

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

(As amended in Committee and upon recommital)

**WORKERS' COMPENSATION AND
REHABILITATION AMENDMENT
BILL 1997**

A BILL FOR

AN ACT to amend the *Workers' Compensation and Rehabilitation Act 1981* and the *Workers' Compensation and Rehabilitation Amendment Act 1993*, and for related purposes.

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Workers' Compensation and Rehabilitation Amendment Act 1997*.

5 Commencement

2. (1) Sections 5, 14, 15, 32, 48 (a) (iv), 53 (a), 53 (c), and 53 (d) (ii) come into operation on the day on which this Act receives the Royal Assent.

10 (2) The other provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

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- 5 (c) in the definition of “worker”, in the first paragraph beginning “the term “**worker**” ”, by deleting “Act, unless the insurer is permitted by the Commission to refuse insurance of that liability in respect of the members of the employer’s family;” and substituting the following —
- “ Act; ”.

Section 5A inserted

- 10 5. After section 5 of the principal Act the following section is inserted —

“

Indexation of certain amounts

- 15 5A. (1) An amount that a provision of this Act describes as applying in accordance with this section is —
- (a) before 1 July 1997, the amount that was prescribed for the purposes of that provision; and
- 20 (b) for a financial year commencing on or after 1 July 1997, the nearest whole number of dollars to the amount obtained by varying the amount applying at the commencement of the preceding financial year by the percentage by which the March CPI varies from the March CPI for the preceding financial year, or if the relevant index
- 25 numbers are not published, the amount obtained by varying the amount applying at the commencement of the preceding financial year in accordance with the regulations (with an amount that is 50 cents more than a whole number of dollars being rounded off to the next highest
- 30 whole number of dollars).

5 (2) In this section “**March CPI**”, for a financial year,
means the index number for the quarter ending on the last
31 March before the financial year commences, as shown in
the Consumer Price Index Numbers (All Groups Index) for
Perth published by the Commonwealth Statistician under
the *Census and Statistics Act 1905* of the Commonwealth.

”.

Section 10A repealed and a section substituted

10 **6.** Section 10A of the principal Act is repealed and the following
section is substituted —

“

Exclusion of certain working directors

15 **10A.** (1) Notwithstanding anything in section 5 a person
is not a worker within the meaning of this Act while the
person is —

(a) a director of a company in any share of which
the person has a beneficial interest; and

(b) engaged or employed by or working for that
company,

20 if the employer company has not complied with section 160
on the basis that the person is a worker.

(2) Subsection (1) does not prevent the employer, when
complying with section 160, from doing so on the basis that
the person referred to in that subsection is a worker.

25 (3) An employer who has complied with section 160 on
the basis that a person referred to in subsection (1) is a
worker is not required to continue to comply with that
section on that basis and, if the employer does not continue
to do so, the person ceases to be a worker within the
30 meaning of this Act.

”.

Section 11 amended

- 7. Section 11 of the principal Act is amended —**

5

10 Section 24B amended

- 8.** Section 24B (5) of the principal Act is amended —

15

Section 27 amended

- 9.** Section 27 of the principal Act is amended —

20

- (b) by deleting “or made by, or registered with, the Workers’ Compensation Board in existence immediately before 1 January 1994,” and substituting the following —

5 “ , made, or registered ”.

Section 36 amended

10. Section 36 of the principal Act is amended by repealing subsection (1) and substituting the following subsection —

“

10 (1) Whenever a claim is made by, or in relation to, a
worker for compensation under section 33 or 34, the
employer shall within 14 days of the making of the claim
send particulars of the claim to the Commission, and the
15 Executive Director shall refer the question of the worker’s
condition and fitness for employment to a medical panel
comprising 2 or 3 physicians —

 (a) all of whom are to be nominated by the
Executive Director from amongst physicians who
specialize in diseases of the chest or in
20 occupational diseases; and

 (b) at least one of whom specializes in diseases of
the chest.

”.

Section 57A amended

25 **11.** Section 57A (2) of the principal Act is amended by deleting
“and section 192 does not apply in relation to the action”.

Section 57B amended

12. Section 57B (2) of the principal Act is amended by deleting “14 days” and substituting the following —

“ 17 days ”.

5 Section 61 amended

13. Section 61 (1) of the principal Act is amended by deleting “wholly or partially recovered” and substituting the following —

“ total or partial capacity for work ”.

Section 67 amended

10 14. Section 67 of the principal Act is amended —

(a) in subsection (2) —

(i) by inserting after “permanent total” the following —

“ or permanent partial ”; and

15 (ii) by inserting after “subject to subsection” the following —

“ (2a) or ”;

(b) by inserting after subsection (2) the following subsection —

20 “
(2a) A liability for permanent partial incapacity mentioned in subsection (2) cannot be

5 (a) if the rate of weekly payments for the
incapacity exceeds such amount as is
prescribed by regulation and unless,
in the particular case, the worker has
special need of the lump sum instead
of the continuance of weekly
payments and other benefits, or other
10 special circumstances justify the
redemption; or

15 (i) the worker has successfully undergone rehabilitation but, having taken all reasonable steps to obtain employment, has failed to do so; or

”.

25 (c) in subsection (3), by deleting “incapacity mentioned in
subsection (2) may not” and substituting the
following —

”

Section 68 amended

15. Section 68 of the principal Act is amended —

- (a) by inserting before subsection (1) the following subsection —

- 5 “
- (1a) Where the liability for a permanent partial incapacity may be redeemed under section 67 (2) and (2a), the lump sum shall be calculated by taking the amount that is equal
- 10 to —
- (a) the then prescribed amount less the amount of weekly payments made; or
- (b) the weekly payments at the rate to which the worker is entitled at the date of the redemption for the period from that date to the date when the weekly payments would cease by reason of age,
- 15
- whichever is the less, and discounting that amount so taken in accordance with a compound discount table prescribed by regulations.
- 20 ”;
- (b) in subsections (1) and (2), by deleting “an incapacity” and in each case substituting the following —
- 25 “ a permanent total incapacity ”; and
- (c) in subsection (1) (b), by deleting “order” and substituting the following —
- “ redemption ”.

Section 74 amended

16. Section 74 (1a) of the principal Act is amended by deleting “make an application to the Directorate, in accordance with the rules, to determine” and substituting the following —

5 “ refer to the Director for conciliation under Part IIIA ”.

Section 76 amended

17. Section 76 (8) of the principal Act is amended by inserting a comma after “excessive”.

Section 84A amended

10 **18.** Section 84A of the principal Act is amended by deleting the definition of “dispute” and substituting the following definition —

“
“**dispute**” means —

15 (a) a dispute in connection with a claim for compensation under this Act and includes —

(i) a dispute as to liability to make or continue to make weekly payments of compensation;

(ii) a dispute between employers as to liability;

20 (iii) a dispute between insurers as to liability to indemnify an employer;

(iv) a dispute between an employer and an insurer as to the insurer’s liability to indemnify the employer;

25 or

- (b) a matter to be determined by a dispute resolution body under section 67 (2a) (b);

”.

Section 84F repealed and a section substituted

- 5 **19.** Section 84F of the principal Act is repealed and the following section is substituted —

“

10 **Orders relating to payment of compensation in respect of persons under legal disability or who are dependants**

84F. (1) A question as to the payment of compensation that is payable to —

- 15 (a) a person under a legal disability to give an effective discharge for payment; or
- (b) a dependant or dependants of a deceased worker,
- may be referred to the Director for conciliation as a dispute.

20 (2) A dispute resolution body may order that compensation that is payable to a person under a legal disability to give an effective discharge for payment is to be paid to the Commission and applied in the manner specified in the order.

(3) A dispute resolution body may order that all or any of the compensation that is payable to a dependant or dependants of a deceased worker —

- 25 (a) is to be paid to the Commission and applied in the manner specified in the order; or
- (b) is to be paid to a dependant or dependants of the deceased worker as specified in the order.

5 (a) whether the compensation should be applied differently; or

10 may be referred to the Director for conciliation as a dispute.

”

20. Section 84I of the principal Act is amended —

20 “ (a) a notice of the occurrence of the disability
has been given in writing containing
substantially the information required by
subsection (2) as soon as practicable after
its happening;

25 and

(i) by deleting “and is to state” and substituting the following —

30 “ is to state ”; and

- (ii) by inserting after “disability occurred,” the following —

“
5 is to include such other information, if any,
as may be prescribed,
”.

Section 84K amended

21. Section 84K of the principal Act is amended —

- 10 (a) by inserting after subsection (1) the following subsection —

“
15 (1a) If a worker has, under section 84I
(1) (b), made a claim for compensation with
respect to noise induced hearing loss, the
worker's employer or that employer's insurer
may request the Commission to provide the
person making the request with a copy of any
documents in the possession of or under the
control of the Commission that —

20 (a) are of a kind described in
subsection (4) (d), (e), or (f); or

(b) relate to the worker's employment
history or the worker's exposure to
noise.
25 ”;

and

- (b) in subsections (2) and (3), by inserting after “(1)” the following —

“ or (1a) ”.

22. (1) Sections 84R, 84ZH, and 84ZR of the principal Act are each amended in subsection (1) —

- (2) Sections 84R, 84ZH, and 84ZR of the principal Act are
10 each further amended in subsection (1) by deleting “as to the
nature” and everything in the subsection that is after those
words and substituting the following —

(a) the nature or extent of a disability;

(b) whether a disability is permanent or temporary;
or

(c) a worker's capacity for work,

for determination by a medical assessment panel.

23. Section 84X of the principal Act is amended —

- 15

Section 84ZF amended

26. Section 84ZF of the principal Act is amended —

- (a) in subsection (1), by deleting “a decision made in the review” and substituting the following —

5 “ the review officer’s decision ”; and

- (b) by inserting after subsection (2) the following subsections —

“

10 (3) If new information becomes available after the review officer makes a decision, the review officer may reconsider the decision and —

- (a) vary or revoke any order previously made by the review officer;

15 (b) make any further order,

as the review officer considers appropriate having regard to the new information.

20 (4) For the purposes of subsection (3), “**new information**” is information that was not available to the review officer when the decision was made and, in the opinion of the review officer, justifies reconsideration of the decision.

”.

Section 84ZG amended

25 **27.** Section 84ZG (b) (ii) of the principal Act is amended by deleting “whom” and substituting the following —

“ who ”.

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Section 84ZM amended

28. Section 84ZM of the principal Act is amended by deleting “rules of court” and substituting the following —

“ regulations ”.

5 Section 84ZN amended

29. Section 84ZN of the principal Act is amended by repealing subsections (3) and (4) and substituting the following subsections —

“

10 (3) An appeal under subsection (2) is to be made in
accordance with the regulations within one month after the
making of the decision or order concerned, but the court
may, if satisfied that it is just and reasonable in the
circumstances to do so, extend the period within which the
15 appeal may be made.

(4) Without limiting any other powers of the court on
dealing with the appeal, the court may, before determining
the appeal, make an order that, until the appeal is
determined —

20 (a) suspends the effect of the decision or order, with
or without substituting any decision or order
that the review officer could have made in the
first instance; or

(b) varies the effect of the decision or order.

25 (5) The power given by subsection (4) to suspend or
vary the effect of a decision or order includes the power to
suspend or vary its effect as previously varied under that
subsection.

”.

Section 84ZP amended

30. Section 84ZP of the principal Act is amended —

- (a) by inserting after the section designation “**84ZP.**” the subsection designation “(1)”; and
- 5 (b) by inserting at the end of the section the following subsection —
 - “
 - (2) An order for costs on the ground that the
 - 10 appeal was successful is not to be made against a worker.
 - ”.

Section 84ZT amended

31. Section 84ZT (2) (a) of the principal Act is amended —

- (a) by deleting “contravention or”;
- 15 (b) by deleting “\$1 000” and substituting the following —
 - “ \$5 000 ”; and
- (c) by deleting “\$250” and substituting the following —
 - “ \$2 000 ”.

Sections 93A and 93D amended and transitional provisions

20 **32.** (1) Section 93A of the principal Act is amended by deleting the definition of “future pecuniary loss” and substituting the following definition —

- “
- 25 **“future loss of earnings”** means the loss of earnings except to the extent that it has already been incurred

at the time when the amount of that loss is required
to be determined by a court;

”.

5 (2) Section 93D of the principal Act is amended in
subsection (2) (b) and subsection (5) (c), by deleting “future
pecuniary loss” and in each case substituting the following —

“ future loss of earnings ”.

10 (3) The amendments made by subsections (1) and (2) have
no operation in relation to a cause of action arising wholly before
the day on which this section commences.

Section 95 amended

33. Section 95 (3) of the principal Act is amended by deleting
paragraph (a) and substituting the following paragraph —

“

15 (a) the body known as the Chamber of Commerce and
Industry of Western Australia (Inc);

”.

Section 101 amended

20 **34.** Section 101 of the principal Act is amended by deleting
paragraph (e) and substituting the following paragraph —

“

25 (e) to determine whether an insurer should be permitted
to cancel a policy of insurance and, if so, upon what
terms and, in any event, upon the term that the
cancellation be effective as between the parties to the
policy, irrespective of the terms of the policy and
whether or not the policy was effected prior to the
coming into operation of this Division;

”.

Section 103 repealed

35. Section 103 of the principal Act is repealed.

Section 110 amended

36. Section 110 (2) of the principal Act is amended by deleting
5 “into the custody of the Commission under clause 6.” and
substituting the following —

“ to the Commission under section 84F. ”.

Section 145A amended

37. Section 145A of the principal Act is amended —

10 (a) in subsection (1) —

(i) by deleting “A question is to” and substituting
the following —

“ Subject to subsection (2), a question may ”;

and

15 (ii) by deleting “if and, subject to subsection (2),”;

and

(b) in subsection (2), by deleting “is to” and substituting
the following —

“ may ”.

Section 145C amended

38. Section 145C of the principal Act is amended by repealing subsection (2) and substituting the following subsection —

“
5 (2) Of the members of the panel at least one is to be a
specialist in the particular branch of medicine or surgery
that is relevant to the question.
”.

Section 147 amended

10 **39.** Section 147 (3) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph —

“
 (a) the Chamber of Commerce and Industry of Western
Australia (Inc);
15 ”.

Section 152 repealed and a section substituted

40. Section 152 of the principal Act is repealed and the following section is substituted —

“
20 **Loading not to exceed 100% unless permitted by
Commission**

 152. Unless permitted by the Commission to do so, an
insurer shall not charge a loading on a recommended
premium rate of more than 100% of that rate.
25 ”.

Section 154 amended

41. Section 154 of the principal Act is amended —

- (a) by repealing subsection (2) and substituting the following subsection —

5

“

(2) The appeal is made by giving written notice of it —

10

- (a) where it is against classification, to the Commission, the Committee, and the insurer within one month of being informed of the classification or within such further time as the Commission may, in the circumstances of the case, consider it is reasonable to allow; or

15

20

- (b) where it is against assessment, to the Committee and the insurer within one month of being informed of the assessment or within such further time as the Committee may, in the circumstances of the case, consider it is reasonable to allow,

25

stating the grounds of objection and the classification or assessment, as the case may be, the employer seeks.

”;

and

- (b) by repealing subsections (6), (7), (8), (9) and (10).

Section 160 amended

42. Section 160 of the principal Act is amended by repealing subsections (2a) and (3) and substituting the following subsections —

- 5 “
- 10 (2a) Where, under section 10A, an employer that is a company applies to an approved insurance office under subsection (2) on the basis that any director of the company is a worker, that employer shall, in relation to each such director, furnish to that office, in addition to the information required to be furnished under subsection (2) —
- (a) the name of the director; and
- 15 (b) in relation to that director in particular, the information, verified as required under subsection (2), that the employer is required under that subsection to furnish in relation to the employer's workers.
- 20 (3) An approved insurance office shall insure any employer requesting it for the full amount of the liability of the employer to pay compensation under this Act to all workers employed by him.
- Penalty: \$2 000.
- ”.

25 Section 170 amended

43. Section 170 of the principal Act is amended —

- (a) by inserting after subsection (2a) the following subsections —
- “
- 30 (2b) If an order is made under subsection (2) requiring a body corporate convicted of an

5 offence to pay an amount to the General Fund but all or any of the amount required to be paid remains unpaid, the Commission may sue and recover from a responsible officer the unpaid amount, whether or not the responsible officer has been convicted under subsection (5).

(2c) If there are 2 or more responsible officers, they are jointly and severally liable for the payment of the unpaid amount.

10 (2d) The amount required to be paid under the order is reduced by any amount recovered under subsection (2b).

”;

15 (b) by repealing subsection (4) and substituting the following subsection —

“

(4) In any prosecution for an offence under this section, proof that the employer, not being a self-insurer —

20 (a) was required under section 175B (1) (c) to produce for inspection a policy of insurance referred to in section 160 (1) obtained by the employer and in force at a specified date or between specified dates; and

25

(b) did not produce that policy as required,

30 is *prima facie* evidence that at that specified date or between those specified dates, as the case may be, the employer failed to comply with section 160 (1), and the burden of showing that

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the employer complied with section 160 (1) rests
on the employer.

”.

and

- 5 (c) by repealing subsection (5) and substituting the
following subsections —

“

10 (5) Where a body corporate commits an
offence mentioned in subsection (1), every
responsible officer commits the like offence.

15 (6) In subsections (2b), (2c), and (5)
“**responsible officer**”, in relation to the
commission of an offence by a body corporate,
means a person who is a director or other officer
concerned in the management of the body
corporate and who does not prove that —

(a) the offence was committed without
the person's consent or connivance;
and

20 (b) the person exercised all such due
diligence to prevent the commission of
the offence as ought to have been
exercised having regard to the nature
of the person's functions and to all the
25 circumstances.

”.

Sections 172 and 172A repealed

44. Sections 172 and 172A of the principal Act are repealed.

Section 172 inserted

45. After section 171 of the principal Act the following section is inserted —

“

5 Commission may pass on certain information to insurer

172. Whenever as a result of an inspection or otherwise it is shown that an employer has either wilfully or inadvertently understated to the employer's insurer the aggregate amount of wages, salary and other forms of remuneration paid, or the number of employees engaged, and has thereby become liable to pay by way of premium a lesser amount than would otherwise have been payable, then the Commission may —

15 (a) provide to the insurer information as to the wages, salary, and other forms of remuneration paid by, and the number of employees engaged by, the employer and the category for the purpose of premium rates in which those employees are engaged; and

20 (b) sue and recover from the employer —

(i) the full amount of the premium that could have been charged; less

(ii) any amount already paid to the insurer in respect of such insurance,

25 and pay any moneys so recovered, less any reasonable costs incurred in the recovery, to the insurer.

”.

Part X, Division 3, inserted and transitional provisions

46. (1) Part X of the principal Act is amended by inserting after Division 2 the following Division —

“

5 *Division 3 — Inspectors*

Authorization

175A. (1) The Commission may authorize persons as inspectors for the purposes of this Act.

10 (2) Before performing any function of an inspector under this Act, a person authorized as an inspector is required to take and subscribe before a justice of the peace an oath or affirmation to the effect that the person will not, except for the purposes of this Act, and the exercise of the person's duties under this Act, disclose to any person any
15 information acquired as an inspector.

(3) A person who wilfully discloses any information contrary to an oath taken under subsection (2) commits an offence.

Penalty: \$2 000.

20 (4) The Chairman of the Commission is to issue to each person authorized as an inspector a certificate stating that the person is so authorized.

(5) The inspector is to produce the certificate whenever
25 required to do so by a person in respect of whom the inspector has exercised, or is about to exercise, a power under this Act.

Powers

175B. (1) An inspector may, for the purposes of this Act —

- 5 (a) at all reasonable times of the day or night, enter, inspect, and examine any place where it is suspected that workers may be employed or books, accounts, documents or records required to be inspected may be held;
- 10 (b) conduct such examination and inquiry as appears necessary to ascertain whether there has been compliance with this Act;
- (c) require the production of, examine, and take copies or extracts of, any books, accounts, documents or records;
- 15 (d) interview, either in private or otherwise, as the inspector considers appropriate, any person who the inspector has reasonable grounds to believe is able to provide information that may assist the inspector to perform a function under this
- 20 Act;
- (e) require any person interviewed under paragraph (d) to answer any question and, if the inspector considers it appropriate, to verify any such answer by statutory declaration;
- 25 (f) require an employer to provide within 28 days a certificate from an auditor containing a statement as to —
- (i) the number of workers employed by the employer during a specified period; and
- 30 (ii) the amount of wages, salary, and other forms of remuneration paid by the

employer to each worker during that period;

- (g) require any person to state the person's name and address;
- 5 (h) require an employer or any of the employer's workers to assist the inspector in the performance of a function under this Act, as the inspector considers necessary;
- 10 (i) exercise such other powers as may be conferred by the regulations or as may be necessary for the performance of any function under this Act.

(2) In subsection (1) —

“auditor” means a person who is registered as an auditor under Part 9.2 of the Corporations Law.

- 15 (3) In exercising any power under this Act an inspector may be accompanied by any other person whose assistance the inspector considers necessary, and that person may do such things as are necessary to assist the inspector in the performance of the inspector's functions, and anything so
- 20 done is deemed to have been done by the inspector.

Interpreters

175C. (1) Where an inspector considers it necessary for the effective performance of a function under this Act, the inspector may be accompanied by an interpreter.

- 25 (2) Any inquiry or requirement made to any person by an interpreter on behalf of an inspector is deemed to have been made by the inspector and any answer given to the interpreter is deemed to have been given to the inspector.

Offences

175D. (1) A person who —

- 5
- (a) obstructs or interferes with the performance by an inspector of any of the inspector's functions under this Act;
- (b) contravenes a requirement made by an inspector under this Act;
- 10
- (c) provides to an inspector an answer or information that is false or misleading in a material particular;
- (d) gives any information that is false or misleading in a certificate referred to in section 175B (1) (f); or
- 15
- (e) directly or indirectly prevents another person from complying with a requirement under this Act,

commits an offence.

Penalty: \$5 000.

- 20
- (2) A person is not excused from complying with a requirement to answer any question on the ground that the answer to the question might be incriminating or render the person liable to a penalty, but an answer given by the person is not admissible in evidence against the person in any civil or criminal proceedings other than proceedings for perjury or for an offence under this section arising out of the false or misleading nature of that answer.
- 25

”.

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(2) A person who —

(a) before the commencement of section 35, was authorized by the Commission under the former section 103 as an inspector; or

5 (b) before the commencement of section 44, was authorized by the Minister under the former section 172,

is to be regarded as having been authorized by the Commission as an inspector under section 175A (1) of the principal Act and as
10 having taken the oath required by section 175A (2).

(3) If —

(a) a requirement made under the former section 103 by a person referred to in subsection (2) (a); or

15 (b) a request or requirement made under the former section 172 or 172A by a person referred to in subsection (2) (b),

has not been complied with when this section commences, it is to be regarded as a requirement made under section 175B of the principal Act and for that purpose this section is taken to have
20 commenced before the request or requirement was made.

(4) In subsections (2) and (3) —

“former section” means a section of the principal Act as in force before its repeal by this Act.

Heading amended

25 **47.** The heading to Part XI of the principal Act is amended by deleting “, **RULES, AND PRACTICE NOTES**”.

Section 176 amended

48. Section 176 of the principal Act is amended —

(a) in subsection (1) —

5 (i) by inserting after paragraph (g) the following paragraph —

“
10 (h) providing for the allowances to be paid to witnesses, and the circumstances in which, and extent to which, they are to be paid from moneys standing to the credit of the General Fund;
”;

(ii) in paragraph (i), by deleting “or rule”;

15 (iii) in paragraph (j), by deleting “, the Board,”; and

(iv) by deleting paragraphs (m) and (n);

and

(b) in subsection (2), by deleting “or rule”.

Section 182 amended

20 **49.** Section 182 of the principal Act is amended by inserting after subsection (2) the following —

“
(3) A person contravening subsection (1) commits an offence.

25 Penalty: \$2 000.

”.

Section 183 amended

50. Section 183 of the principal Act is amended —

- (a) by inserting after the section designation “**183.**” the subsection designation “(1)”; and
- 5 (b) by inserting at the end of the section the following subsection —

“
10 (2) A person who purports or agrees to do anything the doing of which is prevented by subsection (1) commits an offence and is liable to a fine of \$5 000.
”.

Section 188 amended

15 **51.** Section 188 of the principal Act is amended by inserting at the foot of the section the following —

“ Penalty: \$5 000. ”.

Section 192 inserted

52. After section 191 of the principal Act the following section is inserted in Part XII —

20 “
Commission may specify alternative form of sending information

25 **192.** (1) Notwithstanding any other provision of this Act, a person who is required or permitted under this Act to send or otherwise provide information to the Commission by means of any notice, notification, particulars, return or other document shall, if the Commission so requests, send

(2) In subsection (1) —

Schedule 1 amended

25 and

(2) Schedule 5 to the principal Act is further amended by inserting after clause 1 the following clause —

“

Successive lung diseases to be regarded as one

5 **1A.** If a worker, at the same time or successively, suffers more
than one of the disabilities of pneumoconiosis, mesothelioma, or
lung cancer, they are to be regarded for the purposes of this
Schedule as the same disability, being the disability for which the
10 worker has claimed compensation under this Act, or as a
progression of that disability.

”.

Schedule 7 amended and transitional provisions

56. (1) Schedule 7 to the principal Act is amended by inserting after clause 5 (2) the following subclause —

15 “

(3) Subject to subclause (2), the Commission may store the
results of audiometric tests delivered to it under clause 4 (2) in
any form that enables the results stored, or information from
those results, to be read, whether with the use of a device or
20 otherwise.

”.

(2) Clause 5 (3) of Schedule 7 to the principal Act, as
inserted in the principal Act by subsection (1), applies to and in
relation to the results of audiometric tests whether delivered to
25 the Commission before or after the commencement of that
subsection.

(3) Schedule 7 to the principal Act is amended in clause 8 (1)
by inserting after “stored” the following —

“ in any form ”.

Various amendments to increase penalties

57. The principal Act is amended in each place mentioned in column 1 of the Table to this section by deleting the amount set out in column 2 and substituting the amount set out in column 3.

5

TABLE

	<i>column 1</i>	<i>column 2</i>	<i>column 3</i>
	foot of s. 109 (4a)	\$2 000	\$5 000
	foot of s. 109 (7)	\$2 000	\$5 000
	foot of s. 161A	\$2 000	\$5 000
10	twice in s. 170 (1)	\$1 000	\$5 000
	foot of s. 171 (3)	\$200	\$2 000
	s. 176 (1) (i)	\$200	\$1 000
	foot of s. 179 (5)	\$2 000	\$5 000
	s. 189	\$500	\$2 000

**PART 3 — WORKERS' COMPENSATION AND
REHABILITATION AMENDMENT ACT 1993**

Principal Act

58. In this Part the *Workers' Compensation and Rehabilitation
5 Amendment Act 1993** is referred to as the principal Act.

[* *Act No. 48 of 1993.*]

Section 6 amended

59. Section 6 (4) of the principal Act is amended by deleting
“this” before “Commission” and substituting the following —

10 “ the ”.

Section 11 amended

60. Section 11 (2) of the principal Act is amended by inserting
after “If” the following —

“
15 , in the circumstances mentioned in subsection (1) (a)
and (b),
”.

PART 4 — OTHER ACTS AMENDED

Amendments following from Act No. 48 of 1993

61. Schedule 1 has effect.

[Section 61]

5 **1. The *Constitution Acts Amendment Act 1899* is amended in**
Schedule V —

- 10 (a) in Part 1 Division 1, by deleting “Chairman, or Deputy Chairman, of the Workers’ Compensation Board constituted under the *Workers’ Compensation and Rehabilitation Act 1981*.”; and
- (b) in Part 2 Division 1, by deleting “Member, or deputy of a member, of the Workers’ Compensation Board constituted under the *Workers’ Compensation and Rehabilitation Act 1981*.”.

20 **2.** The *Police Assistance Compensation Act 1964* is amended in section 6 by deleting “the Workers’ Compensation Board constituted under the *Workers’ Compensation Act 1912*, has under the provisions of this Act exclusive jurisdiction to examine into, hear and determine the question and matter as provided in the former Act, as though the question or matter were a question or matter that arose under that Act; and where the Board exercises that jurisdiction such of the provisions of that Act as are applicable to the case apply, with all necessary modifications” and substituting the following —

25 “ the matter is to be referred for conciliation under Part IIIA of the
Workers’ Compensation and Rehabilitation Act 1981 and is to be
dealt with under that Act as if it were a dispute that arose under
30 that Act; and such of the provisions of that Act as are capable of
applying in relation to the matter apply, with such modifications
as are necessary

35 **3. The *Public Trustee Act 1941* is amended in section 37 (3) by deleting paragraph (c) and substituting the following —**

“ (c) Any such sum shall be disbursed by the Public Trustee in accordance with the order pursuant to which it is held, but the Public Trustee has sole discretion as to its investment. ”

Sch. 1

Suitors' Fund Act 1964

4. The *Suitors' Fund Act 1964* is amended in section 3 by deleting the definition of “Court” and substituting the following definition —

5 **“Court”** includes a Small Claims Tribunal constituted under the
 Small Claims Tribunals Act 1974;

Waterfront Workers (Compensation for Asbestos Related Diseases) Act 1986

10 **5. The *Waterfront Workers (Compensation for Asbestos Related Diseases) Act 1986* is amended —**

(a) in section 3 —

(i) by deleting the definition of “Board”; and

15 (ii) by inserting before the definition of “Fund” the following definition —

“**“compensation magistrate’s court”** has the meaning given to that expression in the Compensation Act;

20 Compensation Act,

(b) in section 9 (1), by deleting “the Board” and substituting the following —

“ a compensation magistrate’s court ”;

25 (c) in section 9 (3), by deleting “The Board” and substituting the following —

“ A compensation magistrate’s court ”;

(d) in section 9 (4), by deleting “it applies to an order or determination made” and substituting the following —

“ if it had been made by the court ”; and

- (e) in section 10 (1), by deleting “by the Board as if the claim arose under the Compensation Act and the Board may exercise any of its functions under that Act for the purposes of this section” and substituting the following —

5

“
under Part IIIA of the Compensation Act as if it were
a dispute arising under that Act
”.

=====