Workers Compensation (Amendment) Bill 1981

NOTES ON CLAUSES

Clause 1 gives the short title, mentions the Principal Act provides for the sections to come into operation by proclamation and divides the Bill into two parts.

Clause 2 sub-clause (1) inserts a new Division into the Principal Act— Division 3A—Industrial Deafness:

Section 25A provides the definitions.

Section 25B provides the worker with an entitlement to compensation for industrial deafness which shall only be payable pursuant to this Division and Division 4.

Section 25D provides that compensation shall be recoverable from the employer who last employed the worker prior to the date of the claim and in whose employment the worker claims at least part of the industrial deafness was caused. Where the deafness was caused by a number of employers, employers of the worker over a period of ten years can be asked to contribute towards the compensation.

Section 25E includes provision for the appointment of a nominal defendant and determines how compensation is to be paid in the case of such an appointment.

Section 25F provides that industrial deafness shall be deemed to have occurred at a constant rate over the total number of years of exposure to industrial noise with employers required to pay compensation. Sub-section (3) deems the date of injury to be either the last day of employment where the worker is claiming from a prior employer or the date of the notice of the injury where the worker is claiming compensation from his current employer.

Section 25G provides the rate of compensation to be paid and the method of calculating hearing loss.

Section 25H provides the method of calculation of the percentage of the amount payable for total loss of hearing which is payable to a worker who had previously received compensation in respect to a prior claim for industrial deafness.

Section 25I provides that awards for industrial deafness are to be final.

Section 25J permits workers to claim compensation for industrial deafness which occurred after a prior award had been made.

Sub-clause (2) is transitional in nature and provides that Division 3A shall apply to industrial deafness which occurred before or after the Division's commencement.

Clause 3 makes amendments to the Principal Act which are consequential upon the introduction of the proposed Division 3A.

Clause 4 and *Clause* 5 amends section 2F and section 2G of the Principal Act respectively by relieving the Workers Supplementation Fund of payments to employers and insurers in respect to the cost of future indexing of benefits for accidents occurring after 1 July 1982.

Clause 6 amends section 5 of the Principal Act by dividing equally the liability to pay compensation between all employers where a worker has a contract of employment with more than one employer if an accident occurs while travelling between different employers pursuant to contracts of employment with those employers.

Clause 7 amends section 7 of the Principal Act to provide similar protection for Victorian workers of private employers as is enjoyed by public employees under section 7A of the Principal Act.

Clause 8 amends section 8 of the Principal Act by deeming injuries occurring when a worker is travelling between places of employment pursuant to contracts of employment with different employers to arise out of employment.

Clause 9 amends section 16 of the Principal Act by extending the provisions for the appointment of a nominal defendant to industrial disease claims where an employer of a worker cannot be found or located.

Clause 10 amends section 26 (11) of the Principal Act to permit the Governor in Council to fix by order published in the *Government Gazette* the maximum funeral benefit and to permit the Board to order the payment of the amount in respect to the costs of transporting the body of a deceased worker when the worker dies outside of a radius of 80 kilometres from his usual place of residence.

Clause 11 amends section 29 of the Principal Act by raising the maximum interest rate which the Workers Compensation Board may order an award to carry.

Clause 12 amends section 72 of the Principal Act by requiring employers to provide certificates or statutory declarations in respect of gross earnings and the class of employment of workers.

Clause 13 amends section 73 of the Principal Act by extending the regulation making power in respect to forms to be used.

Clause 14 amends section 74 of the Principal Act by requiring statistical returns to be submitted to the Registrar of the Workers Compensation Board.

Clause 15 amends section 80 of the Principal Act to properly identify the nominating bodies of lay members of the Workers Compensation Board and provides that the Governor in Council may set the rates of remuneration of all members and the terms and conditions of employment of lay members.

Clause 16 amends section 82 of the Principal Act to allow for payments to be made from the Workers Compensation Board Fund to cover expenses incurred by the Workers Compensation Premiums Advisory Committee.

Clause 17 amends section 98 of the Principal Act by excluding payments out of the Insurers Guarantee and Compensation Supplementation Fund in respect to injuries occurring more than 21 days from the date of a winding up order of an insurer.

Clause 18 introduces two new sections into the Principal Act:

Section 103A requires a liquidator of an insurer to notify the Insurance Commissioner of the winding up of the insurer.

Section 103B requires the Insurance Commissioner to notify holders of employers policies with an insurer that has been wound up and to advertise the effect of the winding up on the policies held with that insurer.

Clause 19 and *Clause* 20 amend section 100c and section 117 of the Principal Act by extending the inspection of books and records to those in respect to claims arising under the Act.

Clause 21 is a transitionary clause.

Clause 22 repeals section 3 (3) of the *Workers Compensation (Amendment) Act* 1978 which purported to repeal section 60, but which has not been proclaimed.