

Queensland



**WORKCOVER  
QUEENSLAND AMENDMENT  
ACT 1999**

**Act No. 17 of 1999**



# Queensland



## WORKCOVER QUEENSLAND AMENDMENT ACT 1999

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Queensland



# WorkCover Queensland Amendment Act 1999

**Act No. 17 of 1999**

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**An Act to amend the *WorkCover Queensland Act 1996*, and for other purposes**

*[Assented to 22 April 1999]*

**The Parliament of Queensland enacts—****Short title**

**1.** This Act may be cited as the *WorkCover Queensland Amendment Act 1999*.

**Commencement**

**2.(1)** Sections 3, 14, 15 to 19, 21 to 26, 49 (so far as it inserts chapter 12, parts 3 and 4), 51(2) and 52 and part 1 of the schedule are taken to have commenced on 3 March 1999.

**(2)** Sections 5, 7, 49 (so far as it inserts chapter 12, part 1), 50 and 51(1) and (4) commence on 1 July 2000.

**(3)** The remaining provisions of this Act and part 2 of the schedule commence on 1 July 1999.

**Act amended**

**3.(1)** This Act, other than section 52, amends the *WorkCover Queensland Act 1996*.

**(2)** Section 52 amends the *Workplace Health and Safety Act 1995*.

**Amendment of s 5 (Workers' compensation scheme)**

**4.(1)** Section 5(1)—

*omit, insert—*

**'5.(1)** This Act establishes a workers' compensation scheme for Queensland—

- (a) providing benefits for workers who sustain injury in their employment, for dependants if a worker's injury results in the worker's death, for persons other than workers, and for other benefits; and

(b) encouraging improved health and safety performance by employers.’.

(2) Section 5(4)(b) to (d)—

*renumber* as section 5(4)(c) to (e).

(3) Section 5(4)—

*insert*—

‘(b) ensure that injured workers or dependants are treated fairly by WorkCover and self-insurers; and’.

### **Replacement of ss 12 and 13**

5. Sections 12 and 13—

*omit, insert*—

#### **‘Who is a “worker”**

‘12.(1) A “worker” is an individual who works under a contract of service.

‘(2) Also, a person mentioned in schedule 2, part 1 is a “worker”.

‘(3) However, a person mentioned in schedule 2, part 2 is not a “worker”.’.

### **Amendment of s 23 (Persons performing community service or unpaid duties)**

6.(1) Section 23(1)(b)—

*renumber* as section 23(1)(c).

(2) Section 23(1)—

*insert*—

‘(b) community service under a community service order under any other Act; or’.

**Amendment of s 32 (Meaning of “employer”)**

**7.(1)** Section 32, heading—

*omit, insert—*

**‘Who is an “employer” ’.**

**(2)** Section 32(2)—

*renumber* as section 32(3).

**(3)** Section 32—

*insert—*

**‘(2) Also, a person mentioned in schedule 2A is an “employer”.’.**

**Amendment of s 34 (Meaning of “injury”)**

**8.(1)** Section 34(1), (2) and (3)(a), (c) and (d), ‘the major significant factor causing’—

*omit, insert—*

‘a significant contributing factor to’.

**(2)** Section 34(3)(b)—

*omit, insert—*

‘(b) an aggravation of the following, if the aggravation arises out of, or in the course of, employment and the employment is a significant contributing factor to the aggravation—

(i) a personal injury;

(ii) a disease;

(iii) a medical condition if the condition becomes a personal injury or disease because of the aggravation;’.

**(3)** Section 34(3)(e)—

*omit, insert—*

‘(e) death from a disease mentioned in paragraph (a), if the employment is a significant contributing factor to the disease;

- (f) death from an aggravation mentioned in paragraph (b), if the employment is a significant contributing factor to the aggravation.’.

(4) Section 34 (5)—

*omit.*

(5) Section 34(4)—

*renumber* as section 34(5).

(6) Section 34—

*insert—*

‘(4) For subsection (3)(b), to remove doubt, it is declared that an aggravation mentioned in the provision is an injury only to the extent of the effects of the aggravation.’.

(7) Section 34(5) (as renumbered), from “**Injury**” to ‘injury is’—

*omit, insert—*

‘Despite subsection (1) and (3), “**injury**” does not include’.

(8) Section 34(5)(d) (as renumbered)—

*omit.*

### **Amendment of s 36 (Injury while at place of employment or another place of employment)**

9.(1) Section 36, heading—

*omit, insert—*

**‘Injury while at or after worker attends place of employment’.**

(2) Section 36(2), ‘the major significant factor causing’—

*omit, insert—*

‘a significant contributing factor to’.

**Amendment of s 37 (Other circumstances)**

**10.(1)** Section 37(2), ‘the major significant factor causing’—

*omit, insert—*

‘a significant contributing factor to’.

**(2)** Section 37(3)—

*omit, insert—*

‘**(3)** For subsection (1), a journey from or to a worker’s home starts or ends at the boundary of the land on which the home is situated.’.

**Amendment of s 38 (Injury that happens during particular journeys)**

**11.(1)** Section 38(2)—

*omit, insert—*

‘**(2)** The injury to the worker is not taken to arise out of, or in the course of, the worker’s employment if the event happens—

(a) while the worker is in control of a vehicle and contravenes—

(i) the *Traffic Act 1949*, section 16<sup>1</sup> or a corresponding law, if the contravention is the major significant factor causing the event; or

(ii) the Criminal Code, section 328A<sup>2</sup> or a corresponding law, if the contravention is the major significant factor causing the event; or

(b) during or after—

(i) a substantial delay before the worker starts the journey; or

(ii) a substantial interruption of, or deviation from, the journey.’.

**(2)** Section 38(4)—

*omit, insert—*

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<sup>1</sup> *Traffic Act 1949*, section 16 (Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood)

<sup>2</sup> Criminal Code, section 328A (Dangerous operation of a vehicle)

‘(4) For subsection (2)(b)(i), in deciding whether there has been a substantial delay before the worker starts the journey, regard must be had to the following matters—

- (a) the reason for the delay;
- (b) the actual or estimated period of time for the journey in relation to the actual or estimated period of time for the delay.

‘(5) For subsection (2)(b)(ii), in deciding whether there has been a substantial interruption of, or deviation from the journey, regard must be had to the following matters—

- (a) the reason for the interruption or deviation;
- (b) the actual or estimated period of time for the journey in relation to the actual or estimated period of time for the interruption or deviation;
- (c) for a deviation—the distance travelled for the journey in relation to the distance travelled for the deviation.

‘(6) In subsection (2)(a)(i) and (ii)—

“**corresponding law**” means a law of another State that is substantially equivalent—

- (a) for subsection (2)(a)(i)—to the law mentioned in that provision; or
- (b) for subsection (2)(a)(ii)—to the law mentioned in that provision.’.

### **Amendment of s 52 (Employer’s obligation to insure)**

**12.(1)** Section 52(4)—

*renumber* as section 52(6).

**(2)** Section 52—

*insert*—

‘(4) WorkCover must not issue more than 1 policy for each employer.

‘(5) However, if the employer is the State, WorkCover may issue 1 policy for each department of government.’.

**Amendment of s 58 (Setting of premium)**

**13.(1)** Section 58(8)—

*renumber* as section 58(9).

**(2)** Section 58—

*insert*—

‘**(8)** If the employer is a corporation and an administrator is appointed under the Corporations Law to administer the corporation, the administrator must pay the premium for the period during which the corporation is under administration.’.

**Omission of ch 2, pt 4**

**14.** Chapter 2, part 4—

*omit*.

**Amendment of s 98 (What is self-insurance)**

**15.** Section 98(2), ‘happen’—

*omit, insert*—

‘start or happen before the issue of the licence and’.

**Amendment of s 99 (Who may apply to be a self-insurer)**

**16.** Section 99(3), before ‘are’—

*insert*—

‘that employ workers in Queensland’.

**Amendment of s 101 (Issue or renewal of licence to a single employer)**

**17.(1)** Section 101(a), ‘500’—

*omit, insert*—

‘2000’.

(2) Section 101(c) to (g)—

*renumber* as section 101(d) to (h).

(3) Section 101—

*insert*—

‘(c) the employer’s occupational health and safety performance is satisfactory; and’.

(4) Section 101—

*insert*—

‘(2) For subsection (1)(c), WorkCover must ask the chief executive of the department within which the *Workplace Health and Safety Act 1995* is administered to prepare an OHS report about the employer’s occupational health and safety performance.’.

#### **Amendment of s 102 (Issue or renewal of licence to a group employer)**

18.(1) Section 102(b), ‘500’—

*omit, insert*—

‘2000’.

(2) Section 102(d) to (h)—

*renumber* as section 102 (e) to (i).

(3) Section 102—

*insert*—

‘(d) the group employer’s occupational health and safety performance is satisfactory; and’.

(4) Section 102—

*insert*—

‘(2) For subsection (1)(d), WorkCover must ask the chief executive of the department within which the *Workplace Health and Safety Act 1995* is administered to prepare an OHS report about the group employer’s occupational health and safety performance.’.

**Amendment of s 106 (Audit of self-insurer)**

**19.** Section 106(1)(a)—

*omit, insert—*

‘(a) satisfies section 101 (other than paragraph (c)) or 102 (other than paragraph (d));<sup>3</sup> and’.

**Amendment of s 111 (Annual levy and surcharge payable)**

**20.(1)** Section 111, heading—

*omit, insert—*

**‘Annual levy payable’.**

**(2)** Section 111(1), (2) and (3)(b), ‘and surcharge’—

*omit.*

**(3)** Section 111(3)(a), ‘and surcharge are’—

*omit, insert—*

‘is’.

**Amendment of s 113 (Bank guarantee or cash deposit)**

**21.** Section 113(6), definition “estimated claims liability”, paragraph (a)(ii)—

*omit, insert—*

‘(ii) existing claims incurred for which a self-insurer is liable under section 116;<sup>4</sup> less’.

**Replacement of s 116 (Self-insurer replaces WorkCover in liability for injury)**

**22.** Section 116—

---

<sup>3</sup> Section 101 (Issue or renewal of licence to a single employer) or 102 (Issue or renewal of licence to a group employer)

<sup>4</sup> Section 116 (Self-insurer replaces WorkCover in liability for injury)

*omit, insert—*

**‘Self-insurer replaces WorkCover in liability for injury**

**‘116.(1)** A self-insurer is liable, to the exclusion of WorkCover’s or another self-insurer’s liability—

- (a) for compensation and damages for the total of the accrued, continuing, future and contingent liabilities for all injuries sustained by a worker employed by the self-insurer that arise from an event happening during the period of the self-insurer’s licence (“**residual liability**”); and
- (b) for the following (“**outstanding liability**”)—
  - (i) compensation for the total of the accrued, continuing, future and contingent liabilities for all injuries sustained by a worker that arise from an event happening or ending during the worker’s employment with the self-insurer before the self-insurer became licensed as a self-insurer;
  - (ii) compensation for the total of the accrued, continuing, future and contingent liabilities for all injuries, other than injuries mentioned in paragraph (a), sustained by a worker arising from an event ending during the worker’s employment with the self-insurer;
  - (iii) damages for the total of the accrued, continuing, future and contingent liabilities for all injuries, other than injuries mentioned in paragraph (a), sustained by a worker arising from an event starting or happening during the worker’s employment with the self-insurer before the self-insurer became licensed as a self-insurer.

**‘(2)** WorkCover must pay a self-insurer an amount for the self-insurer’s outstanding liability that is calculated under a regulation by an actuary.’.

**Amendment of s 118 (Change in self-insurer’s membership)**

**23.** Section 118(2)—

*omit, insert—*

‘(2) If a member leaves a self-insurer that is a group employer and becomes part of another self-insurer (the “**other self-insurer**”), the self-insurer must pay the other self-insurer an amount for the total of the member’s residual liability and outstanding liability (“**total liability**”).

‘(3) For subsection (2), the other self-insurer is liable for compensation and damages for the member’s total liability from the day the member becomes part of the other self-insurer.

‘(4) If a member leaves a self-insurer that is a group employer and does not become part of another self-insurer, the self-insurer must pay WorkCover an amount for the member’s total liability.

‘(5) For subsection (4), WorkCover is liable for compensation and damages for the member’s total liability from the day the member leaves the group employer.

‘(6) If an employer becomes part of a self-insurer, other than under subsection (2), WorkCover must pay the self-insurer an amount for the employer’s total liability.

‘(7) For subsection (6), the self-insurer is liable for compensation and damages for the employer’s total liability from the day the member becomes part of the self-insurer.

‘(8) The total liability mentioned in subsection (2), (4) or (6) must be—

- (a) calculated under a regulation by an actuary approved by WorkCover; and
- (b) paid within the time allowed under a regulation.’

## **Replacement of s 119 (Powers of self-insurers)**

**24.** Section 119—

*omit, insert—*

### **‘Powers of self-insurers**

**‘119.(1)** A self-insurer has, in relation to the self-insurer’s workers—

- (a) for an injury sustained during the operation of this Act—the functions and powers of WorkCover under the following provisions—

- (i) chapter 3 (other than sections 136(5), 160, 163 and 188(3), and part 11);<sup>5</sup>
  - (ii) chapter 4 (other than sections 235(3)(a) and 238, and part 4);<sup>6</sup>
  - (iii) chapter 5 (other than sections 284, 306 and 319);<sup>7</sup>
  - (iv) chapter 7, parts 3 and 5, and section 450;<sup>8</sup> and
- (b) for an injury sustained during the operation of the *Workers' Compensation Act 1990*—the functions and powers that the Workers' Compensation Board of Queensland had under the following provisions of that Act—
- (i) part 6;
  - (ii) part 7 (other than sections 102 and 105);
  - (iii) part 11 (other than sections 186 and 187); and
- (c) for an injury sustained during the operation of the *Workers' Compensation Act 1916*—the functions and powers that the Workers' Compensation Board of Queensland had under the following provisions of that Act—
- (i) section 9;
  - (ii) section 9A;
  - (iii) section 10;
  - (iv) section 11;

---

<sup>5</sup> Chapter 3 (Compensation) other than sections 136 (Right to compensation can not be relinquished), 160 (Employer's duty to report injury), 163 (Worker must notify return to work or engagement in a calling), 188 (Recovery of compensation overpaid) and part 11 (Automatic variation of compensation payable)

<sup>6</sup> Chapter 4 (Injury management) other than sections 235 (Cost of hospitalisation), 238 (WorkCover's responsibility for worker's rehabilitation) and part 4 (Employer's obligation for rehabilitation)

<sup>7</sup> Chapter 5 (Access to damages) other than sections 284 (Employer to cooperate with WorkCover), 306 (Carriage of proceedings) and 319 (Exemplary damages).

<sup>8</sup> Chapter 7 (Medical assessment tribunals), parts 3 (Jurisdiction of tribunals) and 5 (Proceedings for exercise of tribunals' jurisdiction) and section 450 (Assessment of additional compensation for prescribed disfigurement)

- (v) section 13A;
- (vi) section 14(2);
- (vii) section 14B (other than subsections (2) to (9));
- (viii) section 14D;
- (ix) section 16;
- (x) schedule, sections 4, 6, 23 and 25.

‘(2) To apply the provisions mentioned in subsection (1), a reference to WorkCover or the board in the provisions is taken to be a reference to the self-insurer.

‘(3) The functions and powers must not be performed or exercised by WorkCover in relation to the self-insurer’s workers.

‘(4) The functions and powers may be exercised only by the self-insurer or a person employed under a contract of service with the self-insurer.

‘(5) However, a self-insurer may engage a person who is not employed under a contract of service with the self-insurer to exercise the self-insurer’s functions and powers for not longer than 3 months if WorkCover’s board is satisfied that special circumstances exist.

‘(6) Subsection (4) does not apply to a self-insurer that is a classification group employer.

‘(7) The self-insurer must perform and exercise the functions and powers reasonably.

‘(8) If a single employer or group employer stops being a self-insurer, the employer no longer has the functions and powers, except to the extent stated in section 127.<sup>9</sup>

### **Amendment of s 128 (Recovery of ongoing costs from former self-insurer)**

**25.(1)** Section 128(1)(b)(i) and (ii)—

*omit, insert—*

---

<sup>9</sup> Section 127 (Certain functions and powers may be held by former self-insurer after cancellation)

- ‘(i) pays compensation or damages for a worker for which a self-insurer is liable under section 116;<sup>10</sup> or
- (ii) incurs management costs in managing compensation applications or damages actions for the compensation or damages mentioned in subparagraph (i).’.

(2) Section 128(2), after ‘compensation’—

*insert—*

‘or damages’.

### **Amendment of s 129 (Assessing residual liability after cancellation)**

26.(1) Section 129, heading, ‘**residual**’—

*omit.*

(2) Section 129(2) and (3)—

*omit, insert—*

‘(2) WorkCover must appoint an actuary to assess the former self-insurer’s liability under section 116(1).

‘(3) The amount of liability is the amount calculated under a regulation.’.

(3) Section 129(6), ‘**residual liability**’—

*omit, insert—*

‘liability under section 116(1)’.

(4) Section 129(7), definition “**residual liability**”—

*omit.*

### **Replacement of s 135 (Compensation entitlement and source of payments)**

27. Section 135—

*omit, insert—*

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<sup>10</sup> Section 116 (Self-insurer replaces WorkCover in liability for injury)

**‘Compensation entitlement**

‘**135.(1)** Compensation is payable under this Act for an injury sustained by a worker.

‘**(2)** However, if a worker’s injury is an aggravation mentioned in section 34(3)(b),<sup>11</sup> the worker is entitled to compensation for the injury only to the extent of the effects of the aggravation.

**‘Who must pay compensation**

‘**135A.(1)** If an employer is a self-insurer, the employer must pay the compensation.

‘**(2)** Otherwise, WorkCover must pay the compensation.

‘**(3)** Subsection (2) is subject to section 70.<sup>12</sup>’.

**Amendment of s 147 (Entitlements of seafarers)**

**28.** Section 147—

*insert—*

‘**(2)** However, a seafarer employed on a Queensland ship that is on a voyage interstate or to or from a country other than Australia is entitled to compensation while an exemption for the seafarer’s employment on the ship is in force under the *Seafarers’ Rehabilitation and Compensation Act 1992* (Cwlth), section 20A.<sup>13</sup>’.

**Amendment of s 152 (Entitlements for industrial deafness)**

**29.** Section 152(3)(b), ‘the major significant factor causing’—

*omit, insert—*

‘a significant contributing factor to’.

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<sup>11</sup> Section 34 (Meaning of “injury”)

<sup>12</sup> Section 70 (Employer’s liability for excess period)

<sup>13</sup> *Seafarers’ Rehabilitation and Compensation Act 1992* (Cwlth), section 20A (Act not to apply to exempt employment)

**Amendment of s 153 (Further application for compensation for industrial deafness)**

**30.** Section 153(3), ‘5%’—

*omit, insert—*

‘1%’.

**Amendment of s 158 (Time for applying)**

**31.(1)** Section 158(2), ‘starts on the day’—

*omit, insert—*

‘is limited to a period starting no earlier than 28 days before the day on which’.

**(2)** Section 158(4), ‘may’—

*omit, insert—*

‘must’.

**(3)** Section 158(5)—

*omit, insert—*

‘**(5)** WorkCover may waive subsection (1) or (2) for a particular application if WorkCover is satisfied that a claimant’s failure to lodge the application was due to—

- (a) mistake; or
- (b) the claimant’s absence from the State; or
- (c) a reasonable cause.’.

**Amendment of s 161 (Decision about application for compensation)**

**32.** Section 161(2)—

*omit, insert—*

‘**(2)** WorkCover must make a decision on the application within 3 months after the application is made.’

‘(3) WorkCover must notify the claimant of its decision on the application.

‘(4) If WorkCover rejects the application, WorkCover must also, when giving the claimant notice of its decision, give the claimant written reasons for the decision and the information prescribed under a regulation.

‘(5) Subsection (6) applies if WorkCover does not make a decision on the application within 3 months after the application is made.

‘(6) WorkCover must, within 7 days after the end of the 3 month period, notify the claimant of its reasons for not making the decision and that the claimant may apply to have the claimant’s application reviewed under chapter 9.’.

### **Insertion of new ch 3, pt 8, div 4, sdiv 3A**

**33.** After section 181—

*insert—*

#### ***Subdivision 3A—Eligible persons***

#### **‘Application of sdiv 3A**

‘**181A.** This subdivision applies to an eligible person.

#### **‘Total incapacity**

‘**181B.(1)** The compensation payable to a totally incapacitated person is, for each week—

(a) for the first 26 weeks of the incapacity—

(i) the lesser of the following—

(A) 85% of the amount stated in the person’s contract of insurance;

(B) the person’s actual earnings when the injury was sustained; or

(ii) if the person replaces the person’s labour—the payment under subsection (2); and

- (b) from the end of the first 26 weeks of the incapacity until the end of the first 2 years of the incapacity—
  - (i) the greater of the following—
    - (A) 65% of the amount stated in the person’s contract of insurance;
    - (B) 60% of QOTE; or
  - (ii) if the person replaces the person’s labour—the payment under subsection (2); and
- (c) from the end of the first 2 years of the incapacity until the end of the first 5 years of the incapacity—
  - (i) if the person demonstrates to WorkCover that the injury could result in a WRI of more than 15%—the greater of the following—
    - (A) 65% of the amount stated in the person’s contract of insurance;
    - (B) 60% of QOTE; or
  - (ii) otherwise—an amount equal to the single pension rate.

‘(2) For subsection (1)(a)(ii) and (b)(ii), the amount is—

- (a) if paragraph (b) does not apply—85% of the reasonable cost of labour paid to replace the person; or
- (b) if the reasonable cost of labour paid to replace the person is less than 85% of the amount stated in the person’s contract of insurance—the reasonable cost of labour paid to replace the person.

‘(3) However, the amount paid under subsection (1)(b) or (c) must not be more than the amount to which the person would be entitled under subsection (1)(a).’.

### **Insertion of new ch 3, pt 8, div 5, sdiv 1 hdg and new s 182A**

**34.** Chapter 3, part 8, division 5, before section 183—

*insert—*

*‘Subdivision 1—Persons entitled to compensation other than eligible persons*

**‘Application of sdiv 1**

‘182A. This subdivision applies to a person entitled to compensation, other than an eligible person.’.

**Insertion of new ch 3, pt 8, div 5, sdiv 2 and sdiv 3 hdg**

35. After section 184—

*insert—*

*‘Subdivision 2—Eligible persons*

**‘Application of sdiv 2**

‘184A. This subdivision applies to an eligible person.

**‘Definitions for sdiv 2**

‘184B. In this subdivision—

“AP” means the amount payable under section 181B(1)(a).

“LE” means the person’s loss of earnings, expressed as a weekly rate, because of the injury.

“loss of earnings” means the difference between—

- (a) the amount payable under section 181B(1)(a); and
- (b) the amount of the person’s weekly earnings from employment during the period of partial incapacity.

“MC” means the maximum compensation expressed as a weekly rate, that would have been payable under this part had total incapacity of the person resulted from the injury.

“PC” means the compensation expressed as a weekly rate, payable for the injury on account of the partial incapacity.

**‘Partial incapacity**

**‘184C.(1)** Compensation payable to a partially incapacitated person is a weekly payment under this section.

**‘(2)** The weekly payment is an amount calculated under the following formula—

$$PC = \frac{MC \times LE}{AP}$$

**AP.**

**‘(3)** However, the amount must not be more than MC.

*‘Subdivision 3—Requiring information’.*

**Amendment of s 228 (WorkCover’s liability for medical treatment and hospitalisation)**

**36.** Section 228—

*insert—*

**‘(2)** Under the table of costs, WorkCover may impose conditions on the provision of the medical treatment.’.

**Amendment of s 239 (Liability for rehabilitation fees and costs)**

**37.(1)** Section 239(3)—

*renumber* as section 239(4).

**(2)** Section 239—

*insert—*

**‘(3)** Under the table of costs, WorkCover may impose conditions on the provision of the rehabilitation.’.

**Amendment of s 288 (Non-disclosure of certain material)**

**38.** Section 288—

*insert—*

‘(5) Also, WorkCover or an employer is not obliged to disclose the estimate of damages calculated by WorkCover for the purpose of premium setting under chapter 2, part 3.<sup>14</sup>’.

#### **Amendment of s 317 (Future economic loss)**

**39.** Section 317, from ‘, because’ to ‘sustained,’—  
*omit.*

#### **Amendment of s 361 (Quarterly reports)**

**40.** Section 361(3)—  
*omit, insert—*

‘(3) A quarterly report must include—

- (a) the information required to be given in the report by WorkCover’s statement of corporate intent; and
- (b) a report from the council.’.

#### **Insertion of new ch 6, pt 6A**

**41.** After section 403—  
*insert—*

### **‘PART 6A—REVIEW UNIT**

#### **‘WorkCover must establish review unit**

‘**403A.** WorkCover must establish a review unit that is separate from WorkCover’s commercial insurance business.

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<sup>14</sup> Chapter 2 (Employer’s obligations) part 3 (Insurance under WorkCover policies generally)

**‘Function of review unit**

‘**403B.** The review unit’s function is to undertake reviews under chapter 9, part 2.<sup>15</sup>’.

**Amendment of s 416 (Amounts payable by WorkCover on Minister’s instruction)**

**42.** Section 416(1)—

*insert—*

‘(c) making employers and workers aware of their rights, and procedures they need to follow, under the Act.’.

**Insertion of new ch 6A**

**43.** After section 423—

*insert—*

**‘CHAPTER 6A—WORKCOVER REVIEW  
COUNCIL****‘PART 1—ESTABLISHMENT AND FUNCTIONS****‘WorkCover Review Council is established**

‘**423A.** The WorkCover Review Council is established.’.

**‘Functions of council**

‘**423B.** The council’s functions are—

- (a) to monitor the performance and outcomes of the review process under chapter 9 and of the medical assessment tribunals; and

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<sup>15</sup> Chapter 9 (Reviews and appeals) part 2 (Review of decisions)

- (b) to make recommendations to WorkCover's board on the performance and outcomes of the review process and of the medical assessment tribunals.

## **'PART 2—MEMBERSHIP**

### **'Membership**

**'423C.** The council consists of 5 members of whom—

- (a) 1 is to be the chairperson of WorkCover's board (or a director of the board nominated by the chairperson); and
- (b) 2 are to be representatives of employers appointed by the Governor in Council; and
- (c) 2 are to be representatives of workers appointed by the Governor in Council.

### **'Chairperson**

**'423D.** The member of the council who is the chairperson of WorkCover's board (or the director of the board nominated by the chairperson) is the council's chairperson.

### **'Term of appointment**

**'423E.** Each appointed member of the council holds office for a term of not more than 3 years.

### **'Disqualification from office**

**'423F.(1)** A person can not become, or continue as, an appointed member of the council if the person—

- (a) is affected by bankruptcy action; or
- (b) is convicted of an offence against this Act; or

- (c) becomes incapable of discharging the duties of a member because of physical or mental incapacity.

‘(2) For subsection (1)(a), a person is affected by bankruptcy action if the person—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

#### **‘Vacation of office**

‘423G. An appointed member is taken to have vacated office if the member—

- (a) resigns the office by signed notice given to the Governor in Council; or
- (b) can not continue as an appointed member under section 423F.

#### **‘Termination of appointment as member of council**

‘423H. The Governor in Council may, at any time, end the appointment of an appointed member of the council for any reason or none.

#### **‘Remuneration**

‘423I. Appointed members of the council are to be paid by WorkCover the fees and allowances decided by the Governor in Council.

### **‘PART 3—COUNCIL BUSINESS**

#### **‘Conduct of business**

‘423J. Subject to this division, the council may conduct its business, including its meetings, in the way it considers appropriate.

**‘Time and place of meetings**

‘**423K.(1)** Council meetings are to be held at the times and places the chairperson decides.

‘(2) However, the chairperson must call a meeting if asked, in writing, to do so by the Minister or at least the number of members forming a quorum for the council.

**‘Quorum**

‘**423L.(1)** The quorum at a meeting of the council is 3.

‘(2) However, the quorum must include at least—

- (a) the chairperson; and
- (b) 1 representative of employers; and
- (c) 1 representative of workers.

**‘Presiding at meetings**

‘**423M.** The chairperson is to preside at all meetings of the council.

**‘Voting at meetings**

‘**423N.(1)** A question at a council meeting is decided by a majority of the votes of the members present.

‘(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

‘(3) A member present at the meeting who abstains from voting is taken to have voted for the negative.

**‘Council meetings without members being present**

‘**423O.(1)** The council may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meeting.

‘(2) A member who takes part in a council meeting under subsection (1) is taken to be present at the meeting.

#### **‘Resolution without meeting**

‘423P. A resolution is validly made by the council, even if it is not passed at a council meeting, if—

- (a) a majority of the council members gives written agreement to the resolution; and
- (b) notice of the resolution is given under procedures approved by the council.

#### **‘Minutes**

‘423Q. The council must keep minutes of its proceedings.

## **‘PART 4—OTHER PROVISIONS ABOUT THE COUNCIL**

#### **‘Administrative support for council**

‘423R. WorkCover must ensure the council has the administrative support services reasonably required for the council to carry out its functions effectively and efficiently.

#### **‘Giving information to council**

‘423S.(1) This section applies if—

- (a) the council asks WorkCover for information the council reasonably believes it needs to perform its functions; and
- (b) the information is available to WorkCover; and
- (c) WorkCover may give the information to the council without contravening a provision of another Act.

‘(2) WorkCover must give the information to the council as soon as practicable.

### ‘Quarterly report

‘**423T.(1)** The council must give WorkCover’s board a written report about the performance of its functions for each quarter of a financial year.

‘(2) A quarterly report must be given to the board within 1 month after the end of the quarter.’.

### **Amendment and renumbering of s 470 (Audit of wages and contracts)**

**44.(1)** Section 470, after ‘a person’—

*insert—*

‘(an “**authorised auditor**”)’.

**(2)** Section 470—

*insert—*

‘(2) For conducting the audit, an authorised auditor is entitled, at all reasonable times, to full and free access to the documents prescribed under a regulation for section 469(1) that—

- (a) are relevant to the audit; and
- (b) belong to, are in the custody of, or are under the control of, the employer.’.

**(3)** Section 470—

*relocate and renumber*, in chapter 10, part 1A, as section 523A.

### **Replacement of ch 9**

**45.** Chapter 9—

*omit, insert—*

## **‘CHAPTER 9—REVIEWS AND APPEALS**

### **‘PART 1—INTERNAL REVIEW OF PROPOSED DECISIONS**

#### **‘Internal review by WorkCover or self-insurer**

**‘487.(1)** Before WorkCover or a self-insurer makes a decision to reject an application for compensation or to terminate compensation, WorkCover or the self-insurer must undertake an internal review of the proposed decision.

**‘(2)** The review must be made by an officer or person who is in a more senior position than the officer or person who proposes to make the decision.

### **‘PART 2—REVIEW OF DECISIONS**

#### **‘Objects of pt 2**

**‘488.** The objects of this part are—

- (a) to provide for a review process separate from WorkCover’s commercial insurance business; and
- (b) to provide a non-adversarial system for prompt resolution of disputes.

#### **‘Application of pt 2**

**‘489.(1)** This part applies to the following—

- (a) a decision by WorkCover—

- 
- (i) to set the premium payable under a policy under section 58;<sup>16</sup> or
  - (ii) to issue a reassessment premium notice under section 60;<sup>17</sup> or
  - (iii) to refuse to waive or reduce a penalty under section 61, 70 or 246;<sup>18</sup> or
  - (iv) to refuse to reassess a default assessment under section 62;<sup>19</sup> or
  - (v) to refuse to waive or reduce additional premium under section 68;<sup>20</sup> or
  - (vi) under section 111<sup>21</sup> about the amount of the annual levy; or
  - (vii) to waive or not to waive section 158(1) or (2);<sup>22</sup> or
  - (viii) to allow or reject an application for compensation under chapter 3;<sup>23</sup> or
  - (ix) to terminate, suspend, increase or decrease a weekly payment of compensation under chapter 3 or 4;<sup>24</sup> or
  - (x) to refuse to vary an entitlement under section 189, 190 or 191;<sup>25</sup> or

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<sup>16</sup> Section 58 (Setting of premium)

<sup>17</sup> Section 60 (Reassessment of premium for policy)

<sup>18</sup> Section 61 (Recovery of compensation and unpaid premium)  
 Section 70 (Employer's liability for excess period)  
 Section 246 (Employer's failure in relation to rehabilitation)

<sup>19</sup> Section 62 (Default assessment on reasonable suspicion)

<sup>20</sup> Section 68 (WorkCover may waive or reduce additional premium)

<sup>21</sup> Section 111 (Annual levy payable)

<sup>22</sup> Section 158 (Time for applying)

<sup>23</sup> Chapter 3 (Compensation)

<sup>24</sup> Chapter 4 (Injury management)

<sup>25</sup> Section 189 (Redemption—worker receiving weekly payments for at least 2 years)  
 Section 190 (Redemption—worker moves interstate)  
 Section 191 (Redemption—worker moves abroad)

- (xi) to apportion compensation under chapter 3, part 10;<sup>26</sup> or
- (xii) to allow or refuse an entitlement under section 230, 234 or 237;<sup>27</sup> or
- (xiii) to issue a damages certificate under section 265(3)(a) or 270(2)(a);<sup>28</sup>
- (b) a decision by a self-insurer—
  - (i) to waive or not to waive section 158(1) or (2); or
  - (ii) to reject an application for compensation under chapter 3; or
  - (iii) to terminate, suspend, increase or decrease a weekly payment of compensation under chapter 3 or 4; or
  - (iv) to refuse to vary an entitlement under section 189, 190 or 191; or
  - (v) to apportion compensation under chapter 3, part 10; or
  - (vi) to allow or refuse an entitlement under section 230, 234 or 237; or
  - (vii) to issue a damages certificate under section 265(3)(a) or 270(2)(a); or
- (c) a failure by WorkCover or a self-insurer to make a decision on an application for compensation within the time stated in section 161.<sup>29</sup>

‘(2) WorkCover or the self-insurer (the “**decision-maker**”) must give written reasons for the decision or for the failure to make a decision.

‘(3) The decision-maker need not give reasons for a decision mentioned in subsection (1)(a)(i) or (ii).

<sup>26</sup> Chapter 3 (Compensation), part 10 (Compensation on worker’s death)

<sup>27</sup> Section 230 (Extent of liability for prosthetic expenses)  
 Section 234 (Extent of liability for period of hospitalisation)  
 Section 237 (Extent of liability for travelling expenses)

<sup>28</sup> Section 265 (Access to damages if no previous application for compensation)  
 Section 270 (Application for damages certificate)

<sup>29</sup> Section 161 (Decision about application for compensation)

‘(4) The reasons for the decision must address the matters prescribed under a regulation.

‘(5) The decision or the failure to make a decision may be reviewed only by the review unit.

### ‘Who may apply for review

‘490. A claimant, worker or an employer aggrieved by a decision or the failure to make a decision may apply for review.

### ‘Applying for review

‘491.(1) An application for review must be made within 3 months after the person applying for review (the “**applicant**”) receives written notice of the decision or the failure to make a decision and the reasons for the decision or failure.

‘(2) For subsection (1), the applicant may, within the 3 months mentioned in the subsection, ask WorkCover’s board to allow further time to apply for review.

‘(3) WorkCover’s board may grant the extension if it is satisfied that special circumstances exist.

‘(4) If the notice did not state the reasons for the decision or the failure to make a decision—

- (a) the applicant must ask the decision-maker for the reasons within 28 days after receiving the notice; and
- (b) the decision-maker must give written reasons within 7 days after the applicant asks for the reasons; and
- (c) the application for review must be made within 3 months after the applicant receives the reasons.

‘(5) The application for review—

- (a) must be made in the approved form and given to the review unit; and
- (b) must state the grounds on which the applicant seeks review; and

- (c) may be accompanied by any relevant document the applicant wants considered in the review.

‘(6) The review unit must, within 14 days after receiving the application, give the applicant and the decision-maker written notice that the application has been received.

### **‘Right of appearance**

‘492.(1) The applicant may appear before the review unit in person or be represented by another person at the applicant’s expense with a view to achieving a resolution of the matter.

‘(2) The applicant may also make representations to the review unit by telephone or another form of communication.

### **‘Decision-maker must give information to review unit**

‘493.(1) The review unit may, by written notice, require the decision-maker to give the unit—

- (a) within 7 days after receiving the notice, the information asked for by the review unit; or
- (b) within the period stated in the notice, any further information the review unit needs to decide the matter.

‘(2) The decision-maker must comply with the notice.

‘(3) The decision-maker must pay the cost of obtaining the further information.

### **‘Review of decision or failure to make a decision**

‘494.(1) The review unit must, within 35 days after receiving the application, review the decision and decide (the “**review decision**”) to—

- (a) confirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and substitute another decision.

‘(2) If an application is about the failure to make a decision, the review unit may—

- (a) make the decision (also a “**review decision**”) after considering the information before it; or
- (b) return the matter to the decision-maker with the directions the review unit considers appropriate.

‘(3) The decision-maker to whom the directions are given must comply with the directions.

‘(4) The review unit may, with the applicant’s consent, extend the time in subsection (1) to obtain information under section 493.

‘(5) If the review unit acts under subsection (1)(b) or (c) or (2)(a), the decision is taken for this Act, other than this part, to be the decision of the decision-maker.

#### ‘**Notice of review decision**

‘**495.(1)** Within 14 days after making a review decision, the review unit must give the applicant and the decision-maker written notice of the review decision.

‘(2) However, if the decision relates to a matter mentioned in section 489(1)(a)(viii) to (xiii) or (1)(b) or (1)(c), the review unit must also give a copy of the review decision to the claimant or worker and to the employer.

‘(3) The notice must state—

- (a) the reasons for the review decision; and
- (b) that the applicant may appeal against the decision to an industrial magistrate within 28 days after the applicant receives notice of the decision.

‘(4) If the review unit does not make a review decision within the time allowed under section 494(1) or (4), the applicant may appeal to an industrial magistrate against the review unit’s failure to make the decision.

**‘Reimbursement of costs of examination and report**

‘**496.(1)** This section applies if the review unit sets aside or varies a decision by the decision-maker to reject an application for compensation by a worker or claimant under chapter 3.

‘(2) The decision-maker must reimburse the worker or claimant for the cost of an examination by, and report from, a registered person obtained by the worker or claimant if the review unit considers the examination and report substantially contributed to the setting aside or variation of the decision.

**‘PART 3—APPEALS****‘Division 1—Appeal to industrial magistrate or Industrial Court****‘Application of div 1**

‘**497.** This division applies to the following decisions—

- (a) a review decision;
- (b) a decision by WorkCover or a self-insurer under chapter 3 or 4<sup>30</sup> that is not a decision mentioned in section 489(1)<sup>31</sup> (a “**non-reviewable decision**”).

**‘Who may appeal**

‘**498.** A claimant, worker or employer aggrieved by the decision (the “**appellant**”) may appeal to an industrial magistrate against the decision of the review unit, WorkCover or the self-insurer (the “**respondent**”).

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<sup>30</sup> Chapter 3 (Compensation) or 4 (Injury management)

<sup>31</sup> Section 489 (Application of pt 2)

**‘Procedure for appeal**

**‘499.(1)** The appeal must be made—

- (a) if the appeal is about a review decision—within 28 days after the appellant receives the review decision; or
- (b) if the appeal is about a non-reviewable decision—within 28 days after the appellant receives the notice of the decision stating the reasons for the decision.

**‘(2)** For subsection (1)(b), if the notice of the decision did not state the reasons for the decision, the appellant must ask the respondent for the reasons for the decision within 28 days after receiving the notice.

**‘(3)** For subsections (1) and (2), the appellant may, within the 28 day periods mentioned in the subsections, ask the respondent to allow further time to appeal.

**‘(4)** The appeal may be started only by giving a written notice of appeal to an industrial magistrate.

**‘(5)** The notice of appeal must be filed at—

- (a) the Magistrates Court nearest to the place where the appellant resides or, if the appellant is an employer, carries on business; or
- (b) a Magistrates Court agreed to between the respondent and the appellant.

**‘(6)** The appellant must, within 14 days after filing the notice of appeal, serve a copy of the notice on—

- (a) if the appeal is about a review decision—the review unit; or
- (b) if the appeal is about a non-reviewable decision—WorkCover or the self-insurer.

**‘(7)** If a notice of appeal required to be filed in a Magistrates Court mentioned in subsection (5)(a) is filed in another Magistrates Court, the registrar of the other Magistrates Court may send any relevant documents to the registrar of the appropriate Magistrates Court.

**‘Appeal about amount of premium**

‘500.(1) This section applies if an appeal is about an amount of premium specified in a premium notice.

‘(2) The notice of appeal must state fully the grounds of appeal and the facts relied on.

‘(3) The appellant is limited to the grounds of appeal stated in the notice.

‘(4) The appellant must pay the premium specified in the notice before the appellant files the notice of appeal.

**‘Notice of time and place for hearing**

‘501.(1) The registrar of the Magistrates Court at which the notice of appeal is filed must give the appellant and the respondent (the “**parties**”) written notice of the time and place fixed for the hearing of the matter.

‘(2) The respondent must, within 28 days after receiving notice of the time and place fixed for the hearing, give the registrar—

- (a) all approved forms and statements lodged with the respondent by the appellant; and
- (b) a statement of facts known to the respondent that are relevant to the matter.

‘(3) The registrar must make the forms and statements available to the industrial magistrate hearing the matter.

‘(4) The forms and statements are admissible as evidence at the hearing only if they are admissible under the rules of evidence for the hearing.

**‘Exchanging evidence before hearing**

‘502.(1) At least 7 days before the hearing, each party must give each other party any relevant document the party wants to adduce as evidence at the hearing.

‘(2) At the hearing, a party can not rely on a document that was not given to the other party as required by subsection (1), unless the industrial magistrate agrees.

**‘Adjourning hearing**

**‘503.(1)** The industrial magistrate may, at any time before or after the start of the hearing, adjourn the hearing if satisfied it could be held more conveniently—

- (a) at another place or before another industrial magistrate, having regard to the difficulty or expense of producing witnesses, or for another appropriate reason; or
- (b) at a future time.

**‘(2)** If the magistrate adjourns the hearing to another industrial magistrate—

- (a) the magistrate must send the relevant documents to the registrar of the appropriate Magistrates Court; and
- (b) the other industrial magistrate has jurisdiction to decide the matter as if it had been brought before that magistrate.

**‘Additional medical evidence**

**‘504.(1)** This section applies if—

- (a) the condition of a claimant or worker who has, or is said to have, sustained an injury is relevant to the appeal; or
- (b) the cause, nature or extent of the injury or incapacity arising from the injury is relevant to the appeal.

**‘(2)** The industrial magistrate may, at any time before or after the start of the hearing, order the claimant or worker to submit to a personal examination by 1 or more specified registered persons.

**‘(3)** The industrial magistrate may also, as the magistrate considers appropriate, make an order about—

- (a) the way, time and place of the examination; and
- (b) costs of the application for the order and of the examination.

**‘(4)** An opinion formed on the examination must be given to the respondent and the respondent must make the opinion available to the appellant.

**‘(5)** Subsection (6) applies if the claimant or worker—

- (a) fails, without reasonable excuse, to attend for the examination at the time and place ordered by the magistrate; or
- (b) having attended, refuses to be examined by a registered person; or
- (c) obstructs, or attempts to obstruct, the examination.

‘(6) Any entitlement the claimant or worker may have to compensation is suspended until the claimant or worker undergoes the examination.

### **‘Correcting defects in proceedings**

‘505.(1) For the proper hearing of an appeal, the industrial magistrate may order—

- (a) anything necessary be supplied; or
- (b) defects or errors be corrected.

‘(2) The magistrate may make the order at any time before or after the start of the hearing.

‘(3) The order may be made on conditions.

‘(4) Costs of the order are in the magistrate’s discretion, except to the extent provided under a regulation.

‘(5) All parties concerned must comply with the order.

### **‘Powers of industrial magistrate**

‘506.(1) In deciding an appeal, the industrial magistrate may—

- (a) confirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and substitute another decision; or
- (d) set aside the decision and return the matter to the respondent with the directions the magistrate considers appropriate.

‘(2) If the magistrate acts under subsection (1)(b) or (c), the decision is taken for this Act, other than this part, to be the decision of WorkCover or the self-insurer.

‘(3) Costs of the hearing are in the magistrate’s discretion, except to the extent provided under a regulation.

### **‘Decision of industrial magistrate**

‘507. The industrial magistrate must give—

- (a) the magistrate’s decision in a hearing in open court; and
- (b) a written copy of the decision to each party.

### **‘Recovery of costs**

‘508.(1) If the industrial magistrate makes an order for costs, the amount ordered to be paid is a debt payable to the party in whose favour the order is made.

‘(2) The order may be filed in the registry of a court of competent jurisdiction.

‘(3) On being filed, the order—

- (a) is taken to be an order properly made by the court; and
- (b) may be enforced as an order made by the court.

### **‘Appeal from industrial magistrate to Industrial Court**

‘509.(1) A party aggrieved by the industrial magistrate’s decision may appeal to the Industrial Court.

‘(2) The appeal must be lodged as required under the Industrial Court rules.

‘(3) The appeal is by way of rehearing on the evidence and proceedings before the magistrate, unless the court orders additional evidence be heard.

‘(4) The court’s decision is final.

### **‘Powers of Industrial Court**

‘510.(1) In deciding an appeal, the Industrial Court may—

- (a) confirm the decision; or

(b) vary the decision; or

(c) set aside the decision and substitute another decision.

‘(2) If the court acts under subsection (1)(b) or (c), the decision is taken for this Act, other than this part, to be the decision of WorkCover or the self-insurer.

### **‘Decision about amount of premium**

‘511.(1) If the decision appealed against is about an amount of premium, the premium assessed by an industrial magistrate or the Industrial Court is the premium payable by the employer.

‘(2) If the premium paid by the employer as a condition of the appeal to an industrial magistrate is more than the premium assessed by the industrial magistrate or Industrial Court, WorkCover must refund the difference to the employer.

### **‘Decision about payment of compensation**

‘512.(1) This section applies if an industrial magistrate or the Industrial Court decides that WorkCover or a self-insurer is not liable to make payments of compensation to a person.

‘(2) The person who received compensation is not required to refund payment to WorkCover or the self-insurer.

‘(3) Subsection (2) is subject to section 486.<sup>32</sup>

## ***‘Division 2—Appeal to court of competent jurisdiction***

### **‘Application of div 2**

‘513. This division applies to the following decisions made by WorkCover—

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<sup>32</sup> Section 486 (Fraud and related offences end entitlement to compensation and damages)

- (a) a decision under section 107<sup>33</sup> relating to the issue of a self-insurer's licence;
- (b) a decision under section 110<sup>34</sup> relating to the renewal of a self-insurer's licence;
- (c) a decision under section 116(2)<sup>35</sup> relating to the procedures followed in calculating a self-insurer's outstanding liability;
- (d) a decision under section 123<sup>36</sup> relating to the cancellation of a self-insurer's licence;
- (e) a decision under section 130<sup>37</sup> to refuse to return all or part of a former self-insurer's bank guarantee or cash deposit.

### **'Who may appeal**

**'514.** An employer or self-insurer aggrieved by the decision may appeal against the decision.

### **'Starting appeals**

**'515.(1)** The appeal may be made to a court with jurisdiction in Brisbane.

**'(2)** The court that has jurisdiction must be decided according to the amount of—

- (a) for an appeal against a decision mentioned in section 513(a), (b), (c) or (d)—the employer or self-insurer's deemed premium; or
- (b) for an appeal against a decision mentioned in section 513(e)—the bank guarantee or cash deposit in dispute.

**'(3)** A court has jurisdiction if the court has jurisdiction for recovery of a debt of the amount.

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<sup>33</sup> Section 107 (Decision on application for the issue of a licence)

<sup>34</sup> Section 110 (Refusal of application for renewal of a licence)

<sup>35</sup> Section 116 (Self-insurer replaces WorkCover in liability for injury)

<sup>36</sup> Section 123 (Procedure for cancellation)

<sup>37</sup> Section 130 (Return of bank guarantee or cash deposit after cancellation)

‘(4) An appeal may only be made within 28 days after notice of the decision is given to the employer or self-insurer.

‘(5) The appeal may only be started by—

- (a) filing a written notice of appeal with the court stating fully the grounds of the appeal and the facts relied on; and
- (b) serving a copy of the notice on WorkCover.

### ‘Powers of court on appeal

‘516.(1) In deciding an appeal, the court—

- (a) has the same powers as the decision-maker; and
- (b) is not bound by the rules of evidence.

‘(2) An appeal is by way of rehearing.

‘(3) The court may—

- (a) confirm the decision; or
- (b) set aside the decision and substitute another decision the court considers appropriate; or
- (c) set aside the decision and return the matter to WorkCover with the directions the court considers appropriate.

### ‘Effect of decision of court on appeal

‘517. If a court substitutes another decision, the substituted decision is taken for this Act, other than this part, to be WorkCover’s decision.’.

### Amendment of s 520 (Disclosure of information)

46.(1) Section 520(4) and (5)—

*renumber* as section 520(5) and (6).

(2) Section 520—

*insert*—

‘(4) An insurer may, if asked by another insurer (the “**other insurer**”), disclose to the other insurer any information it has that is relevant to a claim against the other insurer.’.

(3) Section 520(5) (as renumbered), ‘(3)’—

*omit, insert—*

‘(4)’.

(4) Section 520—

*insert—*

‘(7) In this section—

“**insurer**” means WorkCover or a self-insurer.’.

### **Amendment of s 523 (WorkCover’s information not actionable)**

47. Section 523(4), after ‘119’—

*insert—*

‘or because of a disclosure by WorkCover or a self-insurer under section 520(4)’.

### **Amendment of s 551 (Injury under repealed or other former Act)**

48.(1) Section 551(3), from ‘in—’ to ‘QOTE’—

*omit, insert—*

‘in QOTE’.

(2) Section 551(4)—

*omit.*

### **Insertion of new ch 12**

49. After section 558—

*insert—*

**‘CHAPTER 12—TRANSITIONAL PROVISIONS  
FOR WORKCOVER QUEENSLAND  
AMENDMENT ACT 1999**

**‘PART 1—WORKERS, ELIGIBLE PERSONS AND  
EMPLOYERS**

**‘Workers and employers**

**‘559.** The provisions of chapter 1, part 4, divisions 2 and 5,<sup>38</sup> as in force immediately before 1 July 2000, continue to apply to—

- (a) an injury sustained by a worker before 1 July 2000; and
- (b) an assessment of premium for a period before 1 July 2000.

**‘Eligible persons**

**‘560.(1)** This section applies—

- (a) if an eligible person’s contract of insurance with WorkCover was issued before 1 July 1999; and
- (b) until the person’s contract of insurance is renewed.

**‘(2)** The provisions of chapter 3, part 8, division 4, subdivision 3 and division 5,<sup>39</sup> as in force immediately before 1 July 1999, continue to apply to the payment of compensation to the eligible person as if the *WorkCover Queensland Amendment Act 1999*, sections 33 to 35 had not been enacted.

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<sup>38</sup> Chapter 1 (Preliminary), part 4 (Basic concepts), divisions 2 (Workers) and 5 (Employers)

<sup>39</sup> Chapter 3 (Compensation), part 8 (Weekly payment of compensation), division 4 (Entitlement for total incapacity), subdivision 3 (Persons entitled to compensation other than workers and students) and division 5 (Entitlement for partial incapacity)

## **‘PART 2—INJURIES**

### **‘Injury before 1 July 1999**

‘561. The provisions of chapter 1, part 4, division 6,<sup>40</sup> as in force immediately before 1 July 1999, continue to apply to an injury sustained by a worker before 1 July 1999.

### **‘Ex gratia payments**

‘562.(1) The board may make an ex gratia lump sum payment in relation to a person who sustains an injury, on or after 1 July 1999 but before 1 July 2000, that results in death or could result in a WRI of 20% or more.

‘(2) The payment may be made only if the person is not a worker within the meaning of the Act as in force immediately before the commencement of this section but would be a worker within the meaning of the Act as in force on the commencement of the *WorkCover Queensland Amendment Act 1999*, sections 5 and 50.

‘(3) A payment under this section must be in the amount decided by the board, but may not be more than the amount that would be payable if the person were a worker.

## **‘PART 3—SELF-RATING**

### ***‘Division 1—Existing self-raters and applicants***

#### **‘Application of div 1**

‘563. This division applies if an employer—

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<sup>40</sup> Chapter 1 (Preliminary), part 4 (Basic concepts), division 6 (Injuries and impairment)

- (a) was registered as a self-rater immediately before 3 March 1999; or
- (b) lodged an application to be registered as a self-rater on or before 3 March 1999.

### **‘Registration continues until 30 June 1999**

‘564. Chapter 2, part 4<sup>41</sup> as in force immediately before its repeal, continues to apply to the employer until the end of 30 June 1999 as if the *WorkCover Queensland Amendment Act 1999*, section 14<sup>42</sup> and part 1 of the schedule to that Act, had not been enacted.

### **‘Premium for former self-rater**

‘565. WorkCover must set the premium payable by a former self-rater under chapter 2 part 3<sup>43</sup> under a policy for a period of insurance starting on 1 July 1999 as if the former self-rater had never been registered as a self-rater.

### **‘Return of bank guarantee or cash deposit**

‘566. WorkCover must return the unconditional bank guarantee or cash deposit lodged by a former self-rater within 90 days after the self-rater stops being a self-rater.

### ***‘Division 2—Self-rater applying to become self-insurer***

### **‘Application of div 2**

‘567. This division applies if—

- (a) an employer—

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<sup>41</sup> Chapter 2 (Employer’s obligations), part 4 (Self-rating)

<sup>42</sup> Section 14 (Omission of ch 2, pt 4)

<sup>43</sup> Chapter 2 (Employer’s obligations) part 3 (Insurance under WorkCover policies generally)

- (i) was registered as a self-rater immediately before 3 March 1999; or
  - (ii) lodged an application to be registered as a self-rater on or before 3 March 1999; and
- (b) the employer lodges an application to be licensed as a self-insurer before 31 December 1999.

### **‘Application to become self-insurer**

**‘568.(1)** The employer is taken to have lodged the application to be licensed as a self-insurer on or before 3 March 1999.

**‘(2)** Despite division 1 of this part, chapter 2, part 4<sup>44</sup> as in force immediately before its repeal, continues to apply to the employer until the end of 30 June 2000 as if the *WorkCover Queensland Amendment Act 1999*, section 14<sup>45</sup> and part 1 of the schedule to that Act, had not been enacted.

**‘(3)** Despite subsection (1), that subsection does not affect the day on which WorkCover received the application for the purposes of section 107(1).<sup>46</sup>

### **‘Premium for former self-rater**

**‘569.(1)** This section applies if an employer is registered as a self-rater and does not become licensed as a self-insurer on or before 1 July 2000.

**‘(2)** WorkCover must set the premium payable by the former self-rater under chapter 2, part 3<sup>47</sup> under a policy for a period of insurance starting on 1 July 2000 as if the former self-rater had never been registered as a self-rater.

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<sup>44</sup> Chapter 2 (Employer’s obligations), part 4 (Self-rating)

<sup>45</sup> Section 14 (Omission of ch 2, pt 4)

<sup>46</sup> Section 107 (Decision on application for the issue of a licence)

<sup>47</sup> Chapter 2 (Employer’s obligations), part 3 (Insurance under WorkCover policies generally)

**‘Self-raters residual liability**

‘570. If WorkCover issues a licence to be a self-insurer to a self-rater on or before 1 July 2000, section 96,<sup>48</sup> as in force immediately before its repeal, applies to the self-rater as if the self-rater’s registration had been cancelled.

**‘Return of bank guarantee or cash deposit**

‘571.(1) If WorkCover issues a licence to be a self-insurer to a self-rater on or before 1 July 2000, section 97,<sup>49</sup> as in force immediately before its repeal, applies to the self-rater as if the self-rater’s registration had been cancelled.

‘(2) For section 97(4), chapter 9, as in force immediately before 1 July 1999, continues to apply as if the *WorkCover Queensland Amendment Act 1999*, section 45<sup>50</sup> had not been enacted.

**‘Powers of self-insurers**

‘572. Despite section 119(3) to (5), an employer to whom this division applies who is licensed as a self-insurer may engage WorkCover to exercise the employer’s functions and powers as a self-insurer under section 119 until 30 June 2001.

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<sup>48</sup> Section 96 (Assessing residual liability after cancellation)

<sup>49</sup> Section 97 (Return of bank guarantee or cash deposit after cancellation)

<sup>50</sup> Section 45 (Replacement of ch 9)

## **‘PART 4—SELF-INSURANCE**

### **‘Number of full-time workers**

‘**573.(1)** Section 101(a) or 102(b),<sup>51</sup> as in force immediately before 3 March 1999, continues to apply to an employer if the employer—

- (a) was licensed as a self-insurer immediately before 3 March 1999; or
- (b) lodged an application to be licensed as a self-insurer on or before 3 March 1999.

‘(2) Subsection (1) stops applying to an employer who is a self-insurer if the self-insurer’s licence is subsequently cancelled.

### **‘OHS report**

‘**574.(1)** This section applies if an employer—

- (a) was licensed as a self-insurer immediately before 3 March 1999; or
- (b) lodged an application to be licensed as a self-insurer on or before 3 March 1999.

‘(2) Sections 101 and 102, as amended by the *WorkCover Queensland Amendment Act 1999*, sections 17(2) and (3) and 18(2) and (3),<sup>52</sup> only apply to an employer from the later of the following days—

- (a) 3 March 2002;
- (b) the day the employer’s licence for self-insurance is first renewed after the commencement of this section.

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<sup>51</sup> Section 101 (Issue and renewal of licence to a single employer)  
Section 102 (Issue or renewal of licence to a group employer)

<sup>52</sup> Sections 17 (Amendment of s 101 (Issue or renewal of licence to a single employer)) and 18 (Amendment of s 102 (Issue or renewal of licence to a group employer))

**‘Outstanding liability on or before licence renewal**

**‘575.(1)** This section applies if an employer—

- (a) was licensed as a self-insurer immediately before 3 March 1999; or
- (b) lodged an application to be licensed as a self-insurer on or before 3 March 1999.

**‘(2)** Despite the amendment of section 116<sup>53</sup> by the *WorkCover Queensland Amendment Act 1999*, an employer who is licensed as a self-insurer is not liable for compensation and damages for the self-insurer’s outstanding liability until the earlier of the following—

- (a) if the self-insurer decides to assume the outstanding liability before lodging an application for renewal of the self-insurer’s licence—the day WorkCover receives the self-insurer’s written notice of the decision;
- (b) the day the self-insurer’s licence is renewed.

**‘Change in self-insurer’s membership**

**‘576.(1)** This section applies despite the amendments of sections 116 and 118<sup>54</sup> by the *WorkCover Queensland Amendment Act 1999* if—

- (a) an employer—
  - (i) was licensed as a self-insurer immediately before 3 March 1999; or
  - (ii) lodged an application to be licensed as a self-insurer on or before 3 March 1999; and
- (b) an employer who is a self-insurer has not become liable for compensation and damages for the self-insurer’s outstanding liability.

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<sup>53</sup> Section 116 (Self-insurer replaces WorkCover in liability for injury)

<sup>54</sup> Sections 116 (Self-insurer replaces WorkCover in liability for injury) and 118 (Change in self-insurer’s membership)

‘(2) If a member leaves a self-insurer that is a group employer and becomes part of another self-insurer (the “**other self-insurer**”), the self-insurer must pay the other self-insurer an amount for the member’s residual liability.

‘(3) For subsection (2), the other self-insurer is liable for compensation and damages for the member’s residual liability from the day the member becomes part of the other self-insurer.

‘(4) If a member leaves a self-insurer that is a group employer and does not become part of another self-insurer, the self-insurer must pay WorkCover an amount for the member’s residual liability.

‘(5) For subsection (4), WorkCover is liable for compensation and damages for the member’s residual liability from the day the member leaves the group employer.

‘(6) If an employer becomes part of a self-insurer, other than under subsection (2), WorkCover must pay the self-insurer an amount for the employer’s residual liability.

‘(7) For subsection (6), the self-insurer is liable for compensation and damages for the member’s residual liability from the day the member becomes part of the self-insurer.

‘(8) The residual liability mentioned in subsection (2), (4) or (6) must be—

- (a) calculated under a regulation by an actuary approved by WorkCover; and
- (b) paid within the time allowed under a regulation.

### **‘Recovery of ongoing costs from former self-insurer**

‘577.(1) This section applies if—

- (a) a self-insurer’s licence is cancelled; and
- (b) the self-insurer had not become liable for compensation and damages for the self-insurer’s outstanding liability before the cancellation.

‘(2) Section 128,<sup>55</sup> as in force immediately before 3 March 1999, applies to the recovery of costs from the former self-insurer as if the *WorkCover Queensland Amendment Act 1999*, section 25,<sup>56</sup> had not been enacted.

#### **‘Assessing residual liability after cancellation**

‘578.(1) This section applies if—

- (a) a self-insurer’s licence is cancelled; and
- (b) the self-insurer had not become liable for compensation and damages for the self-insurer’s outstanding liability before the cancellation.

‘(2) Section 129,<sup>57</sup> as in force immediately before 3 March 1999, applies to the assessment of the residual liability of the former self-insurer as if the *WorkCover Queensland Amendment Act 1999*, section 26,<sup>58</sup> had not been enacted.

## **‘PART 5—REVIEWS AND APPEALS**

#### **‘Decisions by WorkCover or self-insurer**

‘579. Chapter 9, as in force immediately before 1 July 1999, continues to apply to a decision made by WorkCover or a self-insurer before 1 July 1999 as if the *WorkCover Queensland Amendment Act 1999*, section 45,<sup>59</sup> had not been enacted.’

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<sup>55</sup> Section 128 (Recovery of ongoing costs from former self-insurer)

<sup>56</sup> Section 25 (Amendment of s 128 (Recovery of ongoing costs from former self-insurer))

<sup>57</sup> Section 129 (Assessing residual liability after cancellation)

<sup>58</sup> Section 26 (Amendment of s 129 (Assessing residual liability after cancellation))

<sup>59</sup> Section 45 (Replacement of ch 9)

**Insertion of new schs 2 and 2A**

**50.** After schedule 1—

*insert—*

**‘SCHEDULE 2****‘WHO IS A WORKER**

section 12

**PART 1—PERSONS WHO ARE WORKERS**

- 1.** A person who works under a contract, or at piecework rates, for labour only or substantially for labour only.
- 2.** A person who works a farm as a sharefarmer if—
  - (a) the sharefarmer does not provide and use in the sharefarming operations farm machinery driven or drawn by mechanical power; and
  - (b) the sharefarmer is entitled to not more than  $\frac{1}{3}$  of the proceeds of the sharefarming operations under the sharefarming agreement with the owner of the farm.
- 3.** A salesperson, canvasser, collector or other person (“**salesperson**”) paid entirely or partly by commission, if the commission is not received for or in connection with work incident to a trade or business regularly carried on by the salesperson, individually or by way of a partnership.
- 4.** A contractor, other than a contractor mentioned in part 2, section 4 of this schedule, if—
  - (a) the contractor makes a contract with some one else for the performance of work that is not incident to a trade or business regularly carried on by the contractor, individually or by way of a partnership; and
  - (b) the contractor—

- (i) does not sublet the contract; or
- (ii) does not employ a worker; or
- (iii) if the contractor employs a worker, performs part of the work personally.

5. A person who is party to a contract of service with another person who lends or lets on hire the person's services to someone else.

6. A person who is party to a contract of service with a labour hire agency or a group training scheme that arranges for the person to do work for someone else under an arrangement made between the agency or scheme and the other person.

7. A person who is party to a contract of service with a holding company whose services are let on hire by the holding company to another person.

## **PART 2—PERSONS WHO ARE NOT WORKERS**

1. A person who performs work under a contract of service with—

- (a) a corporation of which the person is a director; or
- (b) a trust of which the person is a trustee; or
- (c) a partnership of which the person is a member; or
- (d) the Commonwealth, a Commonwealth authority or a licensed corporation under the *Safety Rehabilitation and Compensation Act 1988 (Cwlth)*.

2. A person who performs work under a contract of service as a professional sportsperson while—

- (a) participating in a sporting or athletic activity as a contestant; or
- (b) training or preparing for participation in a sporting or athletic activity as a contestant; or
- (c) performing promotional activities offered to the person because of the person's standing as a sportsperson; or

- (d) engaging on any daily or other periodic journey in connection with the participation, training, preparation or performance.

**3.** A member of the crew of a fishing vessel if—

- (a) the member's entitlement to remuneration is contingent upon the working of the vessel producing gross earnings or profits; and
- (b) the remuneration is wholly or mainly a share of the gross earnings or profits.

**4.** A person who, in performing work under a contract, other than a contract of service, supplies and uses a motor vehicle for driving tuition.

**5.** A person participating in an approved program or work for unemployment payment under the *Social Security Act 1991* (Cwlth), section 601 or 606.<sup>60</sup>

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<sup>60</sup> *Social Security Act 1991* (Cwlth), section 601 (Activity test) or 606 (Newstart Activity Agreements—terms)

## **‘SCHEDULE 2A**

### **‘PERSONS WHO ARE EMPLOYERS**

section 32

1. A person who lends or lets on hire the services of a worker who is party to a contract of service with that person continues to be the worker’s employer while the worker’s services are lent or let on hire.
2. If a labour hire agency or group training scheme arranges for a worker who is party to a contract of service with the agency or scheme to do work for someone else, the agency or scheme continues to be the worker’s employer while the worker does the work for the other person under an arrangement made between the agency or scheme and the other person.
3. If a holding company lets on hire the services of a worker who is party to a contract of service with the holding company, the holding company continues to be the worker’s employer while the worker’s services are let on hire.
4. The owner of the farm is the employer of a person who works the farm as a sharefarmer, and any worker employed by the sharefarmer, if—
  - (a) the sharefarmer does not provide and use in the sharefarming operations farm machinery driven or drawn by mechanical power; and
  - (b) the sharefarmer is entitled to not more than  $\frac{1}{3}$  of the proceeds of the sharefarming operations under the sharefarming agreement.
5. A person by whom commission is payable to a salesperson, canvasser, collector or other person (a **“salesperson”**), who is paid entirely or partly by commission, is the employer of the salesperson if the commission is not received for or in connection with work incident to a trade or business regularly carried on by the salesperson, individually or by means of a partnership.

6. A person is the employer of a contractor (other than a contractor mentioned in schedule 2, part 2, section 4), and any worker employed by the contractor, if—

- (a) the person makes a contract with the contractor for the performance of work that is not incident to a trade or business regularly carried on by the contractor, individually or by means of a partnership; and
- (b) the contractor—
  - (i) does not sublet the contract; or
  - (ii) does not employ a worker; or
  - (iii) if the contractor employs a worker, performs part of the work under the contract personally.

7. If a corporation is a worker's employer and an administrator is appointed under the Corporations Law to administer the corporation, the corporation continues to be the worker's employer while the corporation is under administration.'

### **Amendment of sch 3 (Dictionary)**

**51.(1)** Schedule 3, definition "**PAYE taxpayer**"—

*omit.*

**(2)** Schedule 3—

*insert—*

' "**OHS report**", for chapter 2, part 5, means a report about occupational health and safety performance prepared under the *Workplace Health and Safety Act 1995*, part 14, division 1A.

"**outstanding liability**" see section 116(1)(b).

"**residual liability**" see section 116(1)(a).

"**self-insurer's workers**" means the workers employed by a self-insurer before the issue of the self-insurer's licence or during the period of the self-insurer's licence.

"**total liability**" see section 118(2).'

(3) Schedule 3—

*insert—*

‘ **“authorised auditor”** see section 523A.

**“bank guarantee”** includes a guarantee given by Queensland Treasury Corporation.

**“council”** means the WorkCover Review Council.

**“medical condition”** means a condition of a medical nature that is not an injury under section 34.

**“non-reviewable decision”** see section 497.

**“review decision”** see section 494.

**“review unit”** see section 403A.

**“WorkCover Review Council”** see section 423A.’.

(4) Schedule 3—

*insert—*

‘ **“arrangement”**, for schedules 2 and 2A, includes agreement, promise, scheme, transaction, understanding and undertaking (whether express or implied).

**“group training scheme”**, for schedules 2 and 2A, see the *Vocational Education, Training and Employment Act 1991*, section 4.<sup>61</sup>

**“holding company”** see the Corporations Law, section 9.

**“labour hire agency”**, for schedules 2 and 2A, means an entity, other than a holding company, that conducts a business that includes the supply of services of workers to others.’.

<sup>61</sup> Section 4 provides—

‘ **“group training scheme”** means an industrial organisation or a body corporate that is approved by the State Training Council to employ apprentices or trainees but which uses the facilities of its members or other employers to train those apprentices or trainees.’.

**Amendment of Workplace Health and Safety Act 1995**

**52.(1)** This section amends the *Workplace Health and Safety Act 1995*.

**(2)** After section 182—

*insert—*

***Division 1A—Report about occupational health and safety performance***

**‘Application for report**

**‘182A.(1)** WorkCover Queensland must apply to the chief executive for a report about the occupational health and safety performance of an employer or a group employer for the purpose of an application or renewal for self-insurance under the *WorkCover Queensland Act 1996*.

**‘(2)** The employer or group employer must pay the fee calculated under a regulation for the preparation of the report.

**‘(3)** The chief executive must—

- (a) prepare the report having regard to the occupational health and safety performance standards published by the chief executive; and
- (b) give the report to WorkCover within 3 months after receiving the application for the report.

**‘(4)** In this section—

**“employer”** see the *WorkCover Queensland Act 1996*, section 32.

**“group employer”** see the *WorkCover Queensland Act 1996*, schedule 3.’.

**SCHEDULE****MINOR AND CONSEQUENTIAL AMENDMENTS**

section 3

**PART 1—SELF-RATING****1. Section 5(2)(e), ‘self-raters or’—***omit.***2. Section 58(2), ‘, other than a self-rater’s policy,’—***omit.***3. Section 58(6), ‘, other than a premium under a self-rater’s policy,’—***omit.***4. Section 483(1)(b), ‘or self-rater’—***omit.***5. Section 483(2) and (3), ‘, a self-rater’—***omit.***6. Section 483(4)(a) and (b), ‘, the self-rater’—***omit.***7. Section 485, ‘or self-rater’—***omit.*

## SCHEDULE (continued)

**8. Section 519, ‘, a self-insurer or a self-rater’—***omit, insert—*

‘or a self-insurer’.

**9. Section 523(1), ‘, a self-insurer or a self-rater’—***omit, insert—*

‘or a self-insurer’.

**10. Section 523(2), from ‘, a self-insurer’ to ‘any’—***omit, insert—*

‘or a self-insurer, or a person acting for either’.

**11. Section 523(3)—***omit.***12. Chapter 11, heading—***omit, insert—***‘CHAPTER 11—TRANSITIONAL PROVISIONS  
FOR WORKCOVER QUEENSLAND ACT 1996’.****13. Section 550—***omit.***14. Schedule 3, definitions “registered”, paragraph (c) and  
“self-rater”—***omit.*

## SCHEDULE (continued)

**PART 2—OTHER AMENDMENTS****1. Section 27(1)(a)—**

*omit, insert—*

‘(a) an entitlement to weekly payments of compensation under chapter 3, part 8, division 4, subdivision 3A and division 5, subdivision 2;<sup>62</sup> and’.

**2. Section 66(1)(b), ‘section 490(4)<sup>30</sup>—**

*omit, insert—*

‘section 500(3)<sup>63</sup>’.

**3. Section 115(5), ‘by the Insurance and Superannuation Commissioner’—**

*omit.*

**4. Section 162(2)(a), after ‘fails’—**

*insert—*

‘, without reasonable excuse,’.

**5. Chapter 3, part 8, division 4, subdivision 1 heading, ‘sdiv 1’—**

*omit, insert—*

‘div 4’.

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<sup>62</sup> Chapter 3 (Compensation), part 8 (Weekly payment of compensation), division 4 (Entitlement for total incapacity), subdivision 3A (Eligible persons) and division 5 (Entitlement for partial incapacity) subdivision 2 (Eligible persons)

<sup>63</sup> Section 500 (Appeal about amount of premium)

## SCHEDULE (continued)

**6. Section 173, ‘subdivision 3’—**

*omit, insert—*

‘subdivision 3 or 3A<sup>64</sup>’.

**7. Chapter 3, part 8, division 4, subdivision 3, heading, ‘and students’—**

*omit, insert—*

‘, *students and eligible persons*’.

**8. Section 180, ‘or a student’—**

*omit, insert—*

‘, a student or an eligible person’.

**9. Section 182(1)(a), ‘or 181(5)(c)(i)’—**

*omit, insert—*

‘, 181(5)(c)(i) or 181B(1)(c)(i)’.

**10. Section 182(1)(b), ‘or 181(5)(c)(ii)’—**

*omit, insert—*

‘181(5)(c)(ii) or 181B(1)(c)(ii)’.

**11. Section 183, heading, ‘div 5’—**

*omit, insert—*

‘sdiv 1’.

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<sup>64</sup> Subdivision 3 (Persons entitled to compensation other than workers, students and eligible persons) or 3A (Eligible persons)

## SCHEDULE (continued)

**12. Section 183, ‘division’—***omit, insert—*

‘subdivision’.

**13. Section 183, after ‘worker’s’—***insert—*

‘or person’s’.

**14. Section 183, after ‘worker’—***insert—*

‘or person’.

**15. Section 184(1), after ‘worker’—***insert—*

‘or person’.

**16. Section 185, heading, after ‘worker’—***insert—*

‘or person’.

**17. Section 185(1) and (2), after ‘worker’—***insert—*

‘or person’.

**18. Section 185(1) and (2), after ‘worker’s’—***insert—*

‘or person’s’.

## SCHEDULE (continued)

**19. Section 447(2)(a), after ‘fails’—***insert—*

‘, without reasonable excuse,’.

**20. Section 451(1)(a), after ‘fails’—***insert—*

‘, without reasonable excuse,’.

**21. After section 523—***insert—***‘PART 1A—AUDITS’.****22. Schedule 1, section 1, ‘surcharges,’—***omit.*