

No. 67 of 1955.

A LAW TO AMEND THE WORKMEN'S COMPENSATION LAW.

CAP. 216
14 of 1951
22 of 1952
1 of 1954.

JOHN HARDING,]

[20th December, 1955.

Governor.

BE it enacted by His Excellency the Governor and Commander-in-Chief of the Colony of Cyprus as follows :—

1. This Law may be cited as the Workmen's Compensation (Amendment) Law, 1955, and shall be read as one with the Workmen's Compensation Law (hereinafter referred to as "the principal Law").

Short title.
Cap. 216
14 of 1951
22 of 1952
1 of 1954.

Repeal of sections 28A, 28B and 28C of the principal Law and substitution of new sections.

2. Sections 28A, 28B and 28C of the principal Law (as set out in section 12 of Law 14 of 1951 and as amended by section 2 of Law 1 of 1954) are hereby repealed and the following sections substituted therefor :—

“Examining physicians.

28A.—(1) The Director of Medical Services may appoint such qualified medical practitioners, as he may determine, to be examining physicians for the purposes of this Law and the remuneration of, and other expenses incurred by, examining physicians under this Law shall be paid at such rates as the Director of Medical Services may, from time to time, determine.

(2) Where an examining physician has been employed as a medical practitioner in connection with any case by or on behalf of an employer or workman or by any insurers interested, he shall not act as examining physician in that case.

Application of Law to industrial diseases.

28B.—(1) Where—

(a) an examining physician certifies that a workman is suffering from a disease mentioned in the Second Schedule hereto and is thereby incapacitated from earning full wages at the work at which he was employed ; or

(b) the death of a workman is caused by any such disease ;

and the disease is due to the nature of any employment in which the workman was employed at any time within the twelve months previous to the date of the incapacity, whether under one or more employers, he or his dependants shall be entitled to compensation under this Law as if the disease as aforesaid were a personal injury by accident arising out of and in the course of that employment, subject to the following modifications :—

(i) the incapacity shall be treated as the happening of the accident ;

(ii) if it is proved that the workman 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 ;

(iii) the compensation shall be recoverable from the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due :

Provided that—

(a) the workman 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 paragraph (b) of this proviso, that employer upon proving that the disease was not contracted whilst the workman was in his employment shall not be liable to pay compensation ; and

(b) if that employer alleges that the disease was in fact contracted whilst the workman was in the employment of some other employer, and not whilst in his employment, he may join such other employer as a party to any proceedings under this Law and if the allegation is proved that other employer shall be the employer from whom the compensation is to be recoverable ; and

(c) 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 workman 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 the Court ;

(iv) the amount of the compensation shall be calculated with reference to the earnings of the workman under the employer from whom the compensation is recoverable ;

(v) the employer to whom notice of the accident is to be given shall be the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due, and the notice may be given notwithstanding that the workman has voluntarily left his employment ;

(vi) if an employer or a workman is aggrieved by the action of an examining physician in giving or refusing to give a certificate of incapacity, the matter shall upon application to the Director of Medical Services be referred by him to a medical referee selected by the Director of Medical Services from a panel of medical referees to be appointed by the Governor for the purpose by notice

in the *Gazette*, whose decision shall be final, and the medical referee when deciding the matter shall also certify as to the condition of the workman at the time when he is examined by them, and such certificate by the medical referee shall be conclusive.

(2) For the purposes of this section the date of incapacity shall be such date as the examining physician certifies as the date on which the incapacity 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 an examining physician to give a certificate of incapacity, the date of incapacity shall be such date as the medical referee may determine ;
- (b) where a workman dies without having obtained a certificate of incapacity, or is at the time of death not in receipt of a weekly payment on account of incapacity, it shall be the date of death.

(3) The Governor in Council may make orders for extending the provisions of this section to other diseases and other processes, and to injuries due to the nature of any employment specified in the order not being injuries by accident, either without modification or subject to such modifications as may be contained in the order.

(4) Nothing in this section shall affect the rights of a workman 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 Law.

(5) For the purposes of this section 'disease' shall not include tuberculosis unless it is contracted by a workman employed in a hospital or sanatorium on the date of incapacity or within the twelve months previous to the date of incapacity and engaged in an occupation bringing him into close and frequent contact with persons undergoing treatment for tuberculosis.

Supple-
mental pro-
visions as to
industrial
diseases.

28C.—(1) If the workman at or immediately before the date of incapacity as in section 28B provided, was employed in any process mentioned in the second column of the Second Schedule, 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 examining physician

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 the contrary.

(2) Where a workman claims to be suffering from and incapacitated by a disease to which the provisions of section 28B apply, the employer may agree with the workman that he is liable to pay compensation without requiring the workman to obtain the certificate of the examining physician mentioned in those provisions, and thereupon the workman shall be entitled to compensation as for injury by accident from the date of the agreement or from such other date as may be agreed, and the provisions of section 18 shall apply *mutatis mutandis* to any such agreement."

20th December, 1955.

J. W. SYKES,
Administrative Secretary.