

Accident Compensation Bill

EXPLANATORY MEMORANDUM

PART I.—PRELIMINARY (Clauses 1–17)

This Part contains provisions relating to the citation, commencement and application of the Bill, gives the objects of the Bill and contains interpretations and certain deeming provisions.

PART II.—THE ACCIDENT COMPENSATION COMMISSION

(Clauses 18–38)

This Part provides for the establishment of the Accident Compensation Commission, giving the constitution of the Board of Management of the Commission and the functions, powers, and certain administrative procedures of the Commission.

The Part also provides for the appointment of officers and employees of the Commission and empowers the Commission to appoint agents to carry out certain functions on behalf of the Commission.

Finally the Part establishes the Accident Compensation Fund and contains the financial and accounting provisions concerning the Commission.

PART III.—THE ACCIDENT COMPENSATION TRIBUNAL

Division 1—Establishment and Constitution (Clauses 39–51)

This Division contains the provisions concerning the establishment, functions, membership and officers of the Tribunal.

Division 2—Divisions of the Tribunal (Clauses 52–56)

This Division provides that the Tribunal shall consist of three Divisions, the Conciliation Division, the Tribunal Division and the Board Division and the matters to be dealt with by each Division.

Division 3—Powers and Procedures of the Tribunal (Clause 57–80)

This Division provides for the powers and procedures to be adopted by the Tribunal, the award of costs, the effect of Tribunal determinations and for appeals on questions of law. The Accident Compensation Tribunal Fund is created and the financial accounting and reporting provisions are contained in this Division.

PART IV.—PAYMENT OF COMPENSATION

Division 1—Application (Clause 81–91)

This Division establishes the basis for entitlement to compensation under the Bill and contains specific provisions relating to diseases and industrial deafness.

Division 2—Benefits (Clauses 92–100)

This Division establishes the compensation payable under the Bill to injured workers and the dependants of deceased workers. Compensation is payable for the death or incapacity of a worker, hospital medical and like expenses incurred by or in respect of an injured worker and additional compensation is payable for a number of specified injuries.

The Division also provides for the indexation of benefits.

Division 3—Claims Procedures (Clauses 101–123)

This Division sets out the procedure for the making and processing of claims for compensation.

Division 4—Liability for Payment of Compensation (Clauses 124–127)

This Division establishes the basis for liability to pay compensation under the Bill. The worker's employer will be liable to pay compensation for the first five days of incapacity of the worker and the first \$250 of hospital, medical and expenses in relation to any claim. Except where the employer is a self-insurer, the Accident Compensation Commission bears the liability to pay all other compensation under the Bill.

Division 5—Payment of Compensation (Clause 128)

This Division contains provisions which govern the payment of compensation under certain circumstances.

Division 6—Injuries by Gradual Process (Clause 129)

This Division sets out how injuries which occur by way of a gradual basis are to be dealt with under the Bill.

Division 7—Administration by the Tribunal (Clauses 130–133)

This Division provides for the payment of amounts of compensation into the custody of the Board in certain circumstances and for the administration of those amounts by the Tribunal.

Division 8—Insurance of Common Law Liability (Clause 134)

Payment of accident compensation levy will automatically entitle an employer to be indemnified by the Commission in respect of the common law liability of that employer to workers employed by him which remains under the Bill.

This Division provides for that indemnity.

Division 9—Other Rights (Clauses 135–138)

This Division establishes how the rights and liabilities created by this Bill affect and inter-relate with other similar rights and liabilities at common law and under the Motor Accidents Act.

PART V.—SELF INSURANCE (Clauses 139–155)

This Part establishes a scheme of self-insurance under the Bill.

Under this scheme, employers which are bodies corporate and which meet certain requirements may be approved as self-insurers for the purposes of the Bill. Such employers will be exempt from paying accident compensation levy and will themselves be liable for the payment of compensation under the Bill.

Self-insurers will be required to comply with conditions and guidelines particularly in relation to the administration of claims and to provide a guarantee covering their full liability to or in respect of injured workers in the event that their approval as a self-insurer is ever relinquished or revoked.

PART VI.—VICTORIAN ACCIDENT REHABILITATION COUNCIL (Clauses 156–178)

This Part provides for the establishment of the Victorian Accident Rehabilitation Council.

It gives the objectives, functions and powers of the Council, establishes the membership and certain administrative procedures of the Council and provides for the appointment of officers and employees of the Council.

This Part also establishes the Victorian Accident Rehabilitation Fund and contains financial and accounting provisions.

PART VII.—ACCIDENT COMPENSATION LEVY COLLECTION

Division 1—Preliminary (Clauses 179–184)

This Division contains provisions which exempt remuneration below \$5000 from levy and which provide the basis for determining the extent of an establishment and the predominant activity of the establishment which will be used for the purpose of determining the relevant prescribed rate of levy.

Division 2—Liability to Pay Levy (Clauses 186–196)

This Division provides the basis for the calculation and imposition of the levy. This Division provides the seven rates which the regulations will prescribe to apply to industries and for bonuses and penalties and the imposition of a higher levy for industries with a persistently high cost of claims. The grouping of establishments is also provided for the purpose of imposition or collection of levy.

Division 3—Registration and Returns (Clauses 197–199)

This provision provides for the registration of employers paying leviable remuneration and for declarations of remuneration. An annual return is also required in respect of apprentices in respect of whom levy is not paid.

Division 4—Collection and Recovery of Levy (Clauses 200–216)

This Division provides for the payment, collection and recovery of levy. The recovery of levy provisions closely follow similar provisions contained in the Pay-roll Tax Act in order that both levy and payroll tax may be collected or recovered in the same manner.

Division 5—Objections and Appeals (Clause 217–225)

This Division provides the manner in which objections to the calculation of levy may be considered by the Commission and the Tribunal. Other clauses in this Division closely follow similar provisions contained in the Pay-roll Tax Act and are concerned with objections about the assessment and collection of levy.

Division 6—Penal Provisions (Clauses 226–230)

This Division contains provisions which closely follow similar provisions concerning offences and other penal provisions which are contained in the Pay-roll Tax Act.

Division 7—Miscellaneous (Clauses 231–236)

This Division contains provisions which are identical to similar provisions contained in the Pay-roll Tax Act.

PART VIII.—GENERAL (Clauses 237–253)

This Part contains general provisions which apply to the whole Bill. It contains provisions concerning inspection, secrecy which forbid the disclosure of personal records without consent except in prescribed circumstances, general offences and penalties and other general provisions.

PART IX.—AMENDMENTS

Division 1—Amendments to the Administrative Appeals Tribunal Act 1984 and the Pay-roll Tax Act 1971 (Clauses 254–255)

This Division makes consequential amendments to these two Acts resulting from this Bill.

Division 2—Amendments to the Workers Compensation Act 1958 (Clauses 256–270)

This Division makes consequential amendments to this Act resulting from this Bill. After commencement of the Bill this Act will only apply to injuries to a worker occurring before the appointed day. Generally this Division either repeals redundant provisions, amends various references in the Act or changes provisions to make them consistent with this Bill.

Division 3—Amendments to the Motor Accidents Act 1973 (Clauses 270–274)

This Division makes consequential amendments to this Act resulting from the Bill and amends the level of benefits payable under this Act in respect of hospital, medical and like expenses to bring them to a similar level to those payable under the Bill.

Division 4—Amendment to Motor Car Act 1958 (Clause 275)

This Division amends the *Motor Car Act* 1958 to prevent a contract of compulsory third party insurance from extending to indemnity against liability to pay workers compensation or compensation payable under this Bill.

Division 5—Amendments to other Acts (Clause 276)

This Division makes consequential amendments to other Acts resulting from this Bill.