



ANNO TRICESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1989

No. 24 of 1989

An Act to amend the Occupational Health, Safety and Welfare Act, 1986.

[Assented to 27 April 1989]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Occupational Health, Safety and Welfare Act Amendment Act, 1989*.

(2) The *Occupational Health, Safety and Welfare Act, 1986*, is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Membership of the Commission

3. Section 8 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) The Commission will consist of 13 members, appointed by the Governor, of whom—

- (a) one, who will be the presiding officer of the Commission, will be a person nominated by the Minister after consultation with employer associations and the United Trades and Labor Council;
- (b) one will be the Director of the Department of Labour;
- (c) one will be the Chairman of the South Australian Health Commission or a person nominated by the Chairman of the South Australian Health Commission with the concurrence of the Minister;
- (d) four will be nominated by the Minister after taking into account the recommendations of employer associations, to represent the interests of employers;
- (e) four will be nominated by the Minister after taking into account the recommendations of the United Trades and Labor Council, to represent the interests of employees;

(f) one will be the General Manager of the Workers Rehabilitation and Compensation Corporation or a person nominated by the General Manager of the Workers Rehabilitation and Compensation Corporation with the concurrence of the Minister;

and

(g) one will be a person who is experienced in the field of occupational health, safety and welfare, nominated by the Minister after consultation with employer associations and the United Trades and Labor Council.;

and

(b) by striking out subsection (3).

Terms and conditions of office

4. Section 9 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) A member of the Commission will be appointed on such conditions and for such term, not exceeding three years, as the Governor may determine and on the expiration of a term of office will be eligible for re-appointment.;

(b) by striking out from subsection (2) “(other than the full-time member)”;

and

(c) by striking out subsection (7).

Substitution of s. 10

5. Section 10 of the principal Act is repealed and the following section is substituted:

Remuneration and expenses

10. The members of the Commission are entitled to such fees, allowances and expenses as the Governor may approve.

Proceedings of the Commission

6. Section 11 of the principal Act is amended—

(a) by striking out from subsection (1) “Six” and substituting “Seven”;

(b) by striking out paragraph (a) of subsection (1);

(c) by inserting after subsection (1) the following subsection:

(1a) In the absence of the presiding officer of the Commission, the members present at a meeting of the Commission will decide who is to preside.;

and

(d) by striking out subsection (3) and substituting the following subsection:

(3) Each member of the Commission present at a meeting of the Commission is entitled to one vote on a matter arising for decision by the Commission, and the person presiding at the meeting has, in the event of an equality of votes, a second or casting vote.

Insertion of s. 17a

7. The following section is inserted immediately before section 18 of the principal Act:

Chief Executive Officer of the Commission

17a. (1) There will be a Chief Executive Officer of the Commission.

(2) The Chief Executive Officer will be responsible to the Commission for the efficient management of the Commission's activities and the supervision of its staff.

(3) A person will not be appointed as Chief Executive Officer of the Commission unless the Commission has first consulted with the Minister in relation to the proposed appointment and the proposed terms and conditions of appointment.

Other staff of the Commission

8. Section 18 of the principal Act is amended—

(a) by inserting in subsection (1) "other" after "shall have such";

and

(b) by striking out subsections (2) and (3) and substituting the following subsection:

(2) One member of the staff of the Commission may be appointed as Deputy Chief Executive Officer of the Commission.

Insertion of s. 67a

9. The following section is inserted after section 67 of the principal Act:

Registration of employers

67a. (1) Subject to subsection (2), a person who is required to be registered as an employer under the *Workers Rehabilitation and Compensation Act, 1986*, is also required to be registered under this Act.

(2) A person is not required to be registered if the person is exempt from the obligation to be registered by the regulations.

(3) The Workers Rehabilitation and Compensation Corporation will undertake registrations under this section in conjunction with the registration of employers under the *Workers Rehabilitation and Compensation Act, 1986*.

(4) A periodical fee is payable in relation to a registration under this section.

(5) The fee referred to in subsection (4) will be—

(a) calculated in the prescribed manner;

and

(b) payable to the Workers Rehabilitation and Compensation Corporation in accordance with the regulations.

(6) If a person fails to pay a fee, or the full amount of a fee, in accordance with the regulations, the Workers Rehabilitation and Compensation Corporation may recover the unpaid amount as if it were unpaid levy under Part V of the *Workers Rehabilitation and Compensation Act, 1986*.

(7) Subject to subsection (8), the Workers Rehabilitation and Compensation Corporation will, in accordance with guidelines established by the Treasurer, pay the fees collected under this section to the Department of Labour.

(8) The Workers Rehabilitation and Compensation Corporation may deduct from any amount payable under subsection (7) any costs reasonably incurred by it in undertaking registrations and collecting fees under this section.

(9) The Department of Labour and the Commission are entitled to information provided to the Workers Rehabilitation and Compensation Corporation for the purposes of this section (and section 112 of the *Workers Rehabilitation and Compensation*

Act, 1986, does not apply in relation to the disclosure of that information to the Department or to the Commission).

(10) A person who fails to comply with this section is guilty of an offence.

Penalty: Division 6 fine.

(11) A person who was, immediately before the commencement of this section, the occupier of a workplace registered under the *Occupational Health, Safety and Welfare (Registration of Workplaces) Regulations, 1987*, is, on written application to the Director of the Department of Labour, entitled to a refund of a portion of the registration fee paid under those regulations, the portion being so much of the fee that, immediately before the commencement of this section, represented the unexpired term of registration.

Regulations

10. Section 69 of the principal Act is amended by inserting after subsection (8) the following subsections:

(8a) A regulation made under this Act in relation to the notification of work-related injuries may provide that notice of prescribed classes of injury may be given to the Workers Rehabilitation and Compensation Corporation in conjunction with the provision of information relating to claims for compensation under the *Workers Rehabilitation and Compensation Act, 1986*.

(8b) The Department of Labour and the Commission are entitled to information relating to work-related injuries obtained by the Workers Rehabilitation and Compensation Corporation under subsection (8a) (and section 112 of the *Workers Rehabilitation and Compensation Act, 1986*, does not apply in relation to the disclosure of that information to the Department or to the Commission).

(8c) The Workers Rehabilitation and Compensation Corporation is entitled to charge a fee, set by the Workers Rehabilitation and Compensation Corporation after consultation with the Treasurer, for the provision of information under subsection (8b).

First schedule

11. The first schedule to the principal Act is amended by inserting after item 3 the following items:

3a. The procedures to be followed in respect of the registration of any person under this Act.

3b. The information to be provided by persons who are required to be registered under this Act.

Transitional provisions

12. (1) The offices of all members of the Commission become vacant on the commencement of this Act.

(2) The person who was, immediately before the commencement of this Act, the full-time member of the Commission is entitled to be appointed to the office of Chief Executive Officer of the Commission—

(a) for a term equal to the balance of the term for which he or she was appointed as full-time member of the Commission;

and

(b) on terms and conditions equivalent to the terms and conditions of employment that applied to him or her as full-time member of the Commission.

(3) The person who was, immediately before the commencement of this Act, the deputy to the full-time member of the Commission is entitled to be appointed to the office of Deputy Chief Executive Officer of the Commission (on the same terms and conditions of employment that applied to him or her as deputy to the full-time member of the Commission).

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

D. B. DUNSTAN, Governor