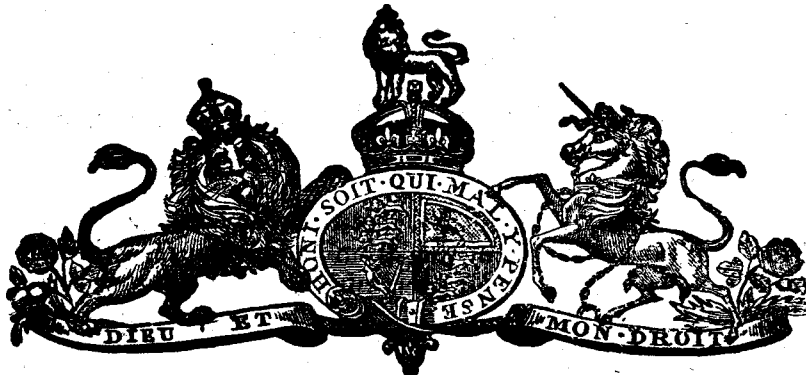


TASMANIA.

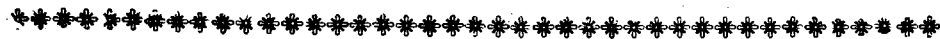


1920

ANNO UNDECIMO  
GEORGII V. REGIS.  
No. 29.

ANALYSIS.

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>1. Short title and incorporation with 9 Geo. V. No. 40.</li> <li>2. Commencement.</li> <li>3. Amendment of Section 4 of Principal Act.</li> <li>4. Application of Act to Industrial Diseases.<br/>Diseases due to nature of employment.<br/>Disablement.<br/>No compensation in certain cases.<br/>Compensation from whom recoverable.<br/>Worker to furnish information.<br/>Where disease contracted in employment of another employer.</li> </ul> | <ul style="list-style-type: none"> <li>Disease contracted by gradual process.</li> <li>Compensation, how calculated.</li> <li>Reference to medical referee.</li> <li>Certain diseases to be deemed due to the nature of the employment unless the contrary proved.</li> <li>Date of disablement.</li> <li>Extension of section to other diseases.</li> <li>Saving.</li> <li>Appointment of certifying medical practitioners and medical referees.</li> <li>5. Amendment of Schedule to principal Act.</li> </ul> |
|---|--|



AN ACT to amend "The Workers' Compensation Act, 1918," and for other purposes.

A.D.  
**1920.**

[20 December, 1920.]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

**1** This Act may be cited as "The Workers' Compensation Amendment Act, 1920," and is hereby incorporated with and shall be read as one with "The Workers' Compensation Act, 1918," in this Act referred to as the Principal Act.

Short title and incorporation with 9 Geo. V. No. 40.

*Workers' Compensation Amendment.*

A.D. 1920.  
—  
Commencement.

**2** This Act shall come into operation on the First day of March, One thousand nine hundred and twenty-one, and remain in operation until the First day of March, One thousand nine hundred and twenty-three, and no longer.

Amendment of  
Section 4 of  
Principal Act.

**3** Section Four of the Principal Act is hereby amended as to the definition of "worker" by omitting from Paragraph I. of the definition the words "Four Pounds" and substituting therefor the words "Five Pounds."

**4** After Section Twenty-one of the Principal Act the following sections are inserted :—

*Industrial Diseases.*

Application of  
Act to Industrial  
Diseases.  
Cf. 6 Ed. VII. c.  
58 s. 8 (Eng.).  
Cf. No. 71, 1916,  
s. 12 (N.S.W.).  
Cf. No. 1053,  
1911, s. 12 (S.A.).  
Cf. No. 2750,  
1915, s. 18 (Vict.).  
Diseases due to  
nature of  
employment.

"**21a**—(1) Where—

i. Any certifying medical practitioner appointed under this Act for the district in which a worker is employed certifies that the worker is suffering from a disease mentioned in Schedule (2), and is thereby disabled from earning full wages at the work at which he was employed : or  
ii. The death of a worker is caused by any such disease—  
and the worker at the date of disablement or death, as the case may be, has been continuously resident in this State during the period of Twelve months immediately preceding such date, and the disease is due to the nature of any employment to which this Act applies, in which the worker was employed at any time within the Twelve months previous to the date of the disablement, whether under One or more employers, he or his dependants shall be entitled to compensation under this Act as if the disease were a personal injury by accident arising out of and in the course of that employment, and all the provisions of this Act shall apply accordingly, subject, however, to the following modifications :—

Disablement.  
S. 19 (Vict.).  
No compensation  
in certain cases.

- (a) The disablement shall be treated as the happening of the accident ;
- (b) If it is proved that the worker has at the time of entering the employment wilfully and falsely represented himself in writing as not having previously suffered from the disease, compensation shall not be payable ;
- (c) If it is proved that the employer before or within Seven days after the worker entered his employment requested the worker to submit himself to a certifying medical practitioner for medical examination, and that the worker refused or failed to submit himself for such examination, compensation shall not be payable ;
- (d) If after the worker has so submitted himself to such medical examination, the certifying medical practitioner certifies that such worker is suffering from a disease mentioned in Schedule (2), compensation shall not be payable ;

*Workers' Compensation Amendment.*

- (e) The compensation shall be recoverable from the employer who last employed the worker during the said Twelve months in the employment to the nature of which the disease was due, and notice of the death or disablement shall be given to that employer, and may be so given notwithstanding that the worker has voluntarily left his employment ;

A.D. 1920.

—  
 Compensation,  
 from whom  
 recoverable.  
 S. 20 (Vict.).

Provided that—

- (i) The worker or his dependants, if so required, shall furnish that employer with such information as to the names and addresses of all the other employers who employed him in the employment during the said Twelve months as he or they may possess, and, if such information is not furnished, or is not sufficient to enable that employer to take proceedings under the next following proviso, that employer, upon proving that the disease was not contracted whilst the worker was in his employment, shall not be liable to pay compensation ; and
- (ii) If that employer alleges that the disease was in fact contracted whilst the worker was in the employment of some other employer, and not whilst in his employment, the Court of Requests in which the proceeding is taken, or the Commissioner thereof, may at the instance of the employer making the allegation, and in such terms as the Court or Commissioner thinks fit, by order, join such other employer as a party to the proceedings, and if the allegation is proved, that other employer shall be the employer from whom the compensation is to be recoverable ; and
- (iii) If the disease is of such a nature as to be contracted by a gradual process, any other employers who, during the said Twelve months, employed the worker in the employment to the nature of which the disease was due, shall be liable to make to the employer from whom compensation is recoverable such contributions as, in default of agreement, may be determined by a Court of Requests under this Act for settling the amount of the compensation ;

Worker to furnish  
 information.

Where disease  
 contracted in  
 employment of  
 another employer.

Disease contracted  
 by gradual  
 process.

- (d) The amount of the compensation shall be calculated with reference to the earnings of the worker under the employer from whom the compensation is recoverable ;
- (e) If an employer or a worker is aggrieved by the action of a certifying medical practitioner in giving or refusing to give

Compensation,  
 how calculated.  
 S. 21 (Vict.).

Reference to  
 medical referee.  
 S. 22 (Vict.).

*Workers' Compensation Amendment.*

A.D. 1920.

a certificate of disablement for the purposes of this section, the matter shall, in accordance with regulations under this Act, be referred to a medical referee, whose decision shall be final.

Certain diseases to be deemed due to the nature of the employment unless the contrary proved.  
S. 24 (Vict.)

(2) If the worker at or immediately before the date of the disablement was employed in any process mentioned in the Second column of Schedule (2), and the disease contracted is the disease in the First column of that schedule set opposite the description of the process, the disease, except where the certifying medical practitioner certifies that in his opinion the disease was not due to the nature of the employment, shall be deemed to have been due to the nature of that employment, unless the employer proves to the contrary.

Date of disablement.  
S. 23 (Vict.)

(3) The Governor may make regulations as to duties and fees of certifying medical practitioners and medical referees under this section.

(4) For the purposes of this section the date of disablement shall be such date as the certifying medical practitioner certifies as the date on which the disablement commenced, or, if he is unable to certify such a date, the date on which the certificate is given.

Provided that—

(a) Where the medical referee allows an appeal against a refusal by a certifying medical practitioner to give a certificate of disablement, the date of disablement shall be such date as the medical referee may determine;

(b) Where a worker dies without having obtained a certificate of disablement, or is at the time of death not in receipt of a weekly payment on account of disablement, the date of death shall be deemed to be the date of disablement.

(5) In such cases, and subject to such conditions as the Minister may direct, a medical practitioner appointed by the Minister for the purpose shall have the powers and duties of a certifying medical practitioner under this section, and this section shall be construed accordingly.

Extension of section to other diseases.  
S. 25 (Vict.)

(6)—1. Where a resolution has been passed by both Houses of Parliament declaring that it is expedient to include in Schedule (2) any diseases and processes other than those mentioned in the said schedule, the Governor may, by order published in the "Gazette," declare that the said diseases and processes shall be included in the said schedule in accordance with such resolution.

2. Every such order shall, on the expiration of Three months from the date of such publication, and while in force, have the same effect as if the diseases and processes named therein were inserted in the said schedule, and this Act shall be read and construed accordingly.

Saving.  
S. 27 (Vict.)

(7) Nothing in this section shall affect the rights of a worker to recover compensation in respect of a disease to which this section does not apply, if the disease is a personal injury by accident within the meaning of this Act."

*Workers' Compensation Amendment:*

“**21b**—(1) The Minister may appoint such legally qualified medical practitioners as he may determine to be certifying medical practitioners for the purposes of this Act, and may appoint districts in which such medical practitioners shall discharge their duties, and may alter the boundaries of any such districts.

(2) The Minister may appoint such legally qualified medical practitioners to be medical referees for the purposes of this Act as he may determine, and the remuneration of, and other expenses incurred by, certifying medical practitioners and medical referees under this Act, shall, subject to regulations made hereunder, be paid out of moneys to be appropriated by Parliament.

Where a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or worker or by any insurers interested, he shall not act as medical referee in that case.”

A.D. 1920.

Appointment of certifying medical practitioners and medical referees. Cf. s. 10 (Eng.). Cf. s. 14 (S.A.). Cf. s. 14 (N.S.W.).

**5** The schedule to the Principal Act is hereby amended—

- i. By inserting “(1)” after the word “Schedule,” occurring at the commencement thereof:
- ii. By inserting the following Schedule (2) at the end thereof:—

Amendment of schedule to Principal Act.

“(2)

Description of Disease.	Description of Process.
Arsenic, phosphorus, lead, mercury, copper, zinc, or other mineral-poisoning and their sequelæ	Any employment involving the use or handling of arsenic, phosphorus, lead, mercury, copper zinc, or other mineral or their preparations or compounds
Anthrax ... ..	Wool-combing; wool-sorting; handling of hides, skins, wool, hair, bristles, or carcasses
Septic poisoning ... ..	Any work involving the handling of meat or the manufacture of meat products or animal by-products
Silicosis of the lungs; Miner's Phthisis; Pneumoconiosis ...	Mining, or quarrying, or stone crushing or cutting”
Ankylostomiasis ... ..	
Nystagmus... ..	
Subcutaneous cellulitis of the hand (beat hand) ... ..	
Subcutaneous cellulitis over the patella (miner's beat knee) ...	
Acute bursitis over the elbow (miner's beat elbow) ... ..	
Inflammation of the synovial lining of the wrist joint and tendon sheaths ... ..	

