13.

10 2. (1) In this Act, unless the context otherwise requires—

15 "Employer" includes any body of persons, corporate or unincorporate, and the legal personal representative of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Act, be deemed to continue to be the employer of the workman whilst he is working for that other person.

20 "Workman" does not include any person employed otherwise than by way of manual labour whose remuneration exceeds two hundred and fifty pounds a year, or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business, or a member of the police force, or an out-
30 worker, or a member of the employer's family dwelling in his house ;

35 but, save as aforesaid, means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, or oral or in writing, and includes a seaman, but only if he is employed in a coast trade
40 ship and is a workman as above-defined.

Any

Workmen's Compensation (Amendment).

- 5 Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependants or other person to whom or for whose benefit compensation is payable.
- 10 "Coast trade ship" means ship trading only between or within ports of this State.
- 15 "Court" means court or magistrate having jurisdiction to hear proceedings or applications for or in relation to any claim for compensation under this Act.
- 20 "Dependents" means such of the members of the workman's family as were wholly or in part dependent upon the earnings of the workman at the time of his death, or would but for the incapacity due to the accident have been so dependent, and where the workman, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon his earnings, or, being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child and parent or grandparent respectively.
- 25 "Member of a family" means wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister.
- 30 "Minister" means Minister for Labour and Industry or other the Minister of the Crown charged with the administration of this Act.
- 35 "Outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in his own home or on other premises not under the control or management of the person who gave out the materials or articles.
- 40 "Prescribed"

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"Prescribed" means prescribed by this Act or by regulations made thereunder.

"Seaman" includes master, officer, apprentice, or other person employed or engaged in any capacity on board a ship in connection with the navigation or working of the ship.

"Ship" means vessel used in navigation not ordinarily propelled by oars.

"This State," means the State of New South Wales.

(2) The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this Act, be treated as the trade or business of the authority. Social authorities who are employers.

3. Section three of the Workmen's Compensation Act, 1910, is repealed. Repeal of Act of 1910, s. 3.

4. Section five of the same Act is amended as follows:— Amendment of s. 5.

(a) Omit "to which this Act applies"

(b) At end of section add the following:—

Provided that this section shall not apply to any accident in respect of which an allowance may be granted under the Miners' Accident Relief Act, 1900, or any Act amending it. But payment to the Miners' Accident Relief Fund shall not preclude a miner from receiving benefit under clause six of this Act.

5. Section fifteen of the same Act is amended as follows:— Amendment of s. 15.

(a) In subsection three, omit "although he does not habitually employ four persons"

(b) In subsection four omit paragraph (c)

6. There shall be added, to follow section five of the said Act, a new section as follows:— New section 5A.

5A. (1) Where—

(i) a certifying surgeon appointed by the Minister for the purposes of this Act certifies that the workman is suffering from a disease mentioned in the Third Schedule to this Act and is thereby disabled from earning full wages at the work at which he was employed; or Application of Act to industrial diseases. Eng. Act, 1906, s. 8.

(ii)

Workmen's Compensation (Amendment).

- (ii) the death of a workman is caused by any such disease ;
and the disease is due to the nature of any employment in which the workman was employed at any time within the twelve months previous to the date of the disablement, whether under one or more employers, he or his dependants shall be entitled to compensation under this Act as if the disease were a personal injury by accident arising out of and in the course of that employment, subject to the following modifications:—
- (a) The disablement shall be treated as the happening of an accident.
- (b) If it is proved that the workman has at the time of entering the employment wilfully and falsely represented himself in writing as not having previously suffered from the disease, compensation shall not be payable.
- (c) The compensation shall be recoverable from the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due :
- Provided that—
- (i) the workman or his dependents, if so required, shall furnish that employer with such information as to the names and addresses of all the other employers who employed him in the employment during the said twelve months as he or they may possess, and if such information is not furnished, or is not sufficient to enable that employer to take proceedings under the next following proviso, that employer, upon proving that the disease was not contracted whilst the workman was in his employment, shall not be liable to pay compensation ; and
- (ii) if that employer alleges that the disease was in fact contracted whilst the workman was in the employment of some other

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- 5 other employer, and not whilst in his
employment, he may join such other
employer as a co-defendant to the pro-
ceedings, and if the allegation is proved,
that other employer shall be the em-
ployer from whom the compensation is
to be recoverable; and
- 10 (iii) if the disease is of such a nature as to be
contracted by a gradual process, any
other employers who, during the said
twelve months, employed the workman
in the employment to the nature of
15 which the disease was due, shall be
liable to make to the employer from
whom compensation is recoverable such
contributions as, in default of agree-
ment, may be determined on substan-
20 tive proceedings instituted by such last
mentioned employer in the court which
has settled the amount of the com-
pensation.
- (d) The amount of the compensation shall be
calculated with reference to the earnings of
25 the workman under the employer from whom
the compensation is recoverable.
- (e) The employer to whom notice of the death
or disablement is to be given shall be the
employer who last employed the workman
30 during the said twelve months in the
employment to the nature of which the
disease was due, and the notice may be given
notwithstanding that the workman has
voluntarily left his employment.
- (f) If an employer or a workman be aggrieved
35 by the action of a certifying surgeon in
giving or refusing to give a certificate of
disablement, for the purposes of this section,
the matter shall, in accordance with regula-
tions made under this Act, be referred to a
40 medical referee, whose decision shall be
final.

Workmen's Compensation (Amendment).

5 (2) If the workman at or immediately before
the date of the disablement was employed in any
process mentioned in the second column of the
Third Schedule to this Act, and the disease con-
tracted is the disease in the first column of that
Schedule set opposite the description of the process,
the disease, except where the certifying surgeon
certifies that in his opinion the disease was not due
10 to the nature of the employment, shall be deemed
to have been due to the nature of that employ-
ment, unless the employer proves the contrary.

(3) The Governor may make regulations
prescribing the duties and fees of certifying
surgeons under this section.

15 (4) For the purposes of this section, the date
of disablement shall be such date as the certifying
surgeon certifies as the day on which the disable-
ment commenced, or, if he is unable to certify such
a date, the date on which the certificate is given :

20 Provided that—

(a) where the medical referee allows an appeal
against a refusal by a certifying surgeon
to give a certificate of disablement, the
date of disablement shall be such date as
25 the medical referee may determine ;

(b) where a workman dies without having
obtained a certificate of disablement, or is
at the time of death not in receipt of a
weekly payment on account of disable-
ment, it shall be the date of death.

30 (5) The Governor may by proclamation
make orders for extending the provisions of this
section to other diseases and other processes, and to
injuries due to the nature of any employment
specified in the order not being injuries by accident,
35 either without modification or subject to such
modifications as may be contained in the order.

(6) Nothing in this section shall affect the
rights of a workman to recover compensation in
40 respect of a disease to which this section does not
apply, if the disease is a personal injury by accident
within the meaning of this Act.

Workmen's Compensation (Amendment).

7. The following sections are inserted next after section thirteen of the Workmen's Compensation Act, 1910:—

Appointment
of medical
referees.

Eng. Act,
1906, s. 10.

5 13A. The Minister may appoint such legally qualified medical practitioners as he may determine to be certifying surgeons and medical referees respectively for the purposes of this Act, and the remuneration of, and other expenses incurred by certifying surgeons and medical referees under this Act shall, subject to regulations made hereunder, be paid out of moneys provided by Parliament.

10 Where a certifying surgeon or medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or workman or by any insurers interested, he shall not, except with the consent of the employer and workman, act as certifying surgeon or medical referee in that case.

15 13B. (1) In any proceeding for compensation under this Act in respect of the death of a seaman, if it is shown by some official return produced out of official custody or by other evidence that the ship on which the seaman in respect of whom the compensation is claimed was employed has, twelve months or upwards before the institution of the proceeding, left a port of departure, she shall, unless it is shown that she has been heard of within twelve months after that departure, be deemed to have been lost with all hands on board, either immediately after the time she was last heard of or at such later time as the court before which the proceeding was taken thinks probable.

Evidence of
loss of ship.
Com'lth Act,
1911, s. 12.

20 (2) A duplicate agreement or list of the crew made out or a statement of a change of the crew delivered under any Imperial Act or under any Act of this State or of the Commonwealth relating to navigation or shipping at the time of the last departure of the ship from a port in this State shall, if produced out of official custody, be, in the absence of proof to the contrary, sufficient proof that the seamen therein named as belonging to the ship were on board at the time of the loss.

Workmen's Compensation (Amendment).

8. The Second Schedule to the Workmen's Compensation Act, 1910, is amended as follows:—

Amendment
of Second
Schedule
to the
Workmen's
Compensa-
tion Act,
1910.

- 5 (a) substitute the words "three hundred pounds" for "two hundred pounds" and the words "five hundred pounds" for "four hundred pounds" in subclause (1) (a) of clause one of the said Schedule.
- 10 (b) substitute "twenty pounds" for "twelve pounds" in subclause (1) (c) of clause one of the said Schedule.
- 15 (c) substitute "one pound ten shillings" for "one pound": and substitute "five hundred pounds" for "two hundred pounds" in the first proviso to subclause (2) (d) of clause one of the said Schedule.
- 20 (d) substitute "fifteen shillings" for "ten shillings" in paragraph (c) of the second proviso to subclause (2) (d) of clause one of the said Schedule.
- (e) substitute the following for clause two of the said Schedule:—

2. For the purposes of the provisions of this Schedule relating to "earnings" and "average weekly earnings" of a workman, the following rules shall be observed:—

- 25 (a) average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated: Provided that where by reason of the shortness of the time during which the workman has been in the employment of his employer, or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average weekly amount which, during the twelve months previous to the accident, was being earned by a person in the same grade, employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same locality;
- 30 (b) where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident;
- 35 (c)
- 40
- 45

Workmen's Compensation (Amendment).

(c) employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause ;

(d) where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings.

9. The following Schedule is added at the end of the said Act :— New Third Schedule.

THIRD SCHEDULE.

Description of Disease.	Description of Process.
15 Anthrax	Handling of wool, hair, bristles, hides, and skins.
Lead poisoning or its sequelæ ...	Any process involving the use of lead or its preparations or compounds.
20 Mercury poisoning or its sequelæ	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its sequelæ.	Any process involving the use of phosphorus or its preparations or compounds.
25 Arsenic poisoning or its sequelæ	Any arsenic involving the use of arsenic or its preparations or compounds.
Ankylostomiasis... ..	Mining.
30 Poisoning by nitro and amido derivatives of benzine (dinitrobenzol, anilin, and others), or its sequelæ.	Any process involving the use of a nitro or amido derivative of benzine or its preparations or compounds.
Poisoning by carbon bisulphide or its sequelæ.	Any process involving the use of carbon bisulphide or its preparations or compounds.
35 Poisoning by nitrous fumes or its sequelæ.	Any process in which nitrous fumes are evolved.
Poisoning by nickel carbonyl or its sequelæ.	Any process in which nickel carbonyl gas is evolved.
40 Arsenic poisoning or its sequelæ	Handling of arsenic or its preparations or compounds.
Lead poisoning or its sequelæ ...	Handling of lead or its preparations or compounds.

THIRD

*Workmen's Compensation (Amendment).*THIRD SCHEDULE—*continued.*

Description of Disease.	Description of Process.
5 Chrome ulceration or its sequelæ	Any process involving the use of chromic acid or bi-chromate of ammonium, potassium, or sodium, or their preparations.
10 Eczematous ulceration of the skin produced by dust or caustic or corrosive liquids, or ulceration of the mucous membrane of the nose or mouth produced by dust.	
15 Epitheliomatous cancer or ulceration of the skin or of the corneal surface of the eye, due to pitch, tar, or tarry compounds.	Handling or use of pitch, tar, or tarry compounds.
Scrotal epithelioma (chimney-sweeps' cancer).	Chimney-sweeping.
20 Nystagmus	Mining.
Glanders	Care of any equine animal suffering from glanders; handling the carcase of such animal.
Compressed air illness or its sequelæ.	Any process carried on in compressed air.
25 Subcutaneous cellulitis of the hand (beat hand).	Mining.
Subcutaneous cellulitis over the patella (miners' beat knee).	Mining.
Acute bursitis over the elbow (miners' beat elbow).	Mining.
30 Inflammation of the synovial lining of the wrist joint and tendon sheaths.	Mining.

10. Section six, subsection (b), of the Workmen's Amendment
 35 Compensation Act, 1910, is amended as follows:—Omit of s. 6 (b).
 the word "or" and insert the word "and".

[3d]

John ...

...

...