



WORKERS REHABILITATION AND COMPENSATION ACT, 1986

No. 124 of 1986

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ANNO TRICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1986

No. 124 of 1986

An Act to provide for the rehabilitation and compensation of workers in respect of disabilities arising from their employment; to repeal the Workers Compensation Act, 1971; and for other purposes.

[Assented to 24 December 1986]

The Parliament of South Australia enacts as follows:

PART I

PRELIMINARY

1. This Act may be cited as the “Workers Rehabilitation and Compensation Act, 1986”. Short title.

2. (1) This Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. (1) In this Act, unless the contrary intention appears— Interpretation.

“apprentice” includes—

(a) a person undertaking training in a declared vocation under the Industrial and Commercial Training Act, 1981;

(b) a person undertaking training in a scheme approved by the Corporation for the purposes of this definition,

and “apprenticeship” has a corresponding meaning:

“authorized officer” means a person who is authorized by the Corporation to exercise the powers of an authorized officer under this Act:

“average minimum award rate” means the amount published by the Commonwealth Statistician as the weighted average minimum

weekly award rate for adult persons (wage and salary earners) in South Australia:

“average weekly earnings”, in relation to a worker, means the worker’s average weekly earnings determined in accordance with section 4:

“the board” means the board of management of the Corporation:

“business day” means any day except Saturday, Sunday or a public holiday:

“child”, in relation to a deceased worker, includes a person in relation to whom the worker stood, at the date of death, *in loco parentis*:

“compensation” includes any monetary benefit payable under this Act:

“compensable disability” means a disability that is compensable by virtue of section 30:

“the Consumer Price Index” means the Consumer Price Index (all groups index for Adelaide) published by the Commonwealth Statistician under the *Census and Statistics Act 1905* of the Commonwealth:

“contract of service” means—

(a) a contract under which one person (the worker) is employed by another (the employer);

(b) a contract, arrangement or understanding under which one person (the worker) works for another (the employer) in prescribed work or work of a prescribed class;

(c) a contract of apprenticeship;

(d) a contract, arrangement or understanding under which a person (the worker)—

(i) receives on-the-job training in a trade or vocation from another (the employer);

and

(ii) is during the period of that training remunerated by the employer:

“the Corporation” means the Workers Rehabilitation and Compensation Corporation established under Part II:

“corresponding law” means a law—

(a) of the Commonwealth;

(b) of a State (other than this State) or a Territory of the Commonwealth;

or

(c) of another country,

that provides for compensation for disabilities arising from employment:

“dependant”, in relation to a deceased worker, means a relative of the worker who, at the time of the worker’s death—

(a) was wholly or partially dependent for the ordinary necessities of life on earnings of the worker;

or

(b) would, but for the worker's disability, have been so dependent,

and includes a posthumous child of the worker; and "dependent" has a corresponding meaning:

"disability" of a worker means—

(a) any physical or mental injury including—

(i) loss or impairment of a limb, organ or part of the body, or of a physical, mental or sensory faculty;

(ii) a disease;

or

(iii) disfigurement;

or

(b) where the context admits—the death of the worker, and includes a secondary disability:

"disease" includes the deterioration of a physical, mental or sensory faculty for which there is no obvious proximate cause:

"educational institution" means—

(a) a secondary school;

(b) a trade or technical school;

(c) a college of advanced education, university or other institution at which tertiary education is provided;

or

(d) any other educational or training institution approved by the Corporation for the purposes of this definition:

"employer" means—

(a) a person by whom a worker is employed under a contract of service, or for whom work is done by a worker under a contract of service;

(b) in relation to persons of whom the Crown is, under subsection (2), the presumptive employer—the Crown;

(c) in relation to persons of whom any other person is, by virtue of a provision of this Act, the presumptive employer—that other person,

and includes a former employer and the legal personal representative of a deceased employer:

"employment" includes—

(a) work done under a contract of service except casual work that is not for the purposes of a trade or business carried on by an employer (but where a worker who is employed

by an employer in a particular trade or business carries out for that employer work that is not for the purposes of the trade or business, the work constitutes part of the employment of that worker);

(b) the work of a self-employed person to whom the Corporation has extended the protection of this Act;

(c) the work of persons who are to be deemed to be workers employed by the Crown under subsection (2);

(d) attendance by a worker at a place of pick-up:

“exempt employer” means an employer who is registered by the Corporation as an exempt employer in pursuance of Division 1 of Part V:

“foreign law” means any law except a law of this State:

“the Industrial Court” means the Industrial Court of South Australia:

“industry” includes any business or activity in which workers are employed:

“journey” between two places by a worker means the passage by any reasonable, direct or convenient route between those places and includes a deviation from that route or an interruption of that passage if—

(a) the deviation or interruption is not, in the circumstances of the case, substantial;

(b) the deviation or interruption is made for purposes connected with the worker’s employment or the purpose for which the journey was undertaken;

or

(c) the deviation or interruption does not materially increase the risk of injury to the worker.

“local government corporation” means—

(a) a council as defined in the Local Government Act, 1934;

(b) the Local Government Association of South Australia;

or

(c) any other body—

(i) established for local government purposes;

and

(ii) prescribed for the purposes of this definition:

“medical expert” means—

(a) a legally qualified medical practitioner;

(b) a registered dentist;

(c) a registered psychologist;

(d) a registered optician;

(e) a registered physiotherapist;

- (f) a registered chiropractor;
- (g) a registered podiatrist;
- (h) a registered occupational therapist;
- (i) a registered speech pathologist:

“medical question” means any question of the nature, extent or probable duration of a disability, but does not include any question of a worker’s incapacity for work or of the extent of an incapacity for work:

“medical services” means—

- (a) attendance, examination or treatment by a medical expert (including the obtaining from a medical expert of a certificate or report);

or

- (b) any diagnostic examination or test required for the purposes of treatment by a medical expert:

“non-economic loss” means—

- (a) pain and suffering;
- (b) loss of amenities of life;
- (c) loss of expectation of life;
- (d) any other loss or detriment of a non-economic nature:

“notional weekly earnings” in relation to a worker means—

- (a) the worker’s average weekly earnings;

or

- (b) where an adjustment has been made under this Act to take account of changes in levels of earnings or in the value of money (or both)—the worker’s average weekly earnings as so adjusted:

“officer” of the Corporation includes an employee of the Corporation:

“parent”, in relation to a deceased worker, includes a person who stood *in loco parentis* to the worker at the time of the worker’s death:

“place of employment” in relation to a worker includes a place of pick-up:

“place of pick-up” means a pre-arranged place at which employers select workers for employment:

“premises” means—

- (a) a building, structure or place (including an aircraft, ship or vehicle);

or

- (b) a part of premises:

“prescribed allowance”, in relation to the earnings of a worker, means any amount received by the worker from an employer—

- (a) by way of an allowance to cover special expenses incurred by the worker in the course of employment;
- (b) by way of special rates paid to the worker on an irregular basis to compensate for occasional disabilities under which work is performed (not being rates that are paid during a period of leave with pay);
- (c) by way of overtime, other than amounts paid in respect of overtime worked in accordance with a regular and established pattern;
- (d) by way of site allowance;
- (e) by way of any other allowance or benefit prescribed for the purposes of this definition:

“recognized medical expert” means—

- (a) a legally qualified medical practitioner;
- or
- (b) in relation to disabilities of a particular kind—a medical expert who is recognized by the Corporation as having specialized knowledge of, and experience in the treatment of, disabilities of that kind:

“registered association” means—

- (a) an association registered under Part IX of the Industrial Conciliation and Arbitration Act, 1972;
- (b) an association registered under the *Conciliation and Arbitration Act 1904* of the Commonwealth;
- (c) the United Trades and Labor Council;
- (d) the Australian Mines and Metals Association;
- (e) the Employer-Managed Workers Compensation Association Incorporated:

“relative”, in relation to a deceased worker, means a spouse, parent, grandparent, step-parent, child, grandchild, stepchild, brother, sister, stepbrother, stepsister, half-brother or half-sister of the worker:

“the repealed Act” means the Workers Compensation Act, 1971, repealed by this Act:

“residence” in relation to a worker includes a place—

- (a) at which the worker resides in pursuance of the terms of the worker’s employment or at the request of the employer;
- or
- (b) at which it is necessary or convenient for the worker to reside temporarily for the purposes of employment:

“review authority” means—

- (a) a Review Officer appointed for the purposes of this Act;
- (b) the Tribunal constituted for the purposes of this Act;

or

(c) a Medical Review Panel constituted for the purposes of this Act:

“secondary disability” means a disability that is, or results from, the aggravation, acceleration, exacerbation, deterioration or recurrence of a prior disability:

“self-employed worker” means a person to whom the Corporation has extended the protection of this Act pursuant to section 103:

“ship” includes a boat, vessel or craft:

“South Australian ship” means a ship—

(a) that is registered in the State;

(b) that is owned or under charter by the Crown;

or

(c) that is owned or under charter by a body corporate or other person—

(i) whose principal office or place of business is in the State;

or

(ii) whose principal office or place of business with respect to the control or management of the ship is in the State:

“spouse”, in relation to a worker, includes a person who is cohabiting with the worker as the *de facto* husband or wife of the worker if—

(a) (i) the person has been so cohabiting with the worker continuously for the preceding period of 5 years;

(ii) the person has during the preceding period of 6 years cohabitated with the worker for periods aggregating not less than 5 years;

or

(iii) although neither subparagraph (i) nor (ii) applies, the person has been cohabiting with the worker for a substantial part of a period referred to in either of those subparagraphs and the Corporation considers that it is fair and reasonable that the person be regarded as the spouse of the worker for the purposes of this Act;

or

(b) a child, of whom the worker and the person are the parents, has been born (whether or not the child is still living):

“the State” includes the territorial waters of the State:

“therapeutic appliance” means—

(a) spectacles or contact lenses;

(b) a hearing aid;

(c) false teeth;

(d) a prosthesis;

(e) a crutch or wheelchair;

or

(f) any other appliance or aid for reducing the extent of a disability or enabling a person to overcome in whole or part the effects of a disability:

“trauma” means an event, or series of events, out of which a compensable disability arises:

“the Tribunal” means the Workers Compensation Appeal Tribunal constituted under this Act:

“unrepresentative disability” means a disability arising from a journey, attendance or temporary absence referred to in section 30 (3):

“worker” means—

(a) a person by whom work is done under a contract of service (whether or not as an employee);

(b) a person who is a worker by virtue of subsection (2);

(c) a self-employed worker,

and includes a former worker and the legal personal representative of a deceased worker:

“working day” in relation to a worker means a day on which the worker works or would, if not incapacitated for work, be normally required to work in the course of employment.

(2) The Crown is the presumptive employer of persons of a prescribed class who voluntarily perform work of benefit to the State.

(3) A member of the crew of a fishing boat who is remunerated by a share in profits obtained by working the boat is not a worker for the purposes of this Act.

(4) In relation to attendance by a worker at a place of pick-up or a journey between the worker’s residence and the place of pick-up (whether to or from the place of pick-up) the worker shall be deemed to be employed under a contract of service by—

(a) the employer who last selected the worker for employment at that place of pick-up;

or

(b) if there is no such employer—by all employers who customarily make use of that place of pick-up for the purpose of selecting workers for employment.

(5) Where a worker has no fixed place of employment, the worker’s place of employment on a particular working day is the place at which, or the area in which, the worker works or is required to work on that working day.

(6) Where in a prescribed industry or in prescribed circumstances a person (“the principal”) contracts with another person (“the contractor”) for the performance by the contractor of work undertaken by the principal, the

principal shall, for the purposes of this Act, be deemed to be the employer of workers employed by the contractor.

4. (1) Subject to this section, the average weekly earnings of a disabled worker are the average amount that the worker could reasonably be expected to have earned for a week's work if the worker had not been disabled. Average weekly earnings.

(2) For the purpose of determining the average weekly earnings of a worker—

(a) where the worker was, immediately before the relevant date, employed by more than one employer—aggregate earnings from all employment shall be taken into account;

and

(b) subject to subsection (3)—

(i) the actual weekly earnings of the worker over a period of up to 12 months before the relevant date may be taken into account;

and

(ii) if by reason of the shortness of time during which the worker has been in employment, the terms of the worker's employment or for any other reason, it is not possible to arrive at a fair average, the worker's average weekly earnings may be determined by reference to the average weekly amount being earned by other persons in the same employment who perform similar work at the same grade as the worker or, if there is no person so employed, by other persons in the same class of employment who perform similar work at the same grade as the worker.

(3) Where a worker is a contractor rather than an employee, the worker's average weekly earnings shall be determined by reference to the rate of pay that the worker would have received if the worker had been working as an employee and, if there is an award or industrial agreement applicable to the class and grade of work in which the worker was engaged, the worker's average weekly earnings shall be determined by reference to that award or industrial agreement.

(4) Where because of the gradual onset of a compensable disability it appears that the level of earnings of a disabled worker prior to the relevant date were affected by the disability, the average weekly earnings of the worker shall be set at an amount that fairly represents the weekly amount that the worker would have been earning if the level of earnings had not been so affected.

(5) The average weekly earnings of a disabled worker who—

(a) was not a full-time worker immediately prior to the relevant date;

(b) immediately prior to the relevant date had been seeking full-time employment;

and

(c) had been predominantly during the preceding 18 months a full-time worker,

shall be determined as if the worker had been a full-time worker.

(6) Where a permanently incapacitated worker is under the age of 21 years, the average weekly earnings of the worker shall be determined as if the worker had attained the age of 21 years and where a permanently incapacitated worker is an apprentice, the average weekly earnings of the worker shall be determined as if the worker had completed the apprenticeship.

(7) Notwithstanding the foregoing provisions of this section—

(a) where a disabled worker's remuneration was, at the relevant date, covered by an award or industrial agreement, the worker's average weekly earnings shall not be less than the weekly wage to which the worker was then entitled under the award or industrial agreement;

(b) if, but for this paragraph, the average weekly earnings of a worker (not being a self-employed worker) would be less than the prescribed amount, the average weekly earnings shall be fixed at the prescribed amount;

(c) the average weekly earnings of a worker shall in no case be fixed at more than twice State average weekly earnings.

(8) For the purposes of determining the average weekly earnings of a worker, any prescribed allowance shall be disregarded.

(9) In this section—

(a) a reference to the relevant date is—

(i) a reference to the date of the commencement of the period of the worker's incapacity for work or, where the worker has been incapacitated for work as a result of the same disability for a number of separate periods, a reference to the date of the commencement of the last such period of incapacity;

or

(ii) where the worker is dead and the death was not immediately preceded by a period of incapacity for work in respect of which the worker received compensation under this Act—a reference to the date of the worker's death;

and

(b) a reference to State average weekly earnings is a reference to the amount last published before the relevant date by the Commonwealth Statistician as an estimate of Average Weekly Earnings for Ordinary Hours of Work for each Full-time Employed Male Unit in this State.

Act to bind
Crown.

5. This Act binds the Crown in right of the State and also, so far as the legislative power of the State extends, in all its other capacities.

Territorial
application of this
Act.

6. (1) Subject to this section, this Act applies in relation to—

(a) employment in the State;

(b) employment outside the State of a worker who is predominantly employed in the State;

(c) employment outside the State by the Crown in right of the State;

- (d) employment on a South Australian ship;
or
(e) employment outside the State (not being employment in respect of which the worker is protected by a corresponding law)—
- (i) to which a worker regularly travels from a port or place in the State;
or
(ii) which forms part of the employment of a worker who is employed both in and outside the State.

(2) Where—

- (a) a worker (not being an officer or employee of the Crown in right of the State) is employed both in and outside the State, but predominantly outside the State;

and

- (b) the worker is, in respect of employment in the State, protected by a corresponding law,

this Act does not apply in respect of the employment in the State.

PART II

THE WORKERS REHABILITATION AND COMPENSATION CORPORATION

DIVISION I—ESTABLISHMENT AND MANAGEMENT OF THE CORPORATION

7. (1) There shall be a corporation entitled the “Workers Rehabilitation and Compensation Corporation” The Corporation.

(2) The Corporation—

- (a) shall be a body corporate with perpetual succession and a common seal;
(b) shall be capable of acquiring, holding, dealing with and disposing of real and personal property;
(c) shall be capable of acquiring or incurring any other rights or liabilities, and of suing and being sued;
(d) shall hold its property on behalf of the Crown;
and
(e) shall have the functions, powers, authorities and duties prescribed by or under this or any other Act.

(3) An apparently genuine document purporting to bear the common seal of the Corporation and to be signed by 2 members of the board shall, in the absence of proof to the contrary, be deemed to have been duly executed by the Corporation.

8. (1) The Corporation shall be managed by a board consisting of 14 members appointed by the Governor of whom—

Constitution of the management board.

- (a) one (who shall be the presiding officer of the board) shall be a person nominated by the Minister after consultation with the United Trades and Labor Council and associations that represent the interests of employers;
- (b) six shall be nominated by the Minister taking into account the recommendations of the United Trades and Labor Council;
- (c) five shall be nominated by the Minister taking into account the recommendations of associations that represent the interests of employers (and of these one shall be a suitable person to represent the interests of small business);
- (d) one shall be nominated by the Minister, taking into account the recommendations of Employer-Managed Workers Compensation Association Incorporated;
- (e) one shall be a person who is experienced in the field of rehabilitation nominated by the Minister after consultation with the United Trades and Labor Council and associations that represent the interests of employers.

(2) In making nominations under subsection (1), the Minister shall have regard to—

- (a) the need for the board to be sensitive to cultural diversity in the population of the State;
- and
- (b) the Corporation's obligation to take into account, in the provision of rehabilitation and compensation under this Act, racial, ethnic and linguistic diversity in the population of the State.

Terms and conditions of office.

9. (1) Subject to subsection (2), a member of the board shall be appointed on such conditions and for such term (not exceeding three years) as the Governor may determine and on the expiration of a term of office is eligible for re-appointment.

(2) The person appointed as the presiding officer of the board may be appointed for a term not exceeding five years.

(3) The Governor may appoint a suitable person nominated by the Minister to be a deputy of a member and that person may, in the absence of that member from the duties of office, act as a member of the board.

(4) The provisions of this Act requiring consultation before the appointment of a member extend to the appointment of a deputy of that member.

(5) The Governor may remove a member from office for—

- (a) breach of, or non-compliance with, a condition of appointment;
 - (b) mental or physical incapacity to carry out satisfactorily the duties of office;
 - (c) neglect of duty;
- or
- (d) dishonourable conduct.

(6) The office of a member becomes vacant if the member—

- (a) dies;

- (b) completes a term of office and is not re-appointed;
 - (c) resigns by written notice addressed to the Minister;
 - (d) is found guilty of an offence against section 13 (1);
- or
- (e) is removed from office by the Governor pursuant to subsection (5).

(7) On the office of a member becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office (but a person who is to fill a casual vacancy in the office of a member shall be appointed only for the balance of the term of the person's predecessor).

10. (1) A member of the board shall be entitled to such fees, allowances and expenses as the Governor may approve.

Allowances and expenses.

(2) Fees, allowances and expenses payable under subsection (1) shall be paid out of the Compensation Fund.

11. (1) Meetings of the board shall be held at times and places appointed by the board, but there must be at least one meeting every month.

Proceedings, etc., of the board.

(2) Seven members of the board constitute a quorum of the board and no business shall be conducted at a meeting of the board unless a quorum is present.

(3) The presiding officer of the board shall, if present at a meeting of the board, preside at that meeting and, in the absence of the presiding officer, a member chosen from amongst their own number by the members present shall preside.

(4) A decision carried by a majority of the votes of the members present at a meeting of the board is a decision of the board.

(5) Each member present at a meeting of the board is entitled to one vote on a matter arising for decision by the board, and the person presiding at the meeting has, in the event of an equality of votes, a second or casting vote.

(6) The board shall cause an accurate record to be kept of its proceedings.

(7) Subject to this Act, the proceedings of the board shall be conducted in such manner as the board may determine.

12. (1) An act or proceeding of the board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

Validity of acts of board and immunity of members.

(2) No personal liability attaches to a member of the board for an act or omission by that member or the board in good faith in the exercise or discharge, or purported exercise or discharge, of the member's or the board's powers, duties or functions under this Act.

(3) A liability that would, but for subsection (2), lie against a member of the board shall lie against the Crown.

13. (1) A member of the board—

- (a) who is directly or indirectly interested in a contract, or proposed contract, made by, or in contemplation of, the Corporation;

Disclosure of interest.

or

- (b) who has a direct or indirect personal or pecuniary interest in any matter that is before the board for determination,

shall, as soon as practicable after becoming aware of the interest, disclose the nature of the interest to the board and shall not take part in any deliberations or decisions of the board on the contract or matter to which the interest relates.

Penalty: \$5 000.

(2) A disclosure made under this section shall be recorded in the minutes of the board.

(3) Where a member makes a disclosure of interest in respect of a contract or proposed contract in accordance with this section—

- (a) the contract is not void, or liable to be avoided, on any ground arising from the member's interest in the contract;

and

- (b) the member is not liable to account to the Corporation for profits derived from the contract.

DIVISION II—FUNCTIONS AND POWERS OF THE CORPORATION

14. (1) The functions of the Corporation are—

- (a) to undertake, subject to the general direction and control of the Minister, the administration and enforcement of this Act;
- (b) to manage funds that come under its control in the administration of this Act;
- (c) to keep under review the levels and adequacy of benefits under this Act;
- (d) to collect and publish data and statistics in relation to workers' rehabilitation and compensation;
- (e) to keep under review the effect on disabled workers of State laws (including this Act) and to make, where appropriate, recommendations to the Minister for the reform of those laws;
- (f) to keep the operation of the second schedule under review and to make, where appropriate, recommendations to the Minister for additions or amendments to that schedule;
- (g) to report to the Minister on the administration of this Act or any matter referred to the Corporation by the Minister;
- (h) to undertake or subsidize research and educational programmes with respect to work-related disabilities and the rehabilitation and compensation of disabled workers;
- (i) to perform any other function assigned to the Corporation by or under this or any other Act or law.

(2) For the purposes of this Act, the Corporation may—

- (a) establish and operate bank accounts;
- (b) invest money held by it;

- (c) with the consent of the Minister and the Treasurer, borrow money and give security for the repayment of any loan;
- (d) acquire, hold, lease, deal with and dispose of real and personal property;
- (e) enter into any other kind of contract, agreement or arrangement;
- (f) establish and maintain a central office and regional offices;
- (g) establish committees (which may, but need not consist of, or include, members of the Corporation) to advise the Corporation on any aspect of its functions;
- (h) collaborate with other bodies that provide assistance to disabled workers;
- (i) exercise any other powers that are contemplated by this Act or necessary or expedient for the efficient and proper performance of the Corporation's functions.

15. The Corporation is not a semi-government authority for the purposes of the Government Financing Authority Act, 1982.

Government Financing Authority Act not to apply to Corporation.

16. The Corporation shall seek to ensure that in the provision of rehabilitation and compensation under this Act racial, ethnic and linguistic diversity in the population of the State is taken into account and that those who may have grounds for seeking rehabilitation or compensation under this Act are not disadvantaged by their racial, ethnic or linguistic origins or background.

Corporation to have proper regard to differences in ethnic background, etc.

DIVISION III—DELEGATES OF THE CORPORATION

17. (1) The Corporation may, by instrument in writing, delegate any of its powers or functions.

Delegation.

(2) A delegation under this section—

(a) may be made—

- (i) to a member of the board;
- (ii) to a committee established by the Corporation;
- (iii) to a particular officer of the Corporation, or to any officer of the Corporation occupying (or acting in) a particular office or position;

or

(iv) to a public authority or public instrumentality.

(b) may be made subject to such conditions as the Corporation thinks fit;

and

(c) is revocable at will and does not derogate from the power of the Corporation to act in any matter itself.

(3) In any legal proceedings an apparently genuine certificate, purporting to be signed by an officer of the Corporation, containing particulars of a delegation under this section shall, in the absence of proof to the contrary, be accepted as proof of the particulars.

DIVISION IV—ACCOUNTS, REPORTS AND AUDIT

Accounts.

18. (1) The Corporation shall cause proper accounts to be kept of its financial affairs.

(2) The Corporation shall—

- (a) ensure that all money payable to the Corporation is properly collected;
- (b) ensure that all liabilities and expenditures of the Corporation are properly authorized;
- (c) ensure that adequate control is maintained over its assets;
- (d) ensure efficiency and economy of operations and the avoidance of waste and extravagance;
- (e) develop and maintain an adequate budgeting and accounting system;

and

(f) develop and maintain an adequate internal audit system.

(3) The Corporation shall, in complying with subsection (2), take into account any relevant recommendation made by an auditor in reporting on the accounts of the corporation.

Audit.

19. (1) The accounts of the Corporation must be audited at least once in each year.

(2) For the purposes of audit under this section, the Corporation shall, within the first 3 months of each financial year, appoint 2 or more auditors of the Corporation for that financial year.

(3) An auditor appointed under subsection (2) must be a registered company auditor or a firm of registered company auditors.

(4) It is the duty of the auditors to report on the Corporation's accounting records and on the accounts to be laid before Parliament in respect of the financial year for which they are appointed as auditors of the Corporation.

(5) The auditors shall have a right of access at all reasonable times to the accounting and other records of the Corporation and are entitled to require from any officer of the Corporation such information and explanations as they think necessary for the purposes of the audit.

(6) An auditor of the Corporation incurs no liability in defamation for any statement made by the auditor in the course of fulfilling the duties of auditor.

Annual reports.

20. (1) The Corporation shall, on or before the thirty-first day of December in each year, deliver to the Minister an annual report containing—

(a) a report on its operations during the financial year ending on the thirtieth day of June in that year;

and

(b) audited accounts of the Corporation for that financial year.

(2) The Minister shall, within 12 sitting days after receipt of a report under subsection (1), cause a copy of the report to be laid before each House of Parliament.

DIVISION V—STAFF OF THE CORPORATION

21. (1) There shall be a General Manager of the Corporation.

The General
Manager and
Deputy General
Manager.

(2) The General Manager shall be the chief executive officer of the Corporation and shall be responsible to the board for the efficient management of the Corporation's business and the supervision of its staff.

(3) A person shall not be appointed as General Manager of the Corporation unless the Corporation has first consulted with the Minister in relation to the proposed appointment and the proposed terms and conditions of appointment.

(4) There shall be a Deputy General Manager of the Corporation.

(5) The Deputy General Manager may, while the General Manager is absent from the duties of office or while the position of General Manager is temporarily vacant, exercise or discharge any power, function or duty of the General Manager.

22. (1) There shall be such other staff of the Corporation as the Corporation thinks necessary for the proper administration of this Act.

Other staff of the
Corporation.

(2) In choosing staff the Corporation shall have regard to—

- (a) the need for the staff to be sensitive to cultural diversity in the population of the State;
- (b) the Corporation's obligation to take into account, in the provision of rehabilitation and compensation under this Act, racial, ethnic and linguistic diversity in the population of the State;

and

- (c) the need for the Corporation to have access to staff who are able to act as interpreters and translators so as to provide to people who are not reasonably fluent in English assistance in the proceedings and procedures under this Act.

(3) The staff of the Corporation are not public service employees.

23. Where a person commences service as an officer of the Corporation within 3 months after cessation of service as—

Certain periods of
service to be
regarded as
continuous.

- (a) an employee in the Public Service of the State;
- (b) an employee of the State otherwise than in the Public Service;
- (c) an officer or employee of the State Government Insurance Commission;

or

- (d) an employee of a prescribed person, or of a person of a prescribed class,

then, for the purposes of determining rights to recreation leave, sick leave and long service leave as an officer or employee of the Corporation, the person's service in that previous employment (whether before or after the commencement of this Act) shall, subject to such conditions as the Corporation may impose, be deemed to be service as an officer of the Corporation.

24. The Corporation is a public authority within the meaning, and for the purposes of, the Superannuation Act, 1974, and may enter into arrangements with the South Australian Superannuation Board with respect to superannuation of its officers.

Superannuation.

DIVISION VI—USE OF PUBLIC FACILITIES, ETC.

Corporation may
make use of
public facilities.

25. The Corporation may, by arrangement with a department of the Public Service of the State, a public authority or a public instrumentality, make use of the services, facilities or staff of the department, authority or instrumentality.

PART III
REHABILITATION AND ACCIDENT PREVENTION PROGRAMMES

DIVISION I—REHABILITATION

Rehabilitation
programmes.

26. (1) The Corporation shall establish or approve rehabilitation programmes with the object of ensuring that workers suffering from compensable disabilities—

- (a) achieve the best practicable levels of physical and mental recovery;
- and
- (b) are, where possible, restored to the workforce and the community.

(2) A rehabilitation programme may be established by the Corporation in relation to—

- (a) a particular worker;
- (b) workers of a particular class;
- (c) workers suffering from disabilities of a particular class.

(3) For the purposes, or in the course, of a rehabilitation programme the Corporation may—

- (a) provide for the physical, mental or vocational assessment of workers;
- (b) provide advisory services to workers, members of the families of workers, employers and others;
- (c) assist workers in seeking, obtaining or retaining employment;
- (d) assist in the training or retraining of workers;
- (e) assist workers to find appropriate accommodation;
- (f) provide for the necessary and reasonable costs (including costs of travel, accommodation and child care) incurred by workers in order to participate in rehabilitation programmes;
- (g) provide equipment, facilities and services to assist workers to cope with their disabilities at home or in the workplace;
- (h) provide assistance to persons who may be in a position to help workers to overcome or cope with their disabilities;
- (i) disseminate information that relates to work related disabilities;
- (j) conduct, participate in or subsidize research into any aspect of rehabilitation;
- (k) encourage and support the work of organizations that provide assistance to workers suffering from compensable disabilities;
- (l) do anything else that may assist in the rehabilitation of workers.

(4) The Corporation may admit a disabled worker to a rehabilitation programme notwithstanding that it has not been finally established that the worker's disability is compensable.

27. (1) In the exercise of its powers under this Division, the Corporation should seek to utilize rehabilitation facilities and services provided by the employer of a disabled worker. Clinics and other facilities.

(2) In the exercise of its powers under this Division, the Corporation should give encouragement and assistance to the establishment and provision of rehabilitation facilities and services in the private sector.

(3) The Corporation may—

(a) enter into arrangements with any government agency or other body under which medical services or rehabilitation facilities and services will be provided for disabled workers;

(b) with the approval of the Minister, establish clinics and other facilities for the assessment, treatment or rehabilitation of disabled workers;

and

(c) establish and maintain a register of persons and organisations that are, in the opinion of the Corporation, properly qualified and equipped to provide rehabilitation services.

28. (1) The Corporation shall appoint such rehabilitation advisers as are necessary for the purposes of this Act. Rehabilitation advisers.

(2) A rehabilitation adviser—

(a) shall assist in devising and co-ordinating rehabilitation programmes for disabled workers;

(b) shall be responsible to the Corporation for monitoring the progress of disabled workers who are involved in rehabilitation programmes;

(c) may, subject to monetary limitations set by the Corporation, expend money of the Corporation in obtaining for a disabled worker services and equipment that may assist towards rehabilitation;

and

(d) shall consult with employers with a view to expediting the return to work of disabled workers.

(3) No statement made by or to a rehabilitation adviser in respect of a worker who is participating in a rehabilitation programme shall be subsequently disclosed in any proceedings under this Act unless the rehabilitation adviser and the worker consent to the disclosure.

DIVISION II—DISABILITY PREVENTION PROGRAMMES

29. The Corporation may assist employers to establish or maintain programmes that are designed to prevent or reduce the incidence of compensable disabilities. Prevention programmes.

PART IV

COMPENSATION

DIVISION I—CONDITIONS UNDER WHICH DISABILITY IS COMPENSABLE

Compensability of
disabilities.

30. (1) Subject to this Act, a disability is compensable if it arises from employment.

(2) A disability arises from employment if—

(a) in the case of a disability (not being a secondary disability or a disease)—it arises out of or in the course of employment;

or

(b) in the case of a disability that is a secondary disability or a disease—

(i) the disability arises out of employment;

or

(ii) the disability arises in the course of employment and the employment contributed to the disability.

(3) Subject to subsection (4), the employment of a worker includes—

(a) a journey between the worker's residence and place of employment (whether to or from the place of employment);

(b) attendance by the worker at the worker's place of employment on a working day—

(i) before commencing work for the day;

(ii) after concluding work for the day;

or

(iii) during any authorized break from work;

(c) where the worker has attended at the place of employment on a working day—a temporary absence from the place of employment during a meal break or other authorized break from work;

(d) attendance by the worker at an educational institution in accordance with a legal obligation or at the request or with the approval of the employer for the purpose of receiving instruction or training and any journey for the purpose of such an attendance at the institution between the worker's residence or place of employment and the institution (whether the journey is to or from the institution);

(e) attendance by the worker at any place (which may include the worker's place of employment) for the purpose of—

(i) obtaining a medical report or certificate in connection with a compensable disability;

(ii) receiving medical treatment for a compensable disability;

(iii) participating in a rehabilitation programme provided to the worker;

(iv) seeking or receiving compensation in connection with a compensable disability,

and any journey related to such an attendance between that place and the worker's residence or place of employment (whether the journey is to or from that place).

(4) If during the course of—

(a) attendance by a worker at the worker's place of employment in the circumstances referred to in subsection (3) (b);

or

(b) absence by a worker from the worker's place of employment in the circumstances referred to in subsection (3) (c),

the worker is guilty of misconduct or a breach of the employer's instructions or voluntarily subjects himself or herself to an abnormal risk of injury, the worker shall not then be regarded as acting in the course of employment unless the worker's disability results in death or permanent total incapacity for work.

(5) A journey between a place of employment at which a worker is employed by one employer and a place of employment at which the worker is employed by another employer forms part of the employment of the worker by that other employer.

(6) For the purposes of this section—

(a) a journey that commences at a worker's residence shall not be regarded as having commenced until the worker has progressed beyond land appurtenant to the house or other structure in which the worker resides unless the Corporation determines in the circumstances of a particular case that the journey should fairly be regarded as having commenced at an earlier point;

and

(b) a journey that terminates at a worker's residence shall be regarded as having terminated when the worker reaches land appurtenant to the house or other structure in which the worker resides unless the Corporation determines in the circumstances of a particular case that the journey should fairly be regarded as having terminated at a later point.

(7) Subject to this Act, a worker who is acting in connection with, and for the purposes of, the employer's trade or business shall be deemed to be acting in the course of employment notwithstanding the fact that—

(a) the worker is acting in contravention of a statutory or other regulation applicable to the employment;

or

(b) the worker is acting without, or in contravention of, instructions from the employer.

31. (1) Where a worker—

(a) suffers a disability of a kind referred to in the first column of the second schedule;

and

(b) has been employed in work of a type referred to in the second column of that schedule opposite that disability,

Evidentiary
provision.

it shall be presumed, in the absence of proof to the contrary, that the disability arose from that employment.

(2) The regulations may extend the operation of subsection (1) to disabilities and types of work prescribed in the regulations.

(3) A regulation under subsection (2) must not be made except—

(a) on the recommendation of the Corporation:

or

(b) with the approval of the Corporation.

DIVISION II—COMPENSATION FOR MEDICAL EXPENSES, ETC.

Compensation for
medical expenses,
etc.

32. (1) Subject to this section, a worker is entitled to be compensated for costs of a kind described in subsection (2) reasonably incurred by the worker in consequence of having suffered a compensable disability.

(2) The costs referred to in subsection (1) are as follows:

(a) the cost of medical services;

(b) the cost of hospitalization and all associated medical, surgical and nursing services;

(c) the cost of approved rehabilitation;

(d) the cost of travelling, or being transported, to and from any place for the purpose of receiving medical services, hospitalization or approved rehabilitation;

(e) where it is necessary for the worker to be accommodated away from home for the purpose of receiving medical services or approved rehabilitation—the cost of such accommodation (but not exceeding limits prescribed by regulation);

(f) the cost of attendance by a registered or enrolled nurse, or by some other person approved by the Corporation, where the disability is such that the worker must have nursing or personal attendance;

(g) the cost of the provision, maintenance, replacement or repair of therapeutic appliances;

(h) the cost of medicines and other material purchased on the prescription or recommendation of a medical expert;

(i) any other costs authorized by the Corporation.

(3) Compensation in respect of costs to which this section applies may be paid directly to the person to whom the worker is liable for those costs, thus discharging in whole or in part the liability of the worker to that person.

(4) A reference in this section to approved rehabilitation is a reference to rehabilitation programmes or services of a kind approved by the Corporation for the purposes of this section.

Worker entitled
to be conveyed
for initial
treatment.

33. (1) Where—

(a) a worker is injured at the worker's place of employment during the course of employment;

and

(b) the injury is such as to require immediate medical treatment,

the employer shall, at the employer's own expense, provide the worker with immediate transportation to a hospital or medical expert for initial treatment.

(2) If an employer fails to provide transportation in accordance with subsection (1), the cost may be recovered by the Corporation from the employer as a debt due to the Corporation.

(3) An amount recovered by the Corporation under subsection (2) shall, if the worker incurred costs in consequence of the employer's failure to provide transportation, be paid to the worker.

DIVISION III—COMPENSATION FOR PROPERTY DAMAGE

34. Where a worker suffers a compensable disability and, in consequence of the trauma out of which the disability arose, damage occurs to any therapeutic appliances, clothes, personal effects or tools of trade of the worker, the worker is, subject to limitations prescribed by regulation, entitled to be compensated for the full amount of the damage.

Compensation for property damage.

DIVISION IV—COMPENSATION BY WAY OF INCOME MAINTENANCE

35. (1) Subject to this section, where a worker suffers a compensable disability that results in incapacity for work, the worker is entitled to weekly payments in respect of that disability in accordance with the following principles:

Weekly payments.

(a) if the period of incapacity for work does not exceed one year—

- (i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to the worker's notional weekly earnings;
- (ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to the difference between the worker's notional weekly earnings and the weekly earnings that the worker is earning or could earn in suitable employment;

(b) if the period of incapacity for work exceeds one year, the worker is entitled to weekly payments determined in accordance with paragraph (a) for the first year of the period of incapacity and thereafter—

- (i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to 80 per cent of the worker's notional weekly earnings;
- (ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to 80 per cent of the difference between the worker's notional weekly earnings and the weekly earnings that the worker is earning or could earn in suitable employment that the worker has a reasonable prospect of obtaining.

(2) For the purposes of subsection (1)—

(a) a partial incapacity for work over a particular period shall be treated as a total incapacity for work over that period unless the Corporation establishes that suitable employment for which the worker is fit is reasonably available to the worker in respect of that period (but where the period of incapacity extends beyond a period of two years, this paragraph does not apply to a period commencing after, or extending beyond, the end of the second year of incapacity);

and

(b) the following factors shall be considered, and given such weight as may be fair and reasonable, in making an assessment of the prospects of a worker to obtain employment—

(i) the nature and extent of the worker's disability;

(ii) the worker's age, level of education and skills;

(iii) the worker's experience in employment;

and

(iv) the worker's ability to adapt to employment other than the employment in which he or she was engaged at the time of the occurrence of the disability.

(3) Subject to subsection (4), where a disabled worker receives from an employer a payment, allowance or benefit in respect of a period of incapacity for work, the weekly payments payable to the worker under this section in respect of that period shall not, unless the Corporation determines otherwise, be reduced to take account of the value of that payment, allowance or benefit.

(4) No reduction shall be made under subsection (3) on account of—

(a) any payment, allowance or benefit related to annual or other leave;

(b) any payment, allowance or benefit paid or conferred by the employer on the worker's retirement;

(c) any payment, allowance or benefit paid or conferred under a superannuation or pension scheme;

(d) any payment, allowance or benefit paid or conferred on the retrenchment, or in relation to the redundancy, of the worker.

(5) Weekly payments are not payable in respect of a period of incapacity for work falling after the later of the following dates—

(a) the date on which the worker attains the age at which the worker would, subject to satisfying any other qualifying requirements, be eligible to receive an age pension under the *Social Security Act 1947* of the Commonwealth;

or

(b) the date on which the worker attains the normal retiring age for workers engaged in the kind of employment from which the worker's disability arose or 70 years of age (whichever is the lesser).

(6) A worker is not entitled to receive in respect of separate disabilities weekly payments in excess of the worker's notional weekly earnings and where a lump sum has been paid to a worker in commutation of weekly payments the worker shall for the purposes of this subsection be deemed to be receiving the weekly payments represented by that lump sum.

(7) In this section—

- (a) a reference to a period of incapacity for work is, where the disability results in separate periods of incapacity for work, a reference to the aggregate period of incapacity;
- (b) a reference to weekly earnings is a reference to weekly earnings exclusive of prescribed allowances.

36. (1) Subject to this Act, weekly payments to a worker who has suffered a compensable disability shall not be discontinued unless— Discontinuance of weekly payments.

- (a) the worker consents to the discontinuance of weekly payments;
- (b) the Corporation is satisfied, on the basis of a certificate of a recognized medical expert, that the worker has ceased to be incapacitated for work;
- (c) the Corporation has, by notice in writing to a worker, required the worker to—
 - (i) submit to an examination by a recognized medical expert nominated by the Corporation;
 - or
 - (ii) submit to the Corporation a certificate from a recognized medical expert certifying that the disability continues, and the worker has failed to comply with the requirement within the time allowed in the notice;
- (d) the worker has returned to work;
- or
- (e) the discontinuance of weekly payments is authorized or required by some other provision of this Act.

(2) Subject to this Act, weekly payments to a worker who has suffered a compensable disability shall not be reduced unless—

- (a) the worker consents to the reduction of weekly payments;
- (b) the Corporation is satisfied, on the basis of a certificate of a recognized medical expert, that there has been a reduction in the extent of the worker's incapacity for work;
- or
- (c) the reduction of weekly payments is authorized or required by some other provision of this Act,

(and any reduction made on the basis of this subsection must be consistent with section 35).

(3) Where the Corporation proposes the discontinuance or reduction of weekly payments to a worker in pursuance of subsection (1) (b) or (c) or subsection (2) (b) the Corporation shall, at least 21 days before the proposal is to take effect, give notice in writing to the worker—

(a) stating the ground on which weekly payments are to be discontinued or reduced;

and

(b) informing the worker of the worker's right to have the Corporation's decision reviewed.

(4) Where a worker applies for the review of a decision by the Corporation to discontinue or reduce weekly payments under this section, the weekly payments shall not be discontinued or reduced unless and until a Review Officer confirms the Corporation's decision or makes an independent decision on the review that weekly payments should be discontinued or reduced.

(5) Where on a review referred to in subsection (4) weekly payments are discontinued or reduced, any amounts to which the worker would not have been entitled but for the operation of subsection (4) may, subject to the regulations, be recovered from the worker as a debt.

Suspension of
weekly payments.

37. (1) Where the Corporation is satisfied that a worker who is receiving weekly payments has failed or refused to submit to proper treatment for the worker's condition or to undertake an appropriate rehabilitation programme, the Corporation may suspend or reduce those payments.

(2) The Corporation shall not suspend or reduce weekly payments to a worker on the ground—

(a) that the worker has reasonably refused surgery or the administration of a drug;

or

(b) where there is a difference of medical opinion as to the appropriate treatment for the worker, or there is the possibility of a choice between a number of reasonable forms of treatment—that the worker has chosen one form of treatment in preference to another.

(3) Where the Corporation proposes the suspension or reduction of weekly payments to a worker in pursuance of subsection (1), the Corporation shall, at least 21 days before the proposal is to take effect, give notice in writing to the worker—

(a) stating the ground on which weekly payments are to be suspended or reduced;

and

(b) informing the worker of the worker's rights to have the Corporation's decision reviewed.

(4) Where a worker applies for the review of a decision by the Corporation to suspend or reduce weekly payments under this section, the weekly payments shall not be suspended or reduced unless and until a Review Officer confirms the Corporation's decision or makes an independent decision on the review that weekly payments should be discontinued or reduced.

(5) Where on a review referred to in subsection (4) weekly payments are suspended or reduced, any amounts to which the worker would not have been entitled but for the operation of that subsection may, subject to the regulations, be recovered as a debt.

38. (1) Subject to subsection (2), the Corporation may on its own initiative and shall if requested by a worker or an employer review the amount of the weekly payments made to a worker who has suffered a compensable disability. Review of weekly payments to disabled worker.

(2) The Corporation is not required to comply with a request for a review under subsection (1) if the request is made within 6 months from the completion of an earlier review.

(3) On a review under this section the Corporation may adjust the amount of the weekly payments to take account of any change in the extent of the worker's incapacity for work (insofar as the incapacity is attributable to a compensable disability).

(4) Where a worker has received, in respect of a particular disability, weekly payments for a period of incapacity for work of 2 years or more or for periods of incapacity for work aggregating 2 years or more, the Corporation shall not, in adjusting the amount of the weekly payments payable to a worker who is partially incapacitated for work, reduce the weekly payments to take account of an improvement in the earning capacity of the worker unless it appears that the aggregate of the weekly payment plus the actual weekly earnings of the worker (excluding prescribed allowances) is likely to exceed the notional weekly earnings of the worker.

(5) For the purposes of a review under this section, the Corporation may, by notice in writing to a worker, who is receiving weekly payments—

(a) require the worker to submit to an examination by a recognized medical expert nominated by the Corporation;

or

(b) require the worker to furnish evidence of the worker's earnings.

(6) If a worker fails to comply with a requirement under subsection (5) within the time allowed in the notice, the Corporation may suspend weekly payments to the worker.

(7) Where the Corporation makes an adjustment to weekly payments in pursuance of this section, the Corporation shall give notice in writing to the worker—

(a) stating the ground of the adjustment;

and

(b) informing the worker of the worker's rights to have the Corporation's decision reviewed.

39. (1) Where a worker to whom weekly payments are payable is incapacitated for work or appears likely to be incapacitated for work for more than one year, the Corporation shall, during the course of each year of incapacity, review the weekly payments for the purpose of making an adjustment to the amount of those payments under this section. Economic adjustments to weekly payments.

(2) An adjustment under this section—

(a) for the first and second years of incapacity—shall operate from the expiration of those years and shall be based on changes—

(i) in the rates of remuneration payable to workers generally or to workers engaged in the kind of employment from which the worker's disability arose;

or

- (ii) if the worker applies, according to the regulations, for the adjustments to be made on the basis of changes in rates of remuneration payable to workers engaged in the kind of employment from which the worker's disability arose and furnishes satisfactory evidence of such changes—in those rates of remuneration;

and

- (b) for the third and subsequent years of incapacity—shall operate from a date fixed by the Corporation and shall be based on changes in the average minimum award rate since an adjustment was last made under this section.

(3) Where the Corporation makes an adjustment to weekly payments in pursuance of this section, the Corporation shall give notice in writing to the worker—

- (a) stating the ground of the adjustment;

and

- (b) informing the worker of the worker's rights to have the Corporation's decision reviewed.

Weekly payments
and leave
entitlements.

40. (1) Subject to subsection (3), neither the liability to make weekly payments to a worker in respect of a period of incapacity nor the amount of such weekly payments is affected by a payment, allowance or benefit for annual leave or long service leave to which the worker is entitled in respect of that period.

(2) Where a worker is absent from employment in consequence of a compensable disability, the period of absence shall for the purposes of computing the worker's entitlement to annual leave or sick leave under any Act, award or industrial agreement, be counted as a period of service in the worker's employment.

(3) Where a worker has received weekly payments in respect of total incapacity for work over a continuous period of 52 weeks or more, the liability of the employer to grant annual leave to the worker in respect of a year of employment that coincides with, or ends during the course of, that period shall be deemed to have been satisfied.

(4) Subsection (3) does not affect the obligation of an employer to make a payment in the nature of an annual leave loading.

(5) Where—

- (a) the entitlement of a worker to annual leave, or payment in lieu of annual leave, is governed by a law of the Commonwealth or a State or Territory of the Commonwealth (not being this State);

- (b) the worker is absent from employment in consequence of a compensable disability;

and

- (c) the period of absence is not taken into account as service for the purpose of calculating the worker's entitlement to annual leave or payment in lieu of annual leave,

the worker is entitled by way of compensation to the monetary value of the annual leave that would have accrued if the worker had not been absent from employment.

(6) Any compensation payable under subsection (5) shall be paid when the annual leave, or the payment in lieu of annual leave, would (assuming that the worker had not been absent from employment) have been granted or made.

41. (1) Where a worker who has suffered a compensable disability and who is receiving weekly payments is to be absent from Australia for a period in excess of 28 days, the worker shall, at least 28 days before leaving Australia, give the Corporation prescribed details of the proposed absence.

Absence of
worker from
Australia.

(2) Where the Corporation is of the opinion that the absence may impair the prospects of the worker's rehabilitation, it may, after giving the worker at least 14 days notice of its intention to do so, suspend or reduce the weekly payments to the worker.

(3) The Corporation may suspend weekly payments that are being made to a worker who is absent from Australia—

(a) if the Corporation cannot obtain, to its satisfaction, information relating to—

- (i) the whereabouts of the worker;
- (ii) the continuance of the worker's disability or incapacity for work;
- (iii) the earning capacity of the worker;

or

(b) if there is, in the opinion of the Corporation, some other proper reason justifying suspension of the weekly payments.

(4) If a disabled worker leaves Australia without giving the notice required under subsection (1), the Corporation may suspend weekly payments to the worker.

42. (1) Subject to subsection (2), a liability to make weekly payments under this Division may, on the application of the worker, be commuted, in whole or in part, to a liability to pay a lump sum representing the capitalized value of those payments.

Commutation of
liability to make
weekly payments.

(2) Subsection (1) is subject to the following qualifications:

- (a) the commutation may only apply in relation to a liability to make weekly payments in respect of a permanent incapacity;
- (b) a liability may only be commuted after the worker has received compensation for non-economic loss;

and

(c) subject to subsection (3), the aggregate of the amount realized by the commutation and the amount of compensation for non-economic loss must not exceed the prescribed sum and if commutation of the total liability to make weekly payments would result in an aggregate of those amounts in excess of the prescribed sum, the extent of the commutation must be reduced accordingly.

(3) The Corporation has a discretion to allow a commutation notwithstanding that the limit prescribed by subsection (2) (c) is exceeded if, in the opinion of the Corporation, the commutation is desirable in order to avoid a residual liability to make weekly payments of a trivial amount.

(4) In this section—

“compensation for non-economic loss” means compensation under Division V:

“the prescribed sum” means the amount that, at the time of the occurrence of the disability that gave rise to the liability to make weekly payments, was the prescribed sum for the purposes of Division V.

DIVISION V—COMPENSATION FOR NON-ECONOMIC LOSS

Lump sum
compensation.

43. (1) Subject to this Act, where a worker suffers a permanent disability and the disability is compensable under this Act, the worker is entitled (in addition to any entitlement apart from this section) to compensation for non-economic loss by way of a lump sum.

(2) Subject to this section, the lump sum shall be a percentage of the prescribed sum determined by reference to the third schedule.

(3) Where a compensable disability in respect of which compensation is payable by way of a lump sum under subsection (1) is not mentioned in the third schedule, the lump sum shall be fixed by the Corporation as a percentage (not exceeding 100 per cent) of the prescribed sum having regard to—

(a) the nature of the disability;

and

(b) the extent to which the worker's ability to lead a normal life has been impaired by the disability.

(4) Where the compensable disability consists of the permanent loss of a proportion (but not all) of the full efficient use of a physical, mental or sensory faculty, the worker is entitled to a percentage of the compensation payable for total loss of the faculty equal to the percentage of full efficient use lost by the worker.

(5) For the purpose of determining the extent of a loss of full efficient use of a physical, mental or sensory faculty, the extent to which the loss, or the effect of the loss, may be reduced or limited by an external removable aid or appliance shall be disregarded.

(6) Where—

(a) a compensable disability consists of the aggravation, acceleration, exacerbation, deterioration or recurrence of a prior compensable disability;

and

(b) compensation by way of lump sum has been previously paid under this section, or a corresponding previous enactment,

there shall be a proportionate reduction in the amount of the lump sum payable under this section in respect of the disability.

(7) Where a worker suffers two or more compensable disabilities arising from the same trauma, the worker shall not be entitled to receive compen-

sation by way of lump sum in respect of those disabilities in excess of the prescribed sum.

(8) No payment shall be made under this section unless the worker is living at the expiration of 28 days from the date of the occurrence of the disability and payment shall not be made under this section after the death of the worker.

(9) The Governor may, by regulation, amend the third schedule by adding specified disabilities and fixing in relation to each such additional disability a percentage of the prescribed sum that is to be payable in respect of that disability.

(10) A regulation under subsection (9) must not be made except—

(a) on the recommendation of the Corporation;

or

(b) with the approval of the Corporation.

(11) In this section—

“the prescribed sum” means—

(a) in relation to a disability occurring in 1986—\$60 000;

(b) in relation to a disability occurring in a subsequent year—
a sum (calculated to the nearest multiple of \$100) that bears to \$60 000 the same proportion as the Consumer Price Index for the September quarter of the immediately preceding year bears to the Consumer Price Index for the September quarter, 1985.

DIVISION VI—COMPENSATION PAYABLE ON DEATH

44. (1) Subject to this Act, where a worker dies as a result of a compensable disability, compensation is payable as follows:

Compensation payable on death.

(a) a funeral benefit is payable equal to—

(i) the actual cost of the worker's funeral;

or

(ii) the prescribed amount,

whichever is the lesser;

(b) a spouse is entitled to—

(i) a lump sum equal to the prescribed sum less any amount that the worker received as compensation for non-economic loss under Division V;

and

(ii) in the case of a dependent spouse—weekly payments equal to—

(A) in the case of total dependency—50 per cent;

(B) in the case of partial dependency—such lesser percentage as may be fixed by the Corporation having regard to the extent of the dependency,

of the amount of the notional weekly earnings of the deceased worker;

(c) a dependent child (being an orphaned child) is entitled to weekly payments equal to—

- (i) in the case of total dependency—25 per cent;
- (ii) in the case of partial dependency—such lesser percentage as may be fixed by the Corporation having regard to the extent of the dependency,

of the amount of the notional weekly earnings of the deceased worker;

(d) a dependent child (not being an orphaned child) is entitled to weekly payments equal to—

- (i) in the case of total dependency—12½ per cent;
- (ii) in the case of partial dependency—such lesser percentage as may be fixed by the Corporation having regard to the extent of the dependency,

of the amount of the notional weekly earnings of the deceased worker;

(e) a dependent relative (not being a spouse or child) is entitled to such compensation by way of lump sum or weekly payments as may be determined by the Corporation having regard to—

- (i) the extent of the relative's dependency on the deceased worker;
- (ii) the earning capacity of the relative;
- (iii) the relative's means;
- (iv) the extent of any other benefits provided under this Act in respect of the worker's death.

(2) A funeral benefit payable under subsection (1) (a) shall be paid—

(a) to the person who conducted the funeral;

or

(b) a person who has paid, or is liable to pay, the funeral expenses of the deceased worker.

(3) A spouse is not entitled to a lump sum under subsection (1) (b) (i) unless—

(a) the spouse was cohabiting with the worker on the date of the worker's death;

or

(b) although the spouse was not cohabiting with the worker on the date of the worker's death it is, in the opinion of the Corporation, fair that the spouse should receive a lump sum under that provision.

(4) For the purposes of subsection (1), where a worker and the worker's spouse jointly contributed to the support of a dependent child immediately before the occurrence of the compensable disability that resulted in the worker's death, any contribution to the support of the child from the

worker's spouse shall be disregarded in determining whether the child is a dependant and, if so, the extent of the child's dependency.

(5) Where—

- (a) a worker dies leaving a dependent spouse and a dependent child;
and
- (b) the dependent spouse subsequently dies,

the child (if still eligible to receive weekly payments under this section) shall then be entitled to receive weekly payments under subsection (1) (c) as an orphaned child.

(6) Compensation is payable, if the Corporation so decides, to a spouse or child of a deceased worker who, although not dependent on the worker at the time of the worker's death, suffers a change of circumstances that may, if the worker had survived, have resulted in the spouse or child becoming dependent on the worker.

(7) Weekly payments shall not be made to a dependent child under this section unless—

- (a) the child is under the age of 18 years;
 - (b) the child is a full-time student at an educational institution approved by the Corporation for the purposes of this paragraph and is under the age of 26 years;
- or
- (c) the child is, by reason of physical or mental disability, incapable of earning a living.

(8) Weekly payments shall not be paid under this section beyond the date at which such payments would, assuming that the worker had survived but had been permanently incapacitated for work, have ceased to be payable to the worker.

(9) Where weekly payments payable under this section would but for this subsection exceed in aggregate the amount of the weekly payments to which the worker would have been entitled in the event of total and permanent incapacity, the weekly payments shall be proportionately reduced so as not to exceed that amount.

(10) Where a person who is entitled to weekly payments under this section is under the age of 18 years, those payments shall, if the Corporation so determines, be made to a trustee for the benefit of that person.

(11) Subject to subsection (12), where the child of a deceased worker who is entitled to weekly payments under this section is under the age of 18 years and is in the care of a person other than a dependent spouse of the worker, that person shall, if the Corporation so determines, be entitled to a supplementary allowance to assist in the care of the child until—

- (a) the child attains the age of 18 years;
- or
- (b) the person ceases to have the care of the child,

whichever first occurs.

(12) Where a child is by reason of a physical or mental disability, incapable of earning a living, the Corporation may pay a supplementary

allowance under subsection (11) during the period of incapacity even though the child has attained the age of 18 years.

(13) A liability to make weekly payments under this section may be commuted, in whole or in part, to a liability to pay a lump sum representing the capitalized value of those payments.

(14) In calculating the capitalized value of weekly payments for the purposes of subsection (13), a prescribed rate of discount shall be applied.

(15) In this section—

“the prescribed sum” means the amount that, at the time of the occurrence of the disability that resulted in the death of the worker, was the prescribed sum for the purposes of Division V.

Review of weekly
payments.

45. (1) The Corporation may on its own initiative and shall if requested by an employer or the person to whom weekly payments are payable, review the amount of weekly payments payable to any person under this Division.

(2) A request for a review of the amount of weekly payments payable under this Division may not be made within 6 months from the completion of an earlier review.

(3) The amount of the weekly payments payable under this Division shall be reviewed at least once in each year.

(4) On a review under this section the Corporation shall make any necessary adjustments to the amount of weekly payments—

(a) to reflect changes in the income or earning capacity of the person to whom the weekly payments are payable and any other relevant changes in the circumstances of that person;

and

(b) where the review is an annual review conducted in pursuance of subsection (3)—to reflect changes in the average minimum award rates since payments were commenced under this Division or an adjustment was last made under this section (as may be appropriate).

(5) For the purposes of a review under this section, the Corporation may, by notice in writing to a person who is receiving weekly payments under this Division, require that person to produce evidence to the satisfaction of the Corporation of—

(a) income;

(b) earning capacity;

(c) any other circumstances that are relevant to the payment, or the amount, of weekly benefits.

(6) If a person fails to comply with a requirement under subsection (5) within the time allowed in the notice, the Corporation may suspend weekly payments to that person.

(7) Where the Corporation proposes the reduction of weekly payments to a person on a review under this section the Corporation shall, at least 21 days before the proposal is to take effect, give notice in writing to the person—

- (a) stating the ground on which weekly payments are to be reduced;
- and
- (b) informing the person of the person's rights to have the Corporation's decision reviewed.

DIVISION VII—LIABILITY TO PAY COMPENSATION

46. (1) Subject to this section, the Corporation is liable to make all payments of compensation to which any person becomes entitled under this Act. Incidence of liability.

(2) Where a compensable disability arises from employment by an exempt employer, the exempt employer is liable to make all payments of compensation to which any person becomes entitled in consequence of the occurrence of that compensable disability.

(3) Subject to subsection (4), where a worker is, as a result of a compensable disability, wholly or partially incapacitated for work and is in employment when the incapacity arises, the worker's employer is liable to pay compensation by way of income maintenance—

- (a) if the period of the incapacity is one week or less—for the whole of the period of the incapacity;
- (b) if the period of the incapacity is more than one week—for the first week of the period of the incapacity.

(4) Where separate periods of incapacity commence during the course of the same calendar year (whether attributable to the same disability or not) an employer is not liable to pay compensation under subsection (3) in respect of those periods of incapacity in excess of an amount equal to the worker's average weekly earnings.

(5) Where a worker is, at the commencement of a period of incapacity, in the employment of two or more employers, they are liable to pay the compensation referred to in subsection (3) in proportions determined by agreement between them or, in default of agreement, by the Corporation.

(6) An employer who is liable to pay compensation to a worker under subsection (3) shall make the payment—

- (a) if the claim for compensation is not disputed—within 14 days after the date of the claim;
- or
- (b) if the claim for compensation is disputed—forthwith after the dispute is determined.

(7) Where an employer pays compensation under subsection (3) in respect of a disability that did not arise from employment by that employer, that employer may recover the amount of the payment from the Corporation, and the Corporation may, in turn, recover that amount—

- (a) from the employer from whose employment the disability arose;
- or
- (b) if it appears that the worker was not entitled to that compensation—from the worker.

(8) Where the Corporation pays compensation by way of income maintenance to a worker who was not in employment when the incapacity for work arose, the Corporation may recover any amount that would, if the worker had been in employment, have been payable under subsection (3) by the employer from whose employment the worker's disability arose.

(9) No compensation by way of income maintenance is payable to a disabled self-employed worker whose disability arises from self-employment in respect of the first week of incapacity for work.

Augmentation of weekly payment in consequence of delay.

47. (1) Subject to subsection (2), where—

(a) a weekly payment, or part of a weekly payment, is not paid as and when required to be paid under this Act;

or

(b) the making of a weekly payment is delayed pending resolution of a dispute under this Act,

any amount in arrears shall be increased by interest at the prescribed rate.

(2) No interest is payable under this section if the delay is attributable to some fault on the part of the worker.

Payments by Corporation on behalf of defaulting employer.

48. (1) Where an employer fails to make a payment of compensation that the employer is liable to make under this Act, the Corporation shall make that payment on behalf of the employer.

(2) Where the Corporation makes a payment of compensation under this section, the Corporation is entitled to recover from the employer as a debt—

(a) the amount of the payment;

and

(b) an administration fee fixed in accordance with the regulations, and the Corporation shall take all reasonable steps to recover that debt).

Corporation may undertake employer's liability to make weekly payments.

49. Where an employer is liable to make weekly payments of compensation, the Corporation may, at the request of the employer, undertake that liability on the employer's behalf in consideration of the payment by the employer to the Corporation of an amount fixed by the Corporation.

Corporation to act as insurer of last resort.

50. (1) Where an exempt employer becomes insolvent, the Corporation shall undertake the present and future liabilities of that employer to pay compensation under this Act.

(2) Where an exempt employer ceases to be exempt, the Corporation shall undertake the present and future liabilities, as at the date of the cessation of the exemption, of the employer (not being liabilities that would have attached to the employer irrespective of the exemption) to pay compensation under this Act.

(3) An amount representing the capitalized value of liabilities undertaken by the Corporation under this section may be recovered from the employer as a debt or claimed in the winding up of the employer.

DIVISION VIII—NOTICES OF DISABILITIES AND CLAIMS FOR COMPENSATION

51. (1) Where a worker suffers a compensable disability, notice of that disability must be given—

Duty to give notice of disability.

(a) to the employer by whom the worker is employed at the time of the occurrence of the disability;

or

(b) if the worker is not then in employment or is self-employed—to the Corporation.

(2) Notice of a disability should be given—

(a) if practicable within 24 hours after the occurrence of the disability but, if that is not practicable, as soon as practicable after the occurrence of the disability;

(b) if the worker is not, immediately after the occurrence of the disability, aware of the disability—as soon as practicable after the worker becomes so aware;

(c) if the worker dies without having become so aware or before it is practicable to give such a notice—as soon as practicable after the worker's death.

(3) Notice of a disability—

(a) may be given orally or in writing;

and

(b) should specify to the best of the knowledge, information and belief of the person giving the notice—

(i) the day on which the disability occurred;

(ii) the place at which the disability occurred;

(iii) the nature of the disability;

and

(iv) the cause of the disability.

(4) For the purposes of this section, notice of a disability shall be deemed to have been given to an employer if—

(a) it is given to—

(i) the employer at any place of business of the employer;

(ii) any person under whose supervision the worker was employed at the time of the disability;

or

(iii) any person designated for the purpose by the worker's employer;

or

(b) it is served by post on the employer.

(5) A person by whom a notice under this section is given orally shall, at the request of the person to whom the notice is given, complete a written statement in a form determined by the Corporation.

(6) Subject to subsection (8), where an employer (not being an exempt employer) receives notice of a disability given or purportedly given under this section the employer shall, within 5 business days after the receipt of the notice, send a copy of the notice to the Corporation together with the prescribed information.

Penalty: \$1 000.

(7) Where it appears from a notice under this section that the worker was not, at the date of the notice, in the employment of the employer from whose employment the disability arose, the Corporation shall (where it is practicable to do so) send a copy of the notice to that employer.

(8) The Corporation may, by notice published in the *Gazette*—

- (a) exclude from the application of this section minor disabilities of a class specified in the notice;
- (b) vary, in relation to cases of a specified class, the time at which an employer is required to report to it under this section.

Claim for
compensation.

52. (1) Subject to this section, a claim for compensation—

- (a) must be made in a manner and form approved by the Corporation;
 - (b) must be made within the prescribed period;
- and
- (c) must be supported by a certificate in the prescribed form by a recognized medical expert certifying—
 - (i) the nature of the disability;
 - (ii) the probable cause of the disability so far as that is ascertainable by the medical expert;
 - (iii) where the claimant claims to be incapacitated for work— the extent and probable duration of the incapacity.

(2) Where notice of a disability is required under this Division, a claim for compensation may not be made in respect of that disability unless notice of the disability has been given in accordance with this Division.

(3) Notwithstanding subsections (1) and (2)—

- (a) the absence of, or a defect in, a notice of disability shall not be a bar to the making of a claim if the Corporation is satisfied—
 - (i) that the proper determination of the claim has not been substantially prejudiced;

or

 - (ii) that the failure to give the notice, or the defect in the notice was occasioned by the ignorance of the claimant, mistake or absence from the State or other reasonable cause;

and

- (b) a failure to make a claim within the prescribed period shall not be a bar to the making of a claim if the Corporation is satisfied—

(i) that the proper determination of the claim has not been substantially prejudiced;

or

(ii) that the failure to make the claim within the prescribed period was occasioned by the ignorance of the claimant, mistake or absence from the State or other reasonable cause.

(4) A claim for compensation must be given as follows:

(a) where the worker is at the commencement of the incapacity in employment—the claim must be given to the employer;

(b) in any other case—the claim must be given to the Corporation.

(5) Within 5 business days after receipt of a claim under this section, an employer shall forward to the Corporation—

(a) a copy of the claim;

(b) a statement in the prescribed form containing such information as may be prescribed.

Penalty: \$1 000.

(6) Where it appears from a claim that the worker was not, at the time of making the claim, in the employment of the employer from whose employment the disability arose, the Corporation shall (where it is practicable to do so) notify that employer of the claim.

(7) In this section—

“prescribed period”, in relation to the making of a claim in pursuance of this section, means the period of 6 months commencing on the day on which the entitlement to make the claim arises.

53. (1) On receipt of a claim for compensation the Corporation shall make such investigations and inquiries as it thinks necessary to determine the claim.

Determination of claim.

(2) For the purpose of satisfying itself of the nature, extent or probable duration of a disability, the Corporation may require a worker to submit to an examination by a recognized medical expert nominated by the Corporation from a list of approved experts.

(3) If a claimant for compensation—

(a) fails or refuses to furnish information reasonably required by the Corporation to determine the claim;

or

(b) fails or refuses to submit to an examination as required under subsection (2),

the claim may be rejected.

(4) The Corporation shall determine claims for compensation as expeditiously as reasonably practicable and where the claim is for compensation by way of income maintenance shall, wherever practicable, endeavour to determine the claim within 10 business days after the date of receipt of the claim.

(5) As soon as practicable after determining a claim for compensation the Corporation shall give notice in writing of the determination—

(a) to the claimant;

and

(b) to any employer who may be directly affected.

(6) Where any part of a claim is rejected, the notice referred to in subsection (5) must include—

(a) a statement of the ground of rejection;

and

(b) a statement of the claimant's rights to have the determination reviewed.

DIVISION IX—MISCELLANEOUS

Limitation of
employer's
liability.

54. (1) Subject to subsection (2), no liability attaches to an employer in respect of a compensable disability arising from employment by that employer except—

(a) a liability under this Act;

or

(b) a liability at common law for non-economic loss or solatium.

(2) Subsection (1) does not affect a liability arising out of the use of a motor vehicle, being a liability against which the employer was or ought to have been insured under the law of compulsory third-party motor vehicle insurance.

(3) A court before which an action is brought against an employer for non-economic loss arising from a compensable disability shall make due allowance for any lump sum paid or payable under Division V or VI to the person by or on whose behalf the action is brought.

(4) Where an action is brought at common law against an employer for damages for non-economic loss arising from a compensable disability (not being a disability that arises out of the use of a motor vehicle and gives rise to a liability of a kind referred to in subsection (2)), the damages awarded in respect of that loss must not exceed 1.4 times the prescribed sum.

(5) Where—

(a) compensation is paid or payable under this Act in respect of a compensable disability;

(b) a right of action exists against a person other than the employer for damages in respect of the disability,

the person by whom the compensation is paid or payable is entitled to recover the amount of the compensation in accordance with subsection (7).

(6) Where—

- (a) a compensable disability arises out of the use of a motor vehicle;
- (b) the employer was or ought to have been insured against liability for the disability under the law of compulsory third-party motor vehicle insurance;
- (c) compensation is paid or payable by the Corporation under this Act in respect of the disability,

the Corporation is entitled to recover the amount of the compensation in accordance with subsection (7).

(7) Where—

- (a) compensation is paid or payable to a person (“the injured party”) under this Act;
- (b) the injured party has received, or is entitled to, damages from another person (“the wrongdoer”) in pursuance of rights arising from the same trauma as gave rise to the rights to compensation under this Act;
- (c) the person by whom the compensation is paid or payable under this Act (“the claimant”) is entitled to recover the amount of the compensation by virtue of subsection (5) or (6),

then the following provisions apply:

- (d) the claimant is entitled to recover the amount of compensation paid or payable under this Act from the wrongdoer or the injured party but subject to the following qualifications:
 - (i) no amount may be recovered from the wrongdoer in excess of the wrongdoer’s unsatisfied liability to the injured party;
 - (ii) the claimant must exhaust its rights against the wrongdoer before recovering against the injured party;and
 - (iii) no amount may be recovered from the injured party in excess of the amount of the damages received by the injured party;
- (e) the claimant shall, on giving notice to a wrongdoer of an entitlement to recover compensation under this section, have a first charge, to the extent of the entitlement, on damages payable by the wrongdoer to the injured party;
- (f) any amount recovered by the claimant against a wrongdoer under this subsection shall be deemed to be an amount paid in or towards satisfaction of the wrongdoer’s liability to the injured party;
- (g) an action for the recovery of compensation under this subsection—
 - (i) may be heard and determined by the Industrial Court;and
 - (ii) must be commenced within 3 years after the date of the trauma referred to in paragraph (b).

(8) In this section—

“damages” includes any form of compensation payable apart from this Act in respect of a compensable disability:

“employer” includes—

(a) any person for whose torts an employer is vicariously liable;

(b) any person who is vicariously liable for the torts of an employer:

“the law of compulsory third-party motor vehicle insurance” means—

(a) Part IV of the Motor Vehicles Act, 1959 (including a policy of insurance under that Part);

or

(b) the law of another State or a Territory of the Commonwealth that corresponds to Part IV of the Motor Vehicles Act, 1959 (including a policy of insurance under such a law):

“prescribed sum” means the amount that, at the time of the occurrence of the disability that gave rise to a liability at common law for non-economic loss, was the prescribed sum for the purposes of Division V.

Prohibition of double recovery of compensation.

55. (1) Where a disability is compensable under this Act and under a corresponding law, compensation shall not be paid both under this Act and under the corresponding law.

(2) Where compensation is in fact paid both under this Act and under a corresponding law, the compensation paid under this Act may be recovered as a debt due to the person by whom it was paid from the person to whom it was paid.

(3) The fact that compensation or damages in respect of a disability have been recovered under a foreign law is a bar to the recovery of compensation in respect of the same disability under this Act.

Effect of misconduct in relation to claim for compensation.

56. (1) Subject to subsection (2), the fact that a disability is attributable to misconduct on the part of a worker—

(a) in a case of death or serious and permanent disability—is not a bar to a claim for compensation under this Act;

and

(b) in any other case—is not a bar to a claim for compensation under this Act unless the misconduct amounts to serious and wilful misconduct.

(2) In any proceedings under this Act in which a claim for compensation is alleged to be barred by the misconduct of the worker, the onus of proving that allegation lies on the person by whom the allegation is made.

57. Where a compensable disability arises from employment on a ship the amount of the compensation is not subject to any limitation imposed by the Merchant Shipping Act, 1894, of the United Kingdom.

Compensation payable in respect of disabilities arising from employment on ships.

58. (1) Notwithstanding any other provision of this Act, but subject to subsection (2), where—

Certain sporting disabilities not compensable.

(a) a worker is employed by an employer solely—

(i) to participate as a contestant in a sporting or athletic activity (and to engage in training or preparation with a view to such participation);

or

(ii) to act as a referee or umpire in relation to a sporting or athletic contest (and to engage in training or preparation with a view to so acting);

and

(b) remuneration is not payable under the contract of employment except in respect of such employment,

a disability arising out of or in the course of that employment is not compensable.

(2) This section does not apply to—

(a) a person authorized or permitted under the Racing Act, 1976, to ride or drive in a race as defined in that Act;

(b) a boxer, wrestler or referee employed or engaged for a fee to take part in a boxing or wrestling match;

or

(c) a person who derives an entire livelihood, or an annual income in excess of the prescribed amount, from employment of a kind referred to in subsection (1) (a).

(3) In this section—

“the prescribed amount” means—

(a) in relation to 1986—\$25 000;

(b) in relation to a subsequent year—a sum (calculated to the nearest multiple of \$100) that bears to \$25 000 the same proportion as the Consumer Price Index for the September quarter of the immediately preceding year bears to the Consumer Price Index for the September quarter, 1985.

PART V

REGISTRATION AND FUNDING

DIVISION I—REGISTRATION OF EMPLOYERS

59. (1) Subject to subsection (2), an employer shall not employ a worker in employment to which this Act applies unless the employer is registered by the Corporation.

Registration of employers.

Penalty: \$10 000 for each worker so employed.

(2) An employer is not required to be registered if the employer is exempted by the regulations from the obligation to be registered.

Exempt
employers.

60. (1) Subject to this section, an employer or a group of employers may apply to the Corporation for registration as an exempt employer or as a group of exempt employers.

(2) An application shall not be made under subsection (1) unless—

(a) in the case of an application by an individual employer—the employer is a body corporate employing more than the prescribed number of workers;

(b) in the case of an application by a group—

(i) the members of the group are related corporations or local government corporations;

and

(ii) the members of the group employ in aggregate more than the prescribed number of workers.

(3) Where an application is made under subsection (1), the Corporation may, if satisfied that it is appropriate to do so, register the employer or the group as an exempt employer or a group of exempt employers.

(4) In determining whether it is appropriate to register an employer or a group under this section, the Corporation shall have regard to the following matters:

(a) whether the employer or group is, and is likely to continue to be, able to meet its liabilities;

(b) the resources that the employer or group has for the purpose of administering claims for compensation;

(c) the incidence and severity of compensable disabilities arising from employment by the employer or the employers constituting the group;

(d) the safety of the working conditions of workers employed by the employer or the employers constituting the group;

(e) the record of the employer or the employers constituting the group in relation to the rehabilitation of disabled workers;

(f) the views of any registered association that has, in the opinion of the Corporation, a proper interest in the application;

(g) such other matters as the Corporation thinks fit.

(5) A registration under this section—

(a) is subject to—

(i) a condition that the exempt employer shall not exercise any power or discretion delegated to the exempt employer under this Act unreasonably;

and

(ii) such other terms and conditions as the Corporation determines or as are prescribed by the regulations;

and

(b) has effect, unless sooner revoked, for the period of 3 years and may be renewed from time to time for a further period of 3 years.

(6) The Corporation may revoke the registration of an exempt employer if the employer breaches, or fails to comply with, a term or condition of registration.

(7) Where employers are registered as a group of exempt employers, one of those employers nominated in the application for registration shall, for the purposes of this Act, be treated as the employer of all workers employed by the various members of the group.

(8) Notwithstanding subsection (7), the members of the group are jointly and severally liable to satisfy the liabilities under this Act of the member referred to in subsection (7).

(9) In this section—

“related corporations” means corporations that are related corporations for the purposes of the *Companies (South Australia) Code*.

61. (1) Subject to subsection (2), the Crown and any agency or instrumentality of the Crown shall be deemed to be registered as exempt employers.

The Crown and its agencies to be exempt employers.

(2) The Governor may, by proclamation, declare that an agency or instrumentality of the Crown is not to be regarded as an exempt employer, and in that event the agency or instrumentality shall not be regarded as an exempt employer.

(3) The Governor may, by further proclamation, vary or revoke a proclamation under subsection (2).

62. (1) An application for registration as an employer, an exempt employer or a group of exempt employers—

Applications.

(a) must be made in the prescribed manner and form;

(b) must be accompanied by the prescribed information;

and

(c) in the case of an application for registration of a group of exempt employers—must nominate a member of the group as the employer who is, for the purposes of this Act, to be treated as the employer of all workers employed by the various members of the group.

DIVISION II—DELEGATION TO EXEMPT EMPLOYERS

63. (1) Subject to this Act, the following powers and discretions of the Corporation, insofar as they are exercisable in relation to workers of an exempt employer, are delegated to the exempt employer—

Delegation to exempt employers.

(a) the powers and discretions under the following sections:

Section 35

Section 36

Section 37

Section 38

Section 39

Section 41

Section 42

Section 43

Section 44

Section 45

Section 53, other than the power to approve recognized medical experts for the purposes of section 53 (2)

Section 108;

(b) any other prescribed powers and discretions.

(2) Delegated powers and discretions referred to in subsection (1) shall not be exercised by the Corporation in relation to the workers of the exempt employer.

(3) The Corporation shall not overrule or interfere with a decision of an exempt employer made in the exercise of delegated powers or discretions.

(4) A decision of an exempt employer made in pursuance of a power or discretion delegated under subsection (1) shall have the same force and effect as a decision of the Corporation and shall be subject to review and appeal in the same way as a decision of the Corporation.

(5) A reference to the Corporation in the provisions of this Act referred to in subsection (1) shall, in relation to any matter over which an exempt employer has delegated powers or discretions, be construed as a reference to that exempt employer.

(6) If an exempt employer exercises a power or discretion delegated under subsection (1) unreasonably, the Corporation may withdraw (in whole or in part) the delegation effected by subsection (1).

DIVISION III—THE COMPENSATION FUND

The
Compensation
Fund.

64. (1) The Corporation shall establish and maintain a fund entitled the "Compensation Fund".

(2) The Compensation Fund shall consist of—

(a) amounts received from the imposition of levies under this Part;

(b) any income and accretions produced by the investment of money from the Fund;

(c) any money advanced to the Corporation for the purposes of the Fund;

(d) other money received by the Corporation under this Act or in the administration of this Act.

(3) The Compensation Fund shall be applied towards—

(a) the payments of compensation that the Corporation is liable to make under this Act;

(b) the costs incurred by the Corporation in performing its functions under this Act.

(4) The Corporation may invest money that is not immediately required for the purposes of the Compensation Fund as the Corporation thinks fit.

(5) Subject to subsection (6), in deciding how to invest funds that are available for investment, the Corporation shall endeavour to achieve the highest possible rates of return.

(6) The Corporation is not required to comply with subsection (5) if the board unanimously decides, in relation to certain funds, to invest those funds at a lesser rate of return but so as to promote the economy of the State.

(7) Until there are sufficient funds in the Compensation Fund to meet the liabilities of the Fund, the Treasurer may, as may be required from time to time, lend money to the Corporation on such terms and conditions as the Treasurer may determine.

(8) The Treasurer may charge a fee of such amount as the Treasurer thinks fit in respect of any loan made to the Corporation under subsection (7).

DIVISION IV—IMPOSITION OF LEVIES

65. (1) In this Division—

Preliminary.

“class” of industry includes a subclass:

“remuneration” includes payments made to or for the benefit of a worker which by the determination of the Corporation constitute remuneration but does not include payments determined by the Corporation not to constitute remuneration.

(2) For the purposes of this division, two or more workplaces in close proximity may, if the Corporation so determines, be regarded as a single workplace.

66. (1) An employer (not being an exempt employer) is liable to pay a levy to the Corporation under this section.

Imposition of levies.

(2) The levy is a percentage of the aggregate remuneration paid to the employer's workers in each class of industry in which the employer employs workers.

(3) The Corporation may for the purposes of this section divide the industries carried on in the State into various classes.

(4) The Corporation may determine any question as to the class of industry in which an employer employs workers.

(5) In determining the class of industry in which an employer employs workers the following provisions will be applied—

(a) if the employer employs a worker in two or more classes of industry—

(i) the worker will, subject to any determination by the Corporation to the contrary, be treated as if solely employed in the class of industry in which he or she is predominantly employed;

and

(ii) if it is not possible to determine which is the predominant class, the worker will be treated as if solely employed in a class of industry determined by the Corporation;

(b) if the employer employs workers in different classes of industry at a particular workplace, all workers employed at the workplace will, if the Corporation so determines, be treated as engaged in the predominant class of industry;

and

(c) in determining what is the predominant class of industry, the Corporation will have regard to—

(i) the importance within the employer's total operations of each class of industry in which workers are employed;

and

(ii) any other relevant factor.

(6) The Corporation—

(a) must fix the percentages applicable to the various classes of industry by notice published in the *Gazette*,

and

(b) may, by subsequent notice published in the *Gazette*, vary the percentages so fixed.

(7) Subject to subsection (9), a percentage fixed under subsection (6) in relation to a class of industry must be one of the following:

0.5 per cent

0.7 per cent

1.0 per cent

1.4 per cent

1.8 per cent

2.3 per cent

2.8 per cent

3.3 per cent

3.8 per cent

4.5 per cent.

(8) In fixing the percentage applicable to a particular class of industry the corporation must have regard to—

(a) the extent to which work carried on in that class is, in the opinion of the Corporation, likely to contribute to the cost of compensable disabilities;

and

(b) the need for the Corporation to establish and maintain sufficient funds—

(i) to satisfy the Corporation's current and future liabilities in respect of compensable disabilities attributable to traumas occurring in a particular period from levies raised from remuneration paid in that period;

(ii) to make proper provision for administrative and other expenditure of the Corporation;

and

(iii) to make up any insufficiency in the Compensation Fund resulting from previous liabilities or expenditures or from a reassessment of future liabilities.

(9) The Corporation may fix a percentage in excess of 4.5 per cent in relation to a particular class of industry if in each of two consecutive years the Corporation's estimate of the aggregate cost of claims in respect of

disabilities attributable to traumas occurring in the year in the relevant class exceeds 30 per cent of the aggregate leviable remuneration paid to workers in that class.

(10) A percentage may not be fixed under subsection (9) in excess of 20 per cent.

(11) A percentage fixed under subsection (9) will be reviewed annually by the Corporation and applies until it is revoked or varied by the Corporation.

(12) The regulations may provide for a reduction, in prescribed circumstances, of the levy that would otherwise be payable by an employer under this section.

(13) The percentages prescribed by subsection (7) must be reviewed by the Corporation before the fifth anniversary of the commencement of this Act.

67. (1) The Corporation may, in respect of a particular employer, having regard to—

- (a) any exceptional measures taken by the employer to reduce the incidence of work-related traumas;
- (b) any significant degree by which the incidence of, or costs of claims in respect of, compensable disabilities suffered by the employer's workers have been lower than the incidence of, or costs of claims in respect of, compensable disabilities generally suffered by workers in the State engaged in similar classes of industry (disregarding unrepresentative disabilities and secondary disabilities);
- (c) the fact that the employer provides rehabilitation facilities or services for disabled workers approved by the Corporation,
- (d) the desirability of providing the employer with an incentive to employ or re-employ workers who have suffered compensable disabilities,

Adjustments may be made in respect of particular employers.

grant to the employer such remission of levy that would otherwise be payable by the employer as the Corporation thinks fit.

(2) The Corporation may, in respect of a particular employer, having regard to—

- (a) the failure of the employer to take adequate measure to reduce the incidence of work-related traumas;
- (b) any significant degree by which the incidence of, or costs of claims in respect of, compensable disabilities, other than unrepresentative disabilities and secondary disabilities, suffered by the employer's workers have been higher than the incidence of, or costs of claims in respect of, compensable disabilities generally suffered by workers in the State engaged in similar classes of industry (disregarding unrepresentative disabilities and secondary disabilities),

impose on the employer, by notice in writing given to the employer, such supplementary levy as the Corporation thinks fit.

DIVISION V—SPECIAL LEVY FOR EXEMPT EMPLOYERS

Special levy for
exempt
employers.

68. (1) An exempt employer is liable to pay a levy to the Corporation under this section.

(2) The levy payable by an exempt employer is a percentage (determined by the Corporation) of the aggregate remuneration paid to the employer's workers over the period to which the levy relates.

(3) The levy shall be fixed with a view to raising from exempt employers—

(a) a fair contribution towards the administrative expenditure of the Corporation;

(b) a fair contribution towards the cost of rehabilitation funding;
and

(c) a fair contribution towards actual and prospective liabilities of the Corporation arising from the insolvency of employers.

(4) Where an exempt employer provides, with the approval of the Corporation, rehabilitation facilities and services for disabled workers, the Corporation may grant to the exempt employer such remission of the levy that would otherwise be payable by the exempt employer as the Corporation thinks fit.

DIVISION VI—PAYMENT OF LEVIES

Returns by
employers.

69. (1) Every employer shall, within 7 days after the end of each month, furnish the Corporation with a return in a form approved by the Corporation containing—

(a) (i) if the employer is an exempt employer—a statement of the aggregate remuneration paid to the employer's workers during the month;

(ii) if the employer is not an exempt employer—a statement of the aggregate remuneration paid to the employer's workers in each class of industry during that month;

(b) prescribed information in relation to claims lodged with the employer under this Act during that month;

and

(c) such other information as may be prescribed or required by the Corporation.

(2) The return must be accompanied by the levy payable by the employer in respect of that month.

(3) The Corporation may require an employer to provide—

(a) a certificate signed by the employer, a person authorized to act on the employer's behalf or, if the Corporation so requires, a person with prescribed accounting qualifications, verifying the information contained in a return;

or

(b) some other verification of that information of a kind stipulated by the Corporation.

(4) The Corporation may, in order to avoid undue inconvenience to a particular employer, or to employers of a particular class—

(a) exempt the employer or employers of that class from a requirement of this section;

and

(b) impose, by notice to the particular employer or by notice in the *Gazette*, such other requirements on that employer or those employers as may be appropriate in the circumstances.

(5) Where—

(a) an employer fails to comply with a requirement imposed by or under this section;

(b) a return furnished by or on behalf of an employer includes a statement that is, to the knowledge of the employer, false or misleading in a material particular;

or

(c) an employer in a return intentionally understates the aggregate remuneration paid by the employer,

the employer is guilty of an offence.

Penalty: \$50 000.

(6) The Corporation may determine that payments of a particular class are to be brought into account or to be excluded from account in the calculation of aggregate remuneration paid by an employer for the purposes of this Part.

DIVISION VII—RECOVERY OF LEVIES AND FINES

70. (1) Where an employer—

(a) fails or neglects duly to furnish a return when required by or under this Act;

or

(b) furnishes a return that the Corporation has reasonable grounds to believe to be defective in any respect,

the Corporation may make an assessment of levy on the basis of estimates made by the Corporation.

(2) Where an employer fails to pay a levy, or the full amount of a levy, required by or under this Act, the Corporation will make an assessment of the amount payable by the employer.

(3) The Corporation may, by assessment under subsection (1) or (2), impose on the employer a fine of an amount (not exceeding 3 times the amount assessed) fixed by the Corporation.

(4) The Corporation may for any proper reason remit a fine imposed under subsection (3) wholly or in part.

(5) An employer to whom a notice of an assessment or a fine under this section is given shall pay the amount of the assessment or fine within the time allowed in the notice.

Penalty: \$10 000.

Recovery on default.

Penalty for late payment.

71. (1) Where an employer fails to pay a levy as and when required by or under this Part—

(a) the amount in arrears shall be increased by penalty interest at the prescribed rate;

and

(b) the Corporation may impose on the employer a fine of an amount (not exceeding 3 times the amount assessed) fixed by the Corporation.

(2) The Corporation may for any proper reason remit penalty interest or a fine imposed under subsection (1) wholly or in part.

(3) An employer to whom notice of an assessment or a fine under this section is given shall pay the amount of the assessment or fine within the time allowed in the notice.

Penalty: \$10 000.

Review of levy.

72. (1) Where an employer considers that the Corporation has acted unreasonably in relation to the fixing or assessment of a levy, or the imposition of a fine, the employer may require the board to review the matter.

(2) The procedures for a review under subsection (1) will be as determined by the board.

(3) An application for review does not suspend a liability to pay a levy or fine.

(4) On a review, the board may—

(a) alter a levy or an assessment;

(b) quash or reduce a fine;

(c) order the repayment of amounts overpaid.

DIVISION VIII—MISCELLANEOUS

Separate accounts.

73. The Corporation shall, in a manner and form determined by the Corporation, maintain a separate account for each employer in which the Corporation records—

(a) the levies charged to the employer;

(b) the amounts paid by an employer;

(c) the costs related to claims arising from employment by the employer, distinguishing the costs related to claims for unrepresentative disabilities and secondary disabilities from the other claims;

(d) all other costs attributable to the employer;

and

(e) any other matter that the Corporation thinks fit.

Liability to keep accounts.

74. (1) For the purpose of completing returns in accordance with this Part, an employer shall keep—

(a) an accurate account of all remuneration paid or payable to the workers of the employer;

(b) such other information as may be required by the Corporation.

Penalty: \$10 000.

(2) Where an employer employs workers in more than one class of industry, the Corporation may require the employer to keep an account and other information under subsection (2) in respect of each separate class.

(3) Any accounts and other information required to be kept under this section must be kept within the State and in writing in the English language or so as to be readily accessible and convertible into writing in the English language.

(4) This section does not apply so as to require the retention of accounts or other information beyond 7 years or such lesser period as the Corporation may determine in a particular case from the end of the period to which the accounts or other information relates.

75. (1) Where a registered employer ceases to be an employer who is required to be registered under this Part, the person shall, within 14 days of ceasing to be such an employer—

Person ceasing to be an employer.

(a) give written notice in a manner and form approved by the Corporation;

and

(b) furnish the Corporation, in a manner and form approved by the Corporation, with such information as the Corporation may require.

(2) The Corporation may cancel the registration of an employer if it is satisfied that the person has ceased to be an employer who is required to be registered under this Part.

(3) The cancellation of registration does not affect any liability that arose before the date of cancellation.

76. An employer shall, at the request of an authorized officer or an officer of a registered association, produce evidence of the employer's registration under this Act.

Proof of registration.

Penalty: \$1 000.

PART VI

REVIEWS AND APPEALS

DIVISION I—REVIEW OFFICERS

77. (1) There shall be such Review Officers as are necessary for the purposes of this Act.

Review Officers.

(2) A Review Officer shall be an officer of the Corporation.

(3) A Review Officer is not subject to direction by the Corporation with regard to the manner in which a review is to be determined and the Corporation shall not overrule or interfere with the decision of a Review Officer on a review.

DIVISION II—THE WORKERS COMPENSATION APPEAL TRIBUNAL

The Tribunal.

78. There shall be a Workers Compensation Appeal Tribunal.

Membership of
the Tribunal.

79. (1) The Governor shall appoint as members of the Tribunal—

- (a) a President of the Tribunal nominated by the Minister;
- (b) such Deputy Presidents of the Tribunal as may be nominated by the Minister;

and

- (c) such ordinary members of the Tribunal as may be nominated by the Minister after consultation with the United Trades and Labor Council or associations that represent the interests of employers.

(2) Before nominating a person for appointment as a President or a Deputy President of the Tribunal, the Minister shall consult with the United Trades and Labor Council and with associations that represent the interests of employers.

(3) A person is not eligible to be appointed as President or Deputy President of the Tribunal unless that person is a legal practitioner of at least 7 years standing.

(4) The power of appointing ordinary members of the Tribunal shall be so exercised so as to ensure that the number of members appointed after consultation with the United Trades and Labor Council is equal to the number of members appointed after consultation with associations that represent the interests of employers.

(5) A member of the Tribunal may be appointed on a permanent or acting basis.

(6) A person shall cease to be a member of the Tribunal if that person—

- (a) attains the age of 65 years;
- (b) resigns by notice in writing addressed to the Minister;
- (c) in the case of a member appointed on an acting basis—completes the term for which the member was appointed;

or

- (d) is removed from office by the Governor on the ground of misconduct, neglect of duty, incompetence or mental or physical incapacity to carry out satisfactorily duties of office.

(7) A member of the Tribunal shall be entitled to such fees, allowances and expenses as the Governor may approve.

Constitution of
Tribunal, etc.

80. (1) For the purpose of any proceedings, the Tribunal shall be constituted of—

- (a) the President or a Deputy President (who shall preside at those proceedings);
- (b) one member selected in accordance with the rules of the Tribunal from among the ordinary members appointed after consultation with the United Trades and Labor Council;

and

(c) one member selected in accordance with the rules of the Tribunal from among the ordinary members appointed after consultation with associations that represent the interests of employers.

(2) A decision in which any 2 members of the Tribunal concur is a decision of the Tribunal.

81. No liability attaches to a member of the Tribunal for an act or omission by the member, or by the Tribunal, in good faith and in the exercise or purported exercise of a power or function, or the discharge or purported discharge of a duty, of the member or the Tribunal. Immunity.

82. The President of the Tribunal may make rules regulating the practice and procedure of the Tribunal. Rules of the Tribunal.

DIVISION III—MEDICAL REVIEW PANELS

83. There shall be such Medical Review Panels as are necessary for the purposes of this Act. Medical Review Panels.

84. (1) A Medical Review Panel shall be constituted in relation to particular proceedings, or proceedings of a particular class, by the Minister. Constitution of Medical Review Panels

(2) A Medical Review Panel will consist of—

(a) a presiding officer;

and

(b) two ordinary members.

(3) Each Medical Review Panel shall be established as a specialized panel in relation to a particular class of disabilities and the members of the panel must be persons with specialized knowledge and extensive experience of disabilities of that class.

(4) For the purpose of constituting Medical Review Panels there shall be—

(a) a panel or presiding officers consisting of specialists nominated by the Minister after taking into account the recommendations of the Corporation made by unanimous decision of the board:

(b) a panel of ordinary members consisting of specialists nominated by the Minister after taking into account the recommendations of the Corporation made by unanimous decision of the board.

(5) Where a specialist has been engaged to treat, or to furnish a report in relation to, a worker's disability, the specialist shall not sit as a member of a Medical Review Panel in proceedings to which the worker is a party.

(6) A reference in this section to a specialist is a reference to a medical expert who has specialized knowledge and extensive experience in a particular field of medicine or health care.

(7) A person ceases to be a member of a panel if that person—

(a) resigns by notice in writing addressed to the Minister;

(b) is removed from the panel by the Minister on the ground of misconduct, neglect of duty, incompetence or mental or physical incapacity to carry out official duties;

(c) has completed a period of 5 years since being nominated, or last renominated as a member of the panel and is not renominated to the panel.

(8) A member of a panel shall be entitled to such fees, allowances and expenses as the Governor may approve.

Procedure of
Medical Review
Panel.

85. (1) The presiding officer of a Medical Review Panel shall preside at the hearing of any proceedings by the Panel.

(2) A decision in which any 2 members of a Medical Review Panel concur is a decision of the Panel.

Immunity.

86. No liability attaches to a member of a Medical Review Panel for an act or omission by the member, or by the Panel, in good faith and in the exercise or purported exercise of a power or function, or in the discharge or purported discharge of a duty, of the member or the Panel.

DIVISION IV—THE REGISTRAR AND OTHER STAFF

The Registrar and
staff.

87. There shall be—

(a) a Registrar of Review Authorities, who shall be the chief executive officer of the Workers Compensation Appeal Tribunal and the Medical Review Panels;

and

(b) such other officers as the Minister considers necessary or desirable to assist the Tribunal and the Panels to carry out their functions.

DIVISION V—PROCEEDINGS BEFORE REVIEW AUTHORITIES

Principles on
which review
authority is to
act.

88. In proceedings under this Act, a review authority—

(a) shall act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms;

and

(b) is not bound by any rules of evidence, but may inform itself on any matter in such manner as it thinks fit.

Notice of
proceedings, etc.

89. (1) Reasonable notice shall be given to a party to proceedings before a review authority of the time and place at which the authority is to hear those proceedings.

(2) A party shall be afforded a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses, and to make submissions to the review authority.

(3) If a party does not attend at the time and place fixed by the notice, the review authority may hear the proceedings in the absence of that party.

Powers of Review
Authority.

90. (1) In the exercise of its powers or functions, a review authority may—

(a) by summons signed by or on behalf of the authority, require the attendance before the authority of any person;

(b) by summons signed by or on behalf of the authority, require the production of any relevant document, object or material;

(c) require any person to make an oath or affirmation truly to answer all questions put by the authority, or any person appearing before the authority;

and

(d) require any person appearing before the authority to answer any relevant questions put by the authority, any member of the authority or by any person appearing before the authority.

(2) A Medical Review Panel may require a worker to undergo a medical examination—

(a) by the Panel, or a member of the Panel;

(b) by a medical expert nominated by the Panel and approved by the Corporation.

(3) If any person—

(a) who has been served with a summons to attend before a review authority fails without reasonable excuse to attend in obedience to the summons;

(b) who has been served with a summons to produce any document, object or material, fails without reasonable excuse to comply with the summons;

(c) misbehaves before a review authority, wilfully insults a review authority or any member of such an authority, or interrupts the proceedings of a review authority;

or

(d) refuses to be sworn or to affirm, or to answer any relevant question when required to do so by a review authority,

that person shall be guilty of an offence and liable to a penalty not exceeding \$1 000.

(4) A person shall not be obliged to answer a question under this section if the answer to that question would tend to incriminate that person of an offence, or to produce any document, object or material if it or its contents would tend to incriminate that person of an offence.

(5) In the course of any proceedings, a review authority may—

(a) receive in evidence any transcript of evidence in proceedings before a court or tribunal and draw any conclusions of fact from the evidence that it considers proper;

or

(b) adopt any findings, decision or judgment of a court or tribunal that may be relevant to the proceedings.

(6) Where—

(a) the native language of a person who is to give oral evidence in any proceedings before a review authority is not English;

and

(b) the witness is not reasonably fluent in English,

the person is entitled to give that evidence through an interpreter.

(7) A person may present written evidence to a review authority in a language other than English if that written evidence has annexed to it—

(a) a translation of the evidence into English;

and

(b) an affidavit by the translator to the effect that the translation accurately reproduces in English the contents of the original evidence.

Witness fees.

91. Any person who appears as a witness in proceedings before a review authority is, subject to any contrary direction by the review authority, entitled to reimbursement of expenses in accordance with the regulations.

Representation

92. (1) A person is entitled to appear personally, or by representative, in proceedings before a review authority (but a person is not entitled to be represented by another person whose name has been struck off the roll of legal practitioners or who, although a legal practitioner, is not entitled to practise the profession of law because of disciplinary action taken against him or her).

(2) Where—

(a) a party is represented in proceedings by a legal practitioner or by an officer of a registered association;

and

(b) (i) the proceedings are determined in favour of the party;

or

(ii) although the proceedings are not determined in favour of the party, the review authority certifies that the party acted reasonably in bringing the proceedings before the review authority,

the party is entitled to be reimbursed to an extent prescribed by regulation for the costs of the proceedings.

(3) Where frivolous or vexatious proceedings are brought before a review authority, the authority may order the party by whom the proceedings were brought to pay to any other party such costs as may be fixed by the authority.

(4) Costs payable in pursuance of an order under subsection (3) may be recovered as a debt.

Statements of
appeal rights, etc

93. (1) Subject to subsection (2), at the conclusion of a review, the review authority shall, at the request of a party to the proceedings, furnish the parties with a statement of—

(a) the authority's findings of fact;

(b) a summary of the evidence on which those findings were based;

(c) the reasons for the authority's decision;

(d) any further appeal rights that may be available to the parties under this Act.

(2) A request under subsection (1) must be made within 15 business days after the conclusion of the review unless the review authority considers

that an extension of time is justified in the circumstances of the particular case and allows an extension of time accordingly.

(3) A review authority shall, at the conclusion of a review, inform the parties to the proceedings of the right to request a statement under subsection (1).

94. No person shall disclose a matter arising in proceedings before a Medical Review Panel except—

Confidentiality of proceedings before Medical Review Panels.

(a) in the course of the administration of this Act or for the purposes of proceedings under this Act;

or

(b) in the course of proceedings before a court or tribunal constituted by law.

DIVISION VI—REVIEWS AND APPEALS

95. (1) A person who is directly affected by a decision that is reviewable under subsection (2) may apply to the Corporation for a review of the decision.

Application for review.

(2) The following decisions are reviewable—

(a) a decision made on a claim for compensation;

(b) a decision in relation to the nature of rehabilitation services provided, or to be provided, for a worker;

(c) a decision to vary, suspend or discontinue weekly payments;

(d) a decision refusing registration or cancelling registration of an employer or group of employers as an exempt employer or group of exempt employers;

(e) a decision by the Corporation not to allow an extension of time under subsection (4).

(3) For the purposes of subsection (1), an employer from whose employment a compensable disability arises shall be regarded as being directly affected by a decision of a kind referred to in subsection (2) made in relation to that disability.

(4) An application for review must be in the prescribed manner and form and must be made within one month after the person applying for the review receives notice of the decision to which the review relates unless the Corporation, in its discretion, allows an extension of the time for making the application.

(5) An application for review may be made by delivering or posting the application to the Corporation.

(6) On receipt of an application under this section, the Corporation shall endeavour to resolve the questions in issue by agreement.

(7) Where—

(a) the Corporation fails to resolve the questions in issue by agreement;

or

(b) the questions in issue have not after the expiration of 14 days from receipt of the application by the Corporation been resolved

by agreement and the applicant requests the reference of those questions to a Review Officer,

the application for review shall be referred to a Review Officer.

Review by
Review Officer.

96. (1) Where an application for review is referred to a Review Officer, the Review Officer shall conduct a review of the decision to which the application relates.

(2) On a review under this section, the Review Officer shall make a fresh determination of the matters to which the decision subject to review relates.

(3) The Review Officer may refer any medical question involved in the review to a Medical Review Panel for determination.

(4) Where the Review Officer arrives at a decision that differs from the decision under review, the decision of the Review Officer shall take effect in substitution for that decision.

Appeals to
Tribunal or
Medical Review
Panel.

97. (1) The Corporation or a person who is dissatisfied with the decision of a Review Officer on an application for review may appeal against that decision.

(2) An appeal under subsection (1) must be made—

(a) in the case of a decision refusing registration or cancelling registration of an employer or group of employers as an exempt employer or a group of exempt employers—to the Minister;

(b) in the case of an aspect of a decision relating to a medical question (not being a question that has been decided by a Medical Review Panel)—to a Medical Review Panel or to the Tribunal;

and

(c) in any other case—to the Tribunal.

(3) An appeal must be in the prescribed manner and form and must be instituted within one month after the appellant receives notice of the decision of the Review Officer unless the appellate authority allows a longer time for the institution of the appeal.

(4) An appeal under this section shall be by way of re-hearing.

(5) The appellate authority may substitute for the decision of the Review Officer any decision that should have been made in the first instance.

(6) A Medical Review Panel may only decide a medical question and, when that question has been decided, the Review Officer shall make any alteration to his or her decision that is necessary in view of the decision of the Medical Review Panel.

(7) The Tribunal may, at its discretion, and shall at the request of an appellant, refer a medical question arising in the appeal to a Medical Review Panel for determination.

(8) In appellate proceedings evidence of statements made in the course of any attempt to resolve the proceedings by agreement or in proceedings before a Review Officer shall not be admitted unless all parties agree.

Decisions of
Medical Review
Panel.

98. A party to proceedings before a Medical Review Panel may appeal against a decision of the Panel to the Tribunal.

DIVISION VII—CASES STATED AND APPEALS

99. (1) The Tribunal may state a case on a question of law for the opinion of the Supreme Court. Cases stated.

(2) A case stated under this section shall be heard and determined by the Full Court.

100. (1) A party to proceedings before the Tribunal may, by leave of the Supreme Court, appeal against a decision of the Tribunal in those proceedings. Appeals to Supreme Court.

(2) An appeal under this section shall be heard and determined by the Full Court.

(3) An appeal under subsection (1) shall be limited to a question of law.

(4) An appeal under subsection (1) must be instituted within one month after the appellant receives notice of the decision appealed against unless the Supreme Court, in its discretion, allows a longer time for the institution of the appeal.

DIVISION VIII—MINISTERIAL INTERVENTION

101. Where, in the opinion of the Minister, intervention is desirable in the public interest, the Minister may intervene in an appeal before the Tribunal or the Supreme Court. Ministerial intervention.

DIVISION IX—MISCELLANEOUS

102. (1) A worker who believes that there has been undue delay in the determination of a claim by the worker under this Act may apply to a Review Officer under this section. Special jurisdiction of Review Officer.

(2) An application shall not be made under this section within 14 days after the day on which the claim was made.

(3) On an application under this section the Review Officer may—

(a) give such directions as the Review Officer thinks necessary to expedite the determination of the claim;

or

(b) personally decide the claim.

(4) A person to whom a direction is given by a Review Officer under subsection (3) shall comply with that direction.

(5) The regulations may prescribe procedures for the reference of applications under this section to Review Officers.

PART VII

MISCELLANEOUS

103. (1) The Corporation may, on the application of a person who is self-employed, extend to that person the protection of this Act. Extension of the application of this Act to self-employed persons.

(2) An application under subsection (1) may be granted by the Corporation subject to such conditions and limitations as the Corporation

thinks fit and any such condition or limitation shall, to the extent of any inconsistency, prevail over the provisions of this Act.

Special arrangement with respect to certain workers employed on or about ships.

104. (1) Where an employer employs a worker who in the event of suffering a compensable disability is eligible to be compensated under a scheme of insurance provided by the International Group of Protection and Indemnity Associations, the employer may apply to the Corporation for an exemption under this section.

(2) On the receipt of an application by an employer under subsection (1), the Corporation may, if satisfied that it is appropriate to do so, grant the employer an exemption under this section and in that event—

(a) any levy payable by the employer under this Act shall insofar as it is based on remuneration paid to workers covered by the scheme of insurance, be calculated as if the employer were an exempt employer;

and

(b) if a worker covered by the scheme suffers a compensable disability—

(i) no liability to pay compensation arises under any provision of this Act apart from this section;

but

(ii) if the amount of the compensation payable to any person under the scheme in respect of the disability is less than the amount that would, apart from this section, be payable under this Act, the employer is liable to make up the difference.

(3) An exemption under subsection (2) may be granted by the Corporation subject to such conditions as the Corporation thinks fit.

Insurance of registered employers against liabilities apart from this Act.

105. A registered employer (not being an exempt employer) is insured by the Corporation, subject to terms and conditions prescribed by regulation, against any liability that may arise apart from this Act for non-economic loss or solatium in respect of compensable disabilities arising from employment (being employment to which this Act applies) by the registered employer.

Payment of interim benefits.

106. (1) The Corporation may, pending the final determination of a claim, make interim payments of compensation to a claimant.

(2) Where on the final determination of a claim it appears that an amount to which the claimant was not entitled has been paid under this section, the Corporation may recover that amount as a debt.

Employer may request progress report.

107. (1) The employer of a worker may at any time request the Corporation to provide a report on—

(a) the medical progress being made by the worker;

(b) the worker's incapacity for work as assessed under this Act.

(2) A request under subsection (1) must be accompanied by the prescribed fee.

(3) The Corporation shall prepare a report requested under subsection (1) within a reasonable time of the request being made and shall send copies of the report to the employer and the worker.

108. (1) Subject to subsection (2), the employer of a worker who has made a claim under this Act may require the Corporation to have the worker submit to an examination by a recognized medical expert nominated by the Corporation.

Medical examinations at request of employer.

(2) A worker shall not be required to submit to examinations under this section more frequently than is permitted by the regulations.

(3) The Corporation may, if it thinks fit, charge the cost of an examination under this section to the employer.

109. Where a report is obtained for the purposes of this Act by the Corporation or an employer on the findings made, or the opinions formed, by a medical expert on the examination of a worker, the Corporation or the employer shall, as soon as practicable after receiving the report, send a copy of the report to the worker.

Worker to be supplied with copy of medical report.

110. (1) An authorized officer may, for the purpose of investigating any prescribed matter—

Powers of inspector.

(a) require a person who may be in a position to furnish information relevant to the matter under investigation to answer a question to the best of that person's knowledge, information and belief;

(b) require a person to verify the answer to a question by statutory declaration;

(c) require a person in control of premises to allow the authorized officer—

(i) to inspect the premises;

(ii) to examine any plant or equipment, or any materials or other matter on the premises;

(iii) to take and remove from the premises samples of any substance;

(iv) to carry out tests;

(v) to take photographs, films or video recordings;

(d) require a person to produce records or papers relevant to the matter under investigation.

(2) The powers conferred under subsection (1) shall, when the authorized officer is attending at any workplace, be exercised so as to avoid any unnecessary disruption of, or interference with, the performance of work at that workplace.

(3) A person who—

(a) refuses or fails to comply with a requirement made under this section;

(b) hinders an authorized officer in the exercise of powers under this section,

is guilty of an offence.

Penalty: \$3 000.

(4) A person is not required to answer a question under this section if the answer would tend to incriminate that person of an offence.

(5) A person is not required to furnish information under this section if the information is privileged on the ground of legal professional privilege.

(6) In this section—

“prescribed matter” means—

- (a) any matter relevant to the question of whether a person is entitled to compensation under this Act and, if so, the extent of that entitlement;
- (b) any matter relevant to ascertaining whether a person is liable to make a payment to the Corporation under this Act, and if so, the extent of that liability.

Inspection of
place of
employment by
rehabilitation
adviser.

111. (1) Subject to subsection (2), a rehabilitation adviser may inspect the place of employment of a disabled worker.

(2) A power of inspection under subsection (1) shall be exercised so as to avoid any unnecessary disruption of, or interference with, the performance of work at a place of employment.

(3) A person shall not hinder an inspection under this section.

Penalty: \$3 000.

Confidentiality to
be maintained.

112. (1) Subject to this section, an officer of the Corporation shall not divulge information as to—

- (a) the physical or mental condition of a worker;
- (b) the personal circumstances of a worker or other person;
- (c) matters contained in a return furnished by an employer under this Act,

that has come to the knowledge of the officer in the course of carrying out official duties.

Penalty: \$3 000.

(2) This section does not prevent—

- (a) the disclosure of information in the course of official duties;
- (b) the disclosure of information with the consent of the person to whom the information relates;
- (c) the disclosure of information before a review authority, or a court or tribunal constituted by law;
- (d) the making of a report to a disabled worker's employer in accordance with this Act.

(3) In this section—

“officer of the Corporation” includes a person who, although not an officer of the Corporation, is authorized to exercise the powers of an authorized officer under section 110.

Disabilities that
develop gradually.

113. (1) A disability (not being noise induced hearing loss) that develops gradually or is a disease shall be deemed to have occurred when the worker first becomes totally or a partially incapacitated for work by the disability.

(2) Where a claim is made under this Act in respect of noise induced hearing loss, the whole of the loss shall be deemed to have occurred imme-

diately before notice of the disability was given and, subject to any proof to the contrary, to have arisen out of employment in which the worker was last exposed to noise capable of causing noise induced hearing loss.

(3) Where—

- (a) an exempt employer establishes in accordance with procedures laid down by the regulations that a worker was, at the time of undertaking employment with the employer, suffering from a particular disability;
- (b) the disability is of a prescribed class;
- (c) an aggravation, acceleration, exacerbation, deterioration or recurrence of the disability arises from employment by the employer referred to in paragraph (a);
- (d) the employer pays compensation under this Act in respect of the disability,

the employer may, by action in the Industrial Court, recover a fair contribution, determined by the Court, towards the amount of the compensation—

- (e) from any exempt employer from whose employment the disability established under paragraph (a) arose;
- or
- (f) if there is no such exempt employer—from the Corporation.

(4) Where—

- (a) an employer (not being an exempt employer) establishes in accordance with procedures laid down by the regulations that a worker was, at the time of undertaking employment with the employer, suffering from a particular disability;
- (b) the disability is of a prescribed class;
- (c) an aggravation, acceleration, exacerbation, deterioration or recurrence of the disability arises from employment by the employer referred to in paragraph (a);
- (d) the Corporation pays compensation under this Act in respect of the disability,

the Corporation may, by action in the Industrial Court, recover a fair contribution, determined by the Court, towards the amount of the compensation from any exempt employer from whose employment the disability established under paragraph (a) arose.

114. Compensation provided to a person under this Act shall not be reduced or otherwise affected by—

- (a) an *ex gratia* payment;
- (b) an accident insurance payment;
- or
- (c) a payment or benefit of a class prescribed by regulation for the purposes of this section.

Certain payments not to affect benefits under this Act.

115. (1) An employer shall not deduct from the wages of a worker any part of any sum that the employer is or may become liable to pay under this Act.

No contribution from workers.

(2) An employer shall not discriminate against a worker on the ground that the employer is liable to pay any sum under this Act to or in relation to the worker.

(3) An employer shall not require or permit a worker to contribute in any manner towards indemnifying the employer against any liability which the employer may incur under this Act.

(4) A person who contravenes this section—

(a) is guilty of an offence;

and

(b) is liable to compensate a worker for any monetary loss suffered by virtue of that contravention.

Payment of
compensation
where worker in
prison.

116. (1) Where a person who is in receipt of weekly payments under this Act is convicted of an offence and committed to prison, then during the period of imprisonment the weekly payments shall be suspended unless the Corporation determines that they should be paid to the dependants of the prisoner.

(2) Where the Corporation determines that weekly payments should be paid to the dependants of a prisoner, they shall be so paid in such proportions as the Corporation may determine.

Service of
documents.

117. (1) A notice or other document required or authorized by this Act to be served or given to any person may be served—

(a) personally;

(b) by leaving the notice or document at an address for service;

(c) by sending the notice or document or a sealed copy of the notice or document by post addressed to the person at an address for service;

or

(d) by such other method as is permitted by any Act.

(2) In any case to which subsection (1) applies, unless the contrary is proved, service of a notice or document shall be deemed to have been effected 2 business days after the date of posting.

(3) In subsection (1)—

“address for service”, in relation to a person, means—

(a) the person’s last known place of residence or business;

or

(b) an address for service as shown on a claim or a return made or furnished by the person, or on the person’s behalf, under this Act (not being an address superseded by a subsequent address for service shown on a later claim or return).

Service of
documents on the
Corporation.

118. Any claim, notice, return or form to be served on the Corporation for the purposes of this Act may be served by lodgment at an office of the Corporation with a person authorized by the Corporation to accept service of documents on its behalf.

119. (1) Any agreement or arrangement entered into without the consent of the Corporation that purports to exclude, modify or restrict the operation of this Act is to that extent void and of no effect. Contract to avoid Act.

(2) Any purported waiver of a right conferred by or under this Act is void and of no effect.

(3) Any person—

(a) who enters into any agreement or arrangement with intent either directly or indirectly to defeat, evade or prevent the operation of this Act;

or

(b) who attempts to induce a person to waive a right or benefit conferred by or under this Act,

is guilty of an offence.

Penalty: \$5 000 or imprisonment for one year.

120. (1) A person who fraudulently obtains any benefit under this Act is guilty of an offence. Fraud.

Penalty: \$5 000 or imprisonment for one year.

(2) Where a person is convicted of an offence against this section and it appears to the court by which the person is convicted that the person has received a benefit as a result of the commission of the offence, the court may order the convicted person to make restitution to the person from whom the benefit was received.

(3) Any amount received under this Act by fraud and not recovered under subsection (2) may be recovered as a debt.

(4) A person who—

(a) aids, abets, counsels or procures the obtaining of a benefit under this Act by fraud;

or

(b) solicits or incites the obtaining of a benefit under this Act by fraud,

is guilty of an offence.

Penalty: \$5 000 or imprisonment for one year.

121. (1) In this section—

“the prescribed name” means the name “Work Cover”.

Protection of special name.

(2) The Corporation has a proprietary interest in the prescribed name.

(3) A person who, without the consent of the Corporation, in the course of a trade or business, uses the prescribed name for the purpose of promoting the sale of services or the provision of any benefits shall be guilty of an offence.

Penalty: \$5 000.

(4) A consent under subsection (3) may be given with or without conditions.

(5) The Supreme Court may, on the application of the Corporation, grant an injunction to restrain a breach of this section.

(6) The court by which a person is convicted of an offence against this section may, on the application of the Corporation, order the convicted person to pay compensation of an amount fixed by the court to the Corporation.

(7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the Corporation apart from those subsections.

Offences.

122. (1) A person who contravenes or fails to comply with a provision of this Act is guilty of an offence.

(2) A person who is guilty of an offence against this Act for which no penalty is specifically provided shall be liable to a fine not exceeding \$2 000.

(3) Proceedings for an offence against this Act shall be disposed of summarily.

Exemption from stamp duty.

123. The Corporation is exempt from stamp duty in respect of the insurance business carried on by the Corporation and is not required to take out an annual licence under the Stamp Duties Act, 1923, in respect of that business.

Regulations.

124. The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

Repeal of Workers Compensation Act, 1971.

125. The Workers Compensation Act, 1971, is repealed.

FIRST SCHEDULE
TRANSITIONAL PROVISIONS

1. In this schedule—
- Interpretation.
- “the appointed day” means the day on which the Workers Compensation Act, 1971, is repealed by this Act.
- “compensating authority” means the Corporation or an exempt employer.
2. (1) Subject to this clause, the repealed Act continues to apply in respect of a disability that is attributable to a trauma that occurred before the appointed day. Application of repealed Act.
- (2) This Act applies in relation to a disability (referred to in this clause as a “transitional disability”) that is partially attributable to a trauma that occurred before the appointed day and partially attributable to a trauma that occurred on or after the appointed day, but does not affect rights (referred to in this clause as “antecedent rights”) that had accrued before the appointed day in respect of a transitional disability.
- (3) The following provisions apply in relation to a transitional disability—
- (a) where a compensating authority pays or is liable to pay compensation to a claimant under this Act in relation to a transitional disability, the compensating authority is subrogated, to an appropriate extent, to the antecedent rights of the claimant;
- (b) where the claimant has received, in pursuance of antecedent rights, damages or compensation (not being weekly payments for a period of incapacity that concluded before the appointed day), there shall be an appropriate reduction in the amount of compensation payable under this Act in respect of the disability.
- (c) the extent of a subrogation under paragraph (a), or a reduction in the amount of compensation under paragraph (b), shall be determined having regard to—
- (i) the amount of the compensation payable (apart from this subclause) under this Act in respect of the transitional disability;
- (ii) the extent to which the transitional disability is attributable to a trauma that occurred before the appointed day;
- and
- (iii) any other relevant factors,
- and any question relating to the extent of such a subrogation or reduction may be determined, on the application of an interested party, by the Industrial Court.
3. (1) An employer in respect of whom a certificate of exemption was in force under Division II of Part XA of the repealed Act immediately before the appointed day shall be deemed to have been registered, on the appointed day, as an exempt employer under this Act. Exempt employees.
- (2) If within 30 days after the appointed day the Local Government Association lodges with the Corporation a schedule of local government corporations to be registered as a group of exempt employers under this Act, those corporations shall be so registered and shall be deemed to have been so registered as from the appointed day.
4. The following provisions shall apply to a scheme established under Part IX of the repealed Act— Silicosis Fund.
- (a) the scheme shall continue in existence for the settlement of claims and other matters arising in relation to death or disablement from silicosis suffered before the appointed day;
- (b) the Minister may, when it appears appropriate so to do, cancel the scheme by notice in the *Gazette* and transfer the remainder (if any) of the general compensation fund to the Corporation to be paid into the Compensation Fund;
- and
- (c) the Corporation shall keep a separate account of money paid under paragraph (b) and shall use that money—
- (i) to satisfy any claim subsequently made that may have been made under the scheme had it not been cancelled;
- and
- (ii) when no further claim is likely under the repealed Act—to satisfy claims under this Act by workers who are employed in industries involving exposure to silica dust, (but in the event that a further claim is duly made in relation to death or disablement from silicosis suffered before the appointed day, the Corporation shall pay compensation as if the scheme were still in existence).
5. (1) The Statutory Reserve Fund shall be paid into the Compensation Fund. Statutory Reserve Fund.
- (2) Notwithstanding subclause (1), a claim in respect of workers compensation liabilities under the repealed Act may be made as if Part XA of the repealed Act had not been repealed and any amount required to satisfy a proper claim shall be payable from the Compensation Fund.

(3) In this clause—

“workers compensation liabilities” has the same meaning as in Part XA of the repealed Act.

Acts
Interpretation
Act.

6. The Acts Interpretation Act, 1915, shall, except to the extent of any inconsistency with the provisions of this schedule, apply to the repeal of the Workers Compensation Act, 1971.

SECOND SCHEDULE

Section	Description of Disability	Description of Work
	Ankylostomiasis	Mining.
	Anthrax	Any work— (a) in connection with animals infected with anthrax; (b) involving handling of animal carcasses or parts of such carcasses; (c) involving handling of wool, hair, bristles, hides or skins; (d) involving loading or unloading, or transport, of animals, animal carcasses or parts of such carcasses, wool, hair, bristles, hides or skins.
	Antimony poisoning or its sequelae	Any work involving the use of antimony or its preparations or compounds.
	Arsenic poisoning or its sequelae	Any work involving the use of arsenic or its preparations or compounds.
	Asbestosis	Any work involving exposure to inhalation of asbestos fibres.
	Asthma or asthmatic attacks	Any work involving contact with, or the inhalation of, the dust of red pine, western red cedar or blackwood. Any work involving contact with, or the inhalation of, flour or flour dust.
	Benzene poisoning (i.e. poisoning by benzene or its homologues or their nitro- and amido-derivatives) and its sequelae	Any work involving the production, liberation or utilization of benzene or its homologues or their nitro- and amido-derivatives.
	Brucellosis, leptospirosis, or Q fever	Any work at, in, about, or in connection with, a meat works or involving the handling of meat, hides, skins or carcasses.
	Carbon monoxide poisoning or its sequelae	Any work involving contact with, or the inhalation of, carbon monoxide gas.
	Chrome ulceration or its sequelae	Any work involving the use of chromic acid or bichromate or ammonium potassium or sodium or their preparations.
	Copper poisoning or its sequelae	Any work involving the use or handling of copper or its preparations or compounds.
	Dermatitis	Any work involving exposure to, or contact with, the dust of blackwood.
	Halogen poisoning (i.e. poisoning by the halogen derivatives of hydrocarbons of the aliphatic series) and its sequelae	Any work involving the production, liberation or utilization of halogen derivatives of hydrocarbons of the aliphatic series.
	Lead poisoning or its sequelae	Any work involving the use of lead or its preparations or compounds.
	Mercury poisoning or its sequelae	Any work involving the use of mercury or its preparations or compounds.
	Nitrous fumes poisoning and its sequelae	Any work involving contact with nitric acid or the inhalation of nitrous fumes.
	Noise induced hearing loss	Any work involving exposure to noise.
	Pathological manifestations due to— (a) radium and other radioactive substances; (b) X-rays	Any work involving exposure to the action of radium, radioactive substances or X-rays.
	Phosphorus, poisoning or its sequelae	Any work involving the use of phosphorus or its preparations or compounds.
	Pneumoconiosis, including silicosis	Any work involving mining, quarrying, cutting, crushing, grinding or pushing stone or melting, grinding or polishing metal.

SECOND SCHEDULE—*continued*

Section	Description of Disability	Description of Work
	Primary epitheliomatous cancer of the skin	Any work involving processes which involve the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of those substances.
	Septic poisoning or its <i>sequelae</i>	Any work involving the handling of meat or the manufacture of meat products or animal by-products in connection with the trade of butcher or slaughterman.
	Zinc poisoning or its <i>sequelae</i>	Any work involving the use of zinc or its preparations or compounds.

THIRD SCHEDULE
LUMP SUM COMPENSATION

Nature of the Disability	Percentage of the prescribed sum payable
Permanent and incurable loss of mental capacity resulting in total inability to work	100
Total and incurable paralysis of the limbs	100
Loss of Vision—	
Total loss of sight of both eyes	100
Total loss of sight of one eye	50
Total loss of sight of one eye, the vision in the other eye being less than 6/60 Snellens type with correction or absent	100
Hearing Loss—	
Total loss of hearing	75
Speech Loss—	
Total loss of the power of speech	75
Sensory Loss—	
Total loss of senses of taste and smell	50
Total loss of sense of taste	25
Total loss of sense of smell	25
Arm Injuries—	
Loss of arm at or above elbow	90
Loss of arm below elbow	80
Hand Injuries—	
Loss of both hands	100
Loss of hand or loss of thumb and four fingers	80
Loss of thumb	35
Loss of forefinger	25
Loss of middle finger	20
Loss of ring finger	20
Loss of little finger	14
Total loss of movement of joint of thumb	15
Loss of distal phalanx of thumb	17
Loss of portion of terminal segment of thumb involving one-third of its flexor surface without loss of distal phalanx	15
Loss of distal phalanx of forefinger	11
Loss of distal phalanx of other fingers	9
Leg Injuries—	
Loss of leg at or above knee	90
Loss of leg below knee	80
Foot Injuries—	
Loss of both feet	100
Loss of foot and hand	100
Loss of foot	75
Loss of great toe	25
Loss of any other toe	10
Loss of two phalanges of any other toe	8
Loss of phalanx of great toe	11
Loss of phalanx of any other toe	7
Loss of genital organs	70
Permanent loss of the capacity to engage in sexual intercourse	70

Disfigurement—

A percentage of the prescribed sum (not exceeding 70 per cent) fixed by the Corporation, but where a worker is otherwise eligible to receive an amount in respect of a disability under another item of this table and also an amount on account of disfigurement (arising from the same trauma), the amount shall be the higher of the 2 amounts, and not the aggregate of those amounts.

For the purposes of this table, a limb or other member shall be deemed to be lost if it is rendered permanently and wholly useless, and a finger shall be deemed to be lost if two joints are severed from the hand or rendered permanently and wholly useless.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor