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ELIZABETHAE II REGINAE

A.D. 1990

No. 34 of 1990

An Act to amend the *Workers Rehabilitation and Compensation Act, 1986*.

[Assented to 26 April 1990]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Workers Rehabilitation and Compensation Act Amendment Act, 1990*.

(2) The *Workers Rehabilitation and Compensation Act, 1986*, is referred to in this Act as "the principal Act".

Commencement

2. (1) Subject to subsections (2) and (3), this Act will come into operation on assent.

(2) Section 3 will be taken to have come into operation at the same time as the principal Act came into operation.

(3) Section 5 will come into operation on 1 July, 1990.

Interpretation

3. Section 3 of the principal Act is amended by striking out the definition of "disease" and substituting the following definition:

"disease" includes—

(a) any physical or mental ailment, disorder, defect or morbid condition, whether of sudden or gradual development;

and

(b) any disability to which section 31 applies.

Evidentiary provision

4. Section 31 of the principal Act is amended by inserting after subsection (4) the following subsection:

(5) Where—

(a) a worker's disability consists of the aggravation, acceleration, exacerbation, deterioration or recurrence of a pre-existing coronary heart disease;

and

(b) the disability arises in the course of employment,

it will be presumed, in the absence of proof to the contrary, that the employment contributed to the disability.

Imposition of levies

5. Section 66 of the principal Act is amended—

(a) by striking out subsection (7) and substituting the following subsection:

(7) Subject to subsection (9), a percentage fixed under subsection (6) in relation to a class of industry must not exceed 7.5 per cent.;

(b) by striking out from subsection (9) “4.5 per cent” and substituting “7.5 per cent”;

and

(c) by striking out subsection (13).

Membership of the Tribunal

6. Section 79 of the principal Act is amended—

(a) by striking out subsections (1), (2) and (3) and substituting the following subsections:

(1) The Tribunal consists of—

(a) the President of the Industrial Court, who will be the President of the Tribunal;

(b) the Deputy Presidents of the Industrial Court, who will be Deputy Presidents of the Tribunal;

(c) such persons (if any) as the Governor may appoint on the nomination of the Minister as additional Deputy Presidents of the Tribunal;

and

(d) such persons as the Governor may appoint on the nomination of the Minister as ordinary members of the Tribunal.

(2) A person is not eligible for appointment as a Deputy President of the Tribunal unless that person is a legal practitioner of at least seven years standing.

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

(3a) Before nominating a person for appointment as an ordinary member of the Tribunal, the Minister must consult with the United Trades and Labor Council or with associations that represent the interests of employers.;

and

(b) by striking out from subsection (6) “A person shall cease to be” and substituting “A person appointed to the Tribunal will cease to be”.

Confidentiality to be maintained

7. Section 112 of the principal Act is amended by striking out paragraph (e) of subsection (2) and substituting the following paragraphs:

(da) the disclosure of information to the South Australian Department of Labour or the South Australian Occupational Health and Safety Commission;

(e) the disclosure of information in accordance with the regulations.

Transitional provision

8. (1) The amendment effected to the principal Act by section 3 of this Act does not affect—

- (a) the rights of the respondent in Supreme Court Action No. 998 of 1989;
- (b) the rights of any claimant whose claim is determined before the commencement of this Act;

or

- (c) the rights of any other claimant who, as at the commencement of this Act, is a party to proceedings before a Review Officer.

(2) Where a claim for compensation made before the commencement of this Act is rejected after the commencement of this Act on account of the enactment of section 3 of this Act, the claimant is entitled to be reimbursed by the Corporation for reasonable costs reasonably incurred by the claimant in making the claim.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor