



Queensland

Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004

Act No. 45 of 2004



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Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004

Act No. 45 of 2004

An Act to amend the *Workers' Compensation and Rehabilitation Act 2003*, the *Workplace Health and Safety Act 1995*, the *Electrical Safety Act 2002* and for other purposes

[Assented to 18 November 2004]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004*.

2 Commencement

- (1) The following provisions commence on 1 January 2005—
 - sections 12 to 17
 - section 19
 - sections 28 to 31
 - section 85
 - section 86 (to the extent it inserts sections 615 and 616)
 - section 89(1) (to the extent it omits definition *amount payable under an industrial instrument*)
 - section 89(2) (to the extent it inserts definitions *amount payable* and *usual employment*)
 - section 102
 - section 120.
- (2) Sections 100 and 118(1) commence on 1 February 2005.
- (3) The following provisions commence on 1 July 2005—
 - sections 8 and 9
 - section 61
 - section 86 (to the extent it inserts section 614)
 - section 89(3).
- (4) The following provisions commence on a day to be fixed by proclamation—

- sections 21 to 26
- sections 32 and 33
- sections 35 to 41
- section 68
- section 69(1)
- sections 70 and 71
- section 72(2)
- sections 73 to 80
- section 86 (to the extent it inserts sections 619 to 621 and 625)
- section 89(1) (to the extent it omits definition *hospitalisation*)
- section 89(2) (to the extent it inserts definitions *appeal body*, *hospitalisation*, *private patient* and *public patient*)
- schedule, item 18.

Part 2 **Amendment of Workers' Compensation and Rehabilitation Act 2003**

3 **Act amended in pt 2 and sch**

This part and the schedule amend the *Workers' Compensation and Rehabilitation Act 2003*.

4 **Replacement of s 11 (Who is a worker)**

Section 11—
omit, insert—

'11 **Who is a worker**

'(1) A **worker** is a person who works under a contract of service.

- '(2) Also, schedule 2, part 1 sets out who is a **worker** in particular circumstances.
- '(3) However, schedule 2, part 2 sets out who is not a **worker** in particular circumstances.
- '(4) Only an individual can be a **worker** for this Act.'

5 Replacement of s 30 (Who is an **employer**)

Section 30—

omit, insert—

'30 Who is an **employer**

- '(1) An **employer** is a person—
 - (a) for whom an individual works under a contract of service; or
 - (b) who enters into a contract with an individual in the circumstances mentioned in schedule 2, part 1.
- '(2) Also, schedule 3 sets out who is an **employer** in particular circumstances.
- '(3) To remove doubt, a reference to an **employer** of a worker who sustains an injury is a reference to the **employer** out of whose employment, or in the course of whose employment, the injury arose.
- '(4) In this section—

contract includes agreement and arrangement.

person includes—

 - (a) a government entity; and
 - (b) the legal personal representative of a deceased individual.'

6 Amendment of s 32 (Meaning of **injury**)

Section 32(5)(c), after 'action by'—

insert—

'the Authority or'.

7 Amendment of s 50 (When an employer contravenes the general obligation to insure)

Section 50(a), 'before or immediately'—

omit, insert—

'within 5 business days'.

8 Replacement of s 65 (Meaning of *excess period*)

Section 65—

omit, insert—

'65 What is the *excess period*

'(1) The *excess period*, in relation to a worker who sustains an injury for which compensation is payable, is the period that starts on the day that the worker's entitlement to compensation arises under chapter 3, part 7.¹

'(2) The *excess period* ends at the end of the day that the amount of weekly compensation paid to the worker exceeds an amount prescribed under a regulation.'

9 Amendment of s 66 (Employer's liability for excess period)

Section 66(2), before 'compensation'—

insert—

'weekly payment of'.

10 Amendment of s 81 (Annual levy payable)

Section 81(2)—

omit, insert—

'(2) The levy may include—

1 Chapter 3 (Compensation), part 7 (Payment of compensation)

- (a) an amount that relates to the amount paid by the Authority on behalf of self-insurers under section 364(3);² and
- (b) an amount that relates to other costs incurred by the Authority in performing its functions or exercising its powers under this Act.

Example of other costs—
 an administrative cost'.

11 Amendment of s 84 (Bank guarantee or cash deposit)

Section 84(3)—

omit, insert—

'(3) The estimated claims liability—

- (a) must be assessed annually by an actuary approved by the Authority; and
- (b) must be calculated in the way prescribed under a regulation.'

12 Replacement of ch 3, pt 1 hdg

Chapter 3, part 1, heading—

omit, insert—

'Part 1 Interpretation'.

13 Omission of s 105 (Meaning of *amount payable under an industrial instrument*)

Section 105—

omit.

14 Insertion of new ch 3, pt 1A

After section 107—

² Section 364 (Funds and accounts)

insert—

'Part 1A Entitlements to compensation under industrial instruments

'107A Definitions for pt 1A

'In this part—

amount includes rate.

Industrial Act means—

- (a) the *Industrial Relations Act 1999*; or
- (b) the *Workplace Relations Act 1996* (Cwlth).

'107B Meaning of *amount payable* under an industrial instrument

- '(1) An *amount payable*, under an industrial instrument, to a worker is—
 - (a) if an amount has been approved by the Authority's board under section 107E—the amount applying immediately before the worker became incapacitated; or
 - (b) if paragraph (a) does not apply—an amount equal to the weekly rate of wages (however described) under the industrial instrument that the worker was entitled to be paid in the worker's usual employment immediately before the worker became incapacitated.
- '(2) If the industrial instrument provides for a change in the amount mentioned in subsection (1)(a) after the amount is approved, or there is a change in the rate of wages under the industrial instrument at any time after the worker became incapacitated, the amount payable to the worker changes accordingly.
- '(3) If a worker is employed in an industry that is seasonal in nature, the amount payable to the worker must reflect the relevant season under the industrial instrument.

'107C Meaning of *usual employment*

- '(1) A worker's *usual employment* is the worker's permanent position or classification of employment.
- '(2) However, if a worker is temporarily appointed to another position or classification for a period, the worker's *usual employment* for the period of the temporary appointment is the temporary position or classification.

Example of usual employment for subsection (2)—

A worker is acting in higher duties for 3 months. The worker is incapacitated after 1 month. The worker would be entitled to the higher duties wage rate for the remaining 2 months. When that 2 months ends, the worker would be entitled to the wage rate of the worker's permanent position or classification.

'107D Entitlements to compensation under industrial instrument generally prohibited and void

- '(1) The industrial commission can not include in an industrial instrument made by it, or approve for an industrial instrument submitted to it, a provision for accident pay, or other payment, on account of a worker sustaining an injury.
- '(2) The registrar of the industrial commission is not to register an industrial instrument submitted to the registrar that provides for payment of accident pay, or other payment, on account of a worker sustaining an injury.
- '(3) Despite subsections (1) and (2), an industrial instrument, other than an award under an Industrial Act, may provide for an amount to be payable as a weekly rate of wages (however described) to a worker if the worker becomes incapacitated.
- '(4) A provision of an industrial instrument, other than a provision mentioned in subsection (3) that contains an amount that has been approved by the Authority's board under section 107E, is of no force or effect to the extent that it provides for payment of accident pay, or other payment, on account of a worker sustaining an injury.

'107E Authority's board may approve amount payable under industrial instrument

- '(1) This section applies if an industrial instrument, other than an award under an Industrial Act, provides for an amount to be payable as a weekly rate of wages (however described) to a worker if the worker becomes incapacitated.
- '(2) An employer may, by written notice, ask the Authority's board to approve the amount provided for in the industrial instrument for the purposes of section 107B.
- '(3) The board can approve the amount provided for in the industrial instrument only if the amount was contained in the industrial instrument as approved or certified under an Industrial Act.
- '(4) In deciding whether or not to approve the amount, the board must have regard to—
- (a) if the industrial instrument is a workplace agreement or if an employee organisation is not a party to the industrial instrument—the entitlements of a worker to weekly payment of compensation under section 150(1)(a)(i);³ or
 - (b) in all other cases—whether the amount is consistent with the compensation entitlements of a worker under previous industrial instruments agreed to by the parties to the industrial instrument.
- '(5) The board must make a decision within 25 business days after it receives the request.
- '(6) If the board refuses to approve the amount, the employer may appeal under chapter 13.⁴
- '(7) In this section—

employee organisation means an organisation of employees.

workplace agreement means—

3 Section 150 (Total incapacity—workers whose employment is governed by an industrial instrument)

4 Chapter 13 (Reviews and appeals)

- (a) a Queensland workplace agreement under the *Industrial Relations Act 1999*; or
- (b) an Australian workplace agreement under the *Workplace Relations Act 1996* (Cwlth).⁷.

15 Amendment of s 109 (Who must pay compensation)

Section 109(3)—

omit, insert—

- ‘(3) An employer who is not a self-insurer can not pay a worker an amount, either in compensation or instead of compensation, that is payable by WorkCover under the Act for an injury sustained by the worker.
- ‘(4) However, an employer who is not a a self-insurer may pay a worker an amount, either in compensation or instead of compensation, that is payable by WorkCover under the Act for an injury sustained by the worker if—
 - (a) the worker has made an application for compensation under section 132;⁵ and
 - (b) the employer has complied with section 133A.⁶
- ‘(5) Subsections (2) and (3) are subject to section 66.⁷’.

16 Insertion of new s 109A

After section 109—

insert—

‘109A When an employer contravenes obligation not to pay compensation payable by WorkCover

- ‘(1) This section applies if an employer contravenes section 109(3).

5 Section 132 (Applying for compensation)

6 Section 133A (Employer’s duty to tell WorkCover if worker asks for, or employer makes, a payment)

7 Section 66 (Employer’s liability for excess period)

- '(2) WorkCover may require the employer to pay WorkCover an amount by way of penalty equal to 50% of the employer's premium for the period of insurance.
- '(3) WorkCover may recover the amount from the employer—
 - (a) as a debt; or
 - (b) as an addition to a premium payable by the employer.
- '(4) The employer may apply in writing to WorkCover to waive or reduce the penalty because of extenuating circumstances.
- '(5) The application must specify the extenuating circumstances and the reasons the penalty should be waived or reduced in the particular case.
- '(6) WorkCover must consider the application and may—
 - (a) waive or reduce the penalty; or
 - (b) refuse to waive or reduce the penalty.
- '(7) If the employer is aggrieved by WorkCover's decision, the employer may have the decision reviewed under chapter 13.⁸⁷.

17 Insertion of new s 133A

After section 133—

insert—

'133A Employer's duty to tell WorkCover if worker asks for, or employer makes, a payment

- '(1) An employer, other than a self-insurer, must give WorkCover written notice in the approved form if—
 - (a) a worker asks the employer for compensation for an injury sustained by the worker; or
 - (b) the employer pays the worker an amount, either in compensation or instead of compensation, that is payable by the employer or WorkCover under the Act for an injury sustained by the worker.

- '(2) If the employer fails to comply with subsection (1) within 8 business days after the request or payment is made, the employer commits an offence, unless the employer has a reasonable excuse.

Maximum penalty—50 penalty units.'

18 Amendment of s 134 (Decision about application for compensation)

- (1) Section 134(2)—

omit, insert—

- '(2) The insurer must make a decision on the application—

(a) for a psychiatric or psychological injury, or for the death of a worker—within 60 business days after the application is made; or

(b) for another injury—within 40 business days after the application is made.'

- (2) Section 134(5), from '3 months'—

omit, insert—

'the time stated in subsection (2).'

- (3) Section 134(6), from '7 days' to 'period'—

omit, insert—

'5 business days after the end of the time stated in subsection (2).'

19 Amendment of s 140 (Maximum entitlement)

- (1) Section 140(1)(a) and (b), '\$157 955'—

omit, insert—

'\$174 625'.

- (2) Section 140(1)(c)—

omit.

20 Insertion of new ch 3, pt 8A

After section 144—

insert—

'Part 8A When entitlement to compensation stops

'144B When payment of medical treatment, hospitalisation and expenses stops

'The entitlement of a worker to the payment of medical treatment, hospitalisation and expenses under chapter 4⁹ for an injury stops when—

- (a) the entitlement of the worker to weekly payments of compensation under part 9¹⁰ stops; and
- (b) medical treatment by a registered person is no longer required for the management of the injury because the injury is not likely to improve with further medical treatment or hospitalisation.'

21 Amendment of s 150 (Total incapacity—workers whose employment is governed by an industrial instrument)

- (1) Section 150(1)(b), '26 weeks'—

omit, insert—

'39 weeks'.

- (2) Section 150(1)(b) and (c)—

renumber as section 150(1)(c) and (d).

- (3) Section 150(1)—

insert—

9 Chapter 4 (Injury management)

10 Part 9 (Weekly payments of compensation)

'(b) from the end of the first 26 weeks of the incapacity until the end of the first 39 weeks of the incapacity, the greater of the following—

- (i) 75% of the worker's NWE;
- (ii) 70% of QOTE; and'.

(4) Section 150(2), 'subsection (1)(b) or (c)'—

omit, insert—

'subsection (1)(b), (c) or (d)'.

22 Amendment of s 151 (Total incapacity—workers whose employment is not governed by industrial instrument)

(1) Section 151(1)(b), '26 weeks'—

omit, insert—

'39 weeks'.

(2) Section 151(1)(b) and (c)—

renumber as section 151(1)(c) and (d).

(3) Section 151(1)—

insert—

'(b) from the end of the first 26 weeks of the incapacity until the end of the first 39 weeks of the incapacity, the greater of the following—

- (i) 75% of the worker's NWE;
- (ii) 65% of QOTE; and'.

23 Amendment of s 152 (Total incapacity—certain contract workers)

(1) Section 152(1)(b), '26 weeks'—

omit, insert—

'39 weeks'.

(2) Section 152(1)(b) and (c)—

renumber as section 152(1)(c) and (d).

(3) Section 152(1)—

insert—

‘(b) from the end of the first 26 weeks of the incapacity until the end of the first 39 weeks of the incapacity, the greater of the following—

- (i) 75% of the worker’s NWE;
- (ii) 65% of QOTE; and’.

(4) Section 152(2), ‘subsection (1)(b) or (c)’—

omit, insert—

‘subsection (1)(b), (c) or (d)’.

24 Amendment of s 157 (Total incapacity)

(1) Section 157(5)(b), ‘26 weeks’—

omit, insert—

‘39 weeks’.

(2) Section 157(5)(b) and (c)—

renumber as section 157(5)(c) and (d).

(3) Section 157(5)—

insert—

‘(b) from the end of the first 26 weeks of the incapacity until the end of the first 39 weeks of the incapacity, the greater of the following—

- (i) 65% of QOTE;
- (ii) the reasonable cost of labour paid to replace the person; and’.

25 Amendment of s 159 (Total incapacity)

(1) Section 159(1)(b), ‘26 weeks’—

omit, insert—

‘39 weeks’.

- (2) Section 159(1)(b) and (c)—
renumber as section 159(1)(c) and (d).
- (3) Section 159(1)—
insert—
- ‘(b) from the end of the first 26 weeks of the incapacity until the end of the first 39 weeks of the incapacity, the greater of the following—
- (i) the greater of the following—
- (A) 75% of the amount stated in the person’s contract of insurance;
- (B) 65% of QOTE;
- (ii) if the person replaces the person’s labour—the payment under subsection (2); and’.
- (4) Section 159(2), ‘and (b)(ii)’—
omit, insert—
‘, (b)(ii) and (c)(ii)’.
- (5) Section 159(3), ‘subsection (1)(b) or (c)’—
omit, insert—
‘subsection (1)(b), (c) or (d)’.

26 Amendment of s 160 (Total incapacity—reference about impairment to medical assessment tribunal)

Section 160(1)—

omit, insert—

- ‘(1) This section applies if—
- (a) for section 150(1)(d)(i), 151(1)(d)(i), 152(1)(d)(i), 157(5)(d)(i) or 159(1)(d)(i), an insurer and a worker or a person can not agree that the injury could result in a WRI of more than 15%; or
- (b) for section 150(1)(d)(ii), 151(1)(d)(ii), 152(1)(d)(ii), 157(5)(d)(ii) or 159(1)(d)(ii), an insurer and a worker or

a person can not agree that the injury could result in a WRI of 15% or less.’.

27 Amendment, relocation and renumbering of s 177 (When weekly payments stop)

(1) Section 177, heading—

omit, insert—

‘177 When weekly payments of compensation stop’.

(2) Section 177(1), ‘under this part’—

omit, insert—

‘of compensation under part 9’.

(3) Section 177—

relocate and renumber, in chapter 3, part 8A, as section 144A.

28 Amendment of s 192 (Additional lump sum compensation for certain workers)

Section 192(2), ‘\$157 955’—

omit, insert—

‘\$174 625’.

29 Amendment of s 193 (Additional lump sum compensation for gratuitous care)

Section 193(6), ‘\$195 960’—

omit, insert—

‘\$216 635’.

30 Amendment of s 200 (Total dependency)

(1) Section 200(2)(a), ‘\$263 255’—

omit, insert—

‘\$300 000’.

(2) Section 200(2)(b), ‘\$9 875’—

omit, insert—

‘\$10 925’.

31 Amendment of s 202 (Workers under 21)

Section 202(2) and (3)(a), ‘\$14 905’—

omit, insert—

‘\$16 480’.

32 Insertion of new ch 3, pt 13

Chapter 3, after section 207—

insert—

‘Part 13 Compensation claim costs and third parties

‘207A Insurer may recover costs of reports from third party

- ‘(1) This section applies if an insurer incurs costs in obtaining reports, other than legal reports, while managing a claim for compensation in which an injury to a worker created a legal liability in a person to pay damages for the injury independently of this Act.

Examples of reports—

- medical reports
- traffic incident reports

- ‘(2) The insurer—
- (a) is entitled to be indemnified by the person for a reasonable proportion of the costs reasonably incurred by the insurer in obtaining the reports; and
 - (b) may recover from the person as a debt a reasonable proportion of the costs reasonably incurred by the insurer in obtaining the reports.
- ‘(3) In deciding what is a reasonable proportion of the costs for subsection (2), a court must consider the extent to which the

report is used for the purposes of managing the claim or deciding liability.

- ‘(4) In this section—
report includes advice.’.

33 Amendment of s 211 (Extent of liability for medical treatment)

Section 211(1)(b), ‘private’—
omit.

34 Amendment of s 212 (Extent of liability for prosthetic expenses)

Section 212(3)—
omit.

35 Insertion of ch 4, pt 2, div 3, sdiv 1 hdg

Chapter 4, part 2, division 3, before section 215—
insert—

‘Subdivision 1 Interpretation’.

36 Amendment of s 215 (Definitions for div 3)

- (1) Section 215, definitions *private hospital* and *public hospital*—
omit.

- (2) Section 215—
insert—

‘*contracted hospital* means a hospital that provides public health services to a patient under a contractual arrangement with the State, but does not include—

- (a) a public sector hospital under the *Health Services Act 1991*; or
(b) a Mater Misericordiae Public Hospital.

hospital includes a day hospital.

private hospital means a hospital to which a worker is admitted as a private patient.

private patient means a worker who is a patient of a private doctor at a hospital that is not a contracted hospital.

public hospital means a hospital to which a worker is admitted as a public patient.

public patient means a patient who is not a private patient.’.

37 Insertion of new ch 4, pt 2, div 3, sdiv 2 hdg

After section 215—

insert—

‘Subdivision 2 Private hospitalisation’.

38 Amendment of s 216 (Extent of liability for period of hospitalisation)

(1) Section 216, heading—

omit, insert—

‘216 Extent of liability for hospitalisation at private hospital’.

(2) Section 216(1), before ‘extends’—

insert—

‘at a private hospital’.

39 Amendment of s 217 (Cost of hospitalisation)

(1) Section 217, heading—

omit, insert—

‘217 Cost of hospitalisation at private hospital’.

(2) Section 217(1)—

omit, insert—

‘(1) The cost for which an insurer is liable for hospitalisation of a worker as an in-patient at a private hospital is the cost for the

provision of the facility at a private hospital where a procedure is carried out.’.

40 Omission of s 218 (Maximum liability for cost of hospitalisation)

Section 218—

omit.

41 Insertion of new ch 4, pt 2, div 3, sdiv 3

Before chapter 4, part 2, division 4—

insert—

‘Subdivision 3 Public hospitalisation

‘218 Extent of liability for hospitalisation in public hospital

- ‘(1) An insurer’s liability for the cost of hospitalisation of a worker at a public hospital extends only to the cost of hospitalisation of the worker as an in-patient at the public hospital—
- (a) for non-elective hospitalisation—for not more than 4 days; or
 - (b) for non-elective hospitalisation for more than 4 days—if the insurer considers the hospitalisation is reasonable, having regard to the worker’s injury; or
 - (c) for elective hospitalisation—to the extent agreed to by the insurer under arrangements entered into between the insurer and the worker or someone for the worker before the hospitalisation.
- ‘(2) Subject to the *Health Services Act 1991*, a worker is not liable for the cost of hospitalisation, including medical treatment, as an in-patient at a public hospital for an injury sustained by the worker.

'218A Cost of hospitalisation

- '(1) The costs for which an insurer is liable for hospitalisation of a worker as an in-patient at a public hospital are—
- (a) the cost for the provision of the facility at a public hospital where a procedure is carried out; and
 - (b) the cost of medical treatment provided at the hospital.
- '(2) The insurer must pay the cost of hospitalisation and medical treatment, whether the hospitalisation is provided at 1 time or at different times.
- '(3) The insurer must pay the cost of hospitalisation that is published by the Authority by industrial gazette notice.'

42 Amendment of s 233 (Definitions for ch 5)

Section 233—

insert—

'party includes contributor.'

43 Insertion of new ss 278A and 278B

After section 278—

insert—

'278A Insurer may add other person as contributor

- '(1) An insurer who receives a notice of claim may, within the time prescribed under a regulation or, if no period is prescribed, within 20 business days after receiving the notice of claim, add someone else as a contributor for the purposes of this part by giving the person a written notice (*contribution notice*)—
- (a) claiming an indemnity from, or contribution towards—
 - (i) the employer's liability; and
 - (ii) the insurer's liability; and
 - (b) stating the grounds on which the insurer holds the person liable; and

- (c) stating any other information that may be prescribed under a regulation; and
 - (d) accompanied by copies of documents about the claim given to or received from any other party under this Act.
- ‘(2) If the time prescribed under subsection (1) for adding a contributor has ended, an insurer may add someone else as a contributor only with the person’s agreement and with—
- (a) the agreement of the parties; or
 - (b) the court’s leave.
- ‘(3) If an insurer adds someone as a contributor under this section, the insurer must give a copy of the contribution notice to each other party within the time prescribed under a regulation or, if no period is prescribed, within 5 business days after adding someone as a contributor.

Maximum penalty for subsection (3)—50 penalty units.

‘278B Contributor’s response

- ‘(1) A contributor must, within the period prescribed under a regulation or, if no period is prescribed, within 20 business days after receiving a contribution notice, give the insurer who gave the contribution notice a written response (*contributor’s response*)—
- (a) containing a statement of information prescribed under a regulation; and
 - (b) accompanied by any documents that may be prescribed under a regulation.
- ‘(2) The contributor’s response must also state—
- (a) whether the claim for the contribution or indemnity claimed in the contribution notice is admitted, denied or admitted in part; and
 - (b) if the claim for the contribution or indemnity is admitted in part, the extent, expressed as a percentage, to which it is admitted.
- ‘(3) An admission of liability in the contributor’s response—

- (a) is not binding on the contributor in relation to any other claim; and
 - (b) is not binding on the contributor at all if it later appears the admission was induced by fraud.
- ‘(4) If the insurer requires information provided by a contributor under this section to be verified by statutory declaration, the contributor must verify the information by statutory declaration.’.

44 Amendment of s 279 (Claimant and insurer to cooperate)

- (1) Section 279, heading—
omit, insert—

‘279 Parties to cooperate’.

- (2) Section 279(1), ‘A claimant and an insurer’—
omit, insert—
‘The parties’.
 - (3) Section 279(1)(b), ‘the other party’—
omit, insert—
‘each other party’.
 - (4) Section 279(2)(a), ‘the claimant or the insurer’—
omit, insert—
‘a party’.
 - (5) Section 279(3) and (4)—
omit, insert—
- ‘(3) A claimant and an insurer must give each other copies of the relevant documents within 21 business days after the claimant gives the insurer a notice of claim.
- ‘(3A) An insurer and a contributor must give each other copies of the relevant documents within 21 business days after the insurer gives the contributor a contribution notice.

- '(3B) A contributor must give the claimant copies of the relevant documents within 21 business days after the insurer gives the contributor a contribution notice.
- '(3C) If the relevant documents come into a party's possession later than the time mentioned in subsection (3), (3A) or (3B), a party mentioned in the subsection must give the other party mentioned in the subsection a copy of the relevant documents within 21 business days after they come into the party's possession.
- '(4) A party must respond to a request from another party under subsection (1)(b) within 21 business days after receiving it.'
- (6) Section 279(6), definition *relevant documents*, after 'employer,'—
insert—
 'a contributor,'.

45 Amendment of s 281 (Claimant and insurer to attempt to resolve claim)

- (1) Section 281, heading—
omit, insert—

'281 Parties to attempt to resolve claim'.

- (2) Section 281(1), 'claimant and the insurer'—
omit, insert—
 'parties'.
- (3) Section 281—
insert—
- '(4A) The insurer must, within 5 business days after giving the claimant the written notice, give a copy of the notice to any contributor.'

46 Amendment of s 282 (Worker to undergo medical examination)

- Section 282(1), from 'The' to 'expense'—

omit, insert—

'An insurer or a contributor may at any time ask the worker to undergo either or both of the following, whether at 1 time or at different times, at the expense of the insurer or contributor'.

47 Amendment of s 283 (Joint expert reports)

- (1) Section 283(1), 'An insurer and a claimant'—

omit, insert—

'Some or all of the parties'.

- (2) Section 283(2), 'Neither party'—

omit, insert—

'None of the parties'.

- (3) Section 283(3), 'both parties'—

omit, insert—

'the parties'.

- (4) Section 283(4), 'both parties'—

omit, insert—

'each party'.

48 Amendment of s 284 (Non-disclosure of certain material)

- (1) Section 284(2)—

omit, insert—

- '(2) However, the following must be disclosed even though otherwise protected by legal professional privilege—

- (a) investigative reports;
- (b) medical reports;
- (c) reports relevant to the worker's rehabilitation;

- (d) relevant documents mentioned in section 279,¹¹ other than correspondence between a party and the party's lawyer'.
- (2) Section 284(3), after 'an insurer'—
omit, insert—
'or a contributor'.
- (3) Section 284(3), after 'the insurer'—
insert—
'or contributor'.

49 Amendment of s 285 (Consequence of failure to give information)

Section 285(1), 'the other party'—
insert—
'another party'.

50 Amendment of s 289 (Compulsory conference)

- (1) Section 289(2), 'Either'—
omit, insert—
'Any'.
- (2) Section 289(8), from 'claimant in person' to 'behalf'—
omit, insert—
'claimant in person, a person authorised to settle on the insurer's behalf and a person authorised to settle on behalf of any contributor'.

51 Amendment of s 290 (Procedure at conference)

- (1) Section 290(1), 'both parties'—
omit, insert—

11 Section 279 (Parties to cooperate)

'all parties'.

- (2) Section 290(4), 'either party'—

omit, insert—

'any party'.

- (3) Section 290(5), first mention, 'the other party'—

omit, insert—

'each other party'.

- (4) Section 290(5)(a), 'other'—

omit.

- (5) Section 290(6)(d), 'the other party'—

omit, insert—

'all other parties'.

- (6) Section 290(6)(e), 'subsection (7)'—

omit, insert—

'section 290A(3)'.

- (7) Section 290—

insert—

- '(9) In this section—

party does not include contributor.'

- (8) Section 290(5) to (9)—

relocate and renumber as section 290A (1) to (5).

52 Insertion of new s 290A hdg

After section 290—

insert—

'290A Exchange of material for compulsory conference'.

53 Amendment of s 292 (Parties to make written final offer if claim not settled at compulsory conference)

(1) Section 292, heading, 'Parties'—

omit, insert—

'Claimant and insurer'.

(2) Section 292(1), 'each party'—

omit, insert—

'both the claimant and the insurer'.

(3) Section 292—

insert—

'(1A) If more than 1 claim was the subject of the compulsory conference, the written final offer may be a consolidated final offer for all the claims.

'(1B) A consolidated final offer must detail the portion of the offer applicable to each claim.

'(1C) A consolidated final offer can only be accepted or rejected in full.'

54 Insertion of new s 292A

Chapter 5, part 6, division 1, after section 292—

insert—

'292A Offer to contribute

'(1) This section applies if an insurer makes a claim (a *contribution claim*) to recover contribution or indemnity against a person in relation to a claim made by a claimant.

'(2) A party to the contribution claim may give another party to the contribution claim an offer to contribute towards the settlement of the claim on the conditions specified in the offer.

'(3) The court may take account of an offer to contribute in deciding whether it should order that the party to whom the offer to contribute was given should pay all or part of—

- (a) the costs of the party who made the offer; and
- (b) any costs the party is liable to pay to the claimant.’.

55 Amendment of s 293 (Settlement of claim for damages)

Section 293, after ‘a claim’—

insert—

‘or contribution claim’.

56 Amendment of s 296 (Claimant to have given complying notice of claim or insurer to have waived compliance)

Section 296(b), ‘claimant or’—

omit, insert—

‘claimant, a contributor or’.

57 Replacement of ch 5, pt 10 (No right to particular damages)

Chapter 5, part 10—

omit, insert—

‘Part 10 No right to damages for particular services

‘308 Application of pt 10

‘This part sets out the principles a court must apply in awarding damages for services that are provided, or are to be provided, to a worker by another person after the worker sustains an injury.

‘308A Definitions for pt 10

‘In this part—

gratuitous services means services, other than paid services, that are provided to a worker by a member of the worker's family or household, or by a friend of the worker.

paid services means services that are provided to a worker at commercial rates by another person in the person's professional capacity or in the course of the person's business.

services means services of a domestic, nursing or caring nature.

Examples of services—

- changing bandages
- cleaning
- cooking
- dressing wounds
- gardening
- housekeeping
- mowing the lawn
- assisting with personal hygiene needs

'308B Paid services provided to worker before injury

- '(1) This section applies if—
- (a) before the worker sustained the injury, the worker was usually provided with particular services that were paid services; and
 - (b) after the worker sustains the injury—
 - (i) the worker is, or is to be, provided with paid services that are substantially of the same kind; or
 - (ii) the worker is, or is to be, provided with gratuitous services that are substantially of the same kind.
- '(2) A court can not award damages for the cost or value of the services that have been provided to the worker after the worker sustained the injury or that are to be provided to the worker in the future.

'308C Worker performed services before injury

- '(1) This section applies if, before the worker sustained the injury, the worker usually performed particular services.
- '(2) A court can not award damages for the cost or value of services of substantially the same type that have been provided to the worker after the worker sustained the injury, or that are to be provided to the worker in the future as either gratuitous services or paid services, if the services that have been provided to the worker after the worker sustained the injury are gratuitous services.

'308D Gratuitous services provided to worker before injury

- '(1) This section applies if—
 - (a) before the worker sustained the injury, the worker was usually provided with particular services that were gratuitous services; and
 - (b) after the worker sustains the injury—
 - (i) the worker is, or is to be, provided with paid services of substantially the same type; or
 - (ii) the worker is, or is to be, provided with gratuitous services of substantially the same type.
- '(2) A court can not award damages for the cost or value of the services that have been provided to the worker after the worker sustained the injury or that are to be provided to the worker in the future.

'308E Services not required by or provided to worker before injury

- '(1) This section applies if the worker usually did not require or was not provided with particular services before the worker sustained the injury.
- '(2) A court can not award damages for the cost or value of any services provided to the worker after the worker sustained the injury, or that are to be provided to the worker in the future as either gratuitous services or paid services, if the services that

have been provided to the worker after the worker sustained the injury are gratuitous services.’.

58 Amendment of s 313 (Costs if written final offer by insurer)

Section 313(2), ‘a party’—

omit, insert—

‘the insurer or the claimant’.

59 Amendment of s 316 (Principles about orders as to costs)

Section 316(2), ‘party to the proceeding’—

omit, insert—

‘claimant or an insurer’.

60 Amendment of s 330 (General statement of Authority’s functions)

(1) Section 330(2)(d) to (l)—

renumber as section 330(2)(e) to (m).

(2) Section 330(2)—

insert—

‘(d) to approve amounts payable under an industrial instrument for the purposes of section 107B;¹²’.

61 Amendment of s 453 (WorkCover’s solvency)

(1) Section 453, heading—

omit, insert—

‘453 WorkCover’s capital adequacy’.

(2) Section 453(1)(b) and (c)—

omit, insert—

12 Section 107B (Meaning of *amount payable* under an industrial instrument)

‘(b) maintains capital adequacy as required under a regulation.’.

62 Insertion of new ch 9, pt 3

Chapter 9, after section 486—

insert—

‘Part 3 The Minister and codes of practice

‘486A Code of practice

- ‘(1) The Minister may make a code of practice that states—
 - (a) ways an insurer may perform its functions under this Act in relation to the management of its claims; and
 - (b) ways an insurer may exercise its powers under this Act in relation to the management of its claims; and
 - (c) ways an insurer may meet its obligations under this Act in relation to the management of its claims.
- ‘(2) To remove any doubt, a code of practice can not include a requirement that an insurer acts in a way that is inconsistent with this Act.
- ‘(3) The Authority must recommend the making of a code of practice to the Minister.
- ‘(4) The Authority must consult with the Minister before giving the recommendation.
- ‘(5) The Minister must notify the making of a code of practice.
- ‘(6) A code of practice expires 10 years after its commencement.
- ‘(7) The Authority must ensure that a copy of each code of practice, and any document applied, adopted or incorporated by the code of practice, is made available for inspection without charge during normal business hours at each of the Authority’s offices.
- ‘(8) If a code of practice is inconsistent with a regulation, the regulation prevails to the extent of the inconsistency.

- '(9) A notice mentioned in subsection (5) is subordinate legislation.

'486B Effect of code of practice

- '(1) Unless otherwise stated in a code of practice, the code of practice does not state all that an insurer must do, or must not do, to perform its functions, exercise its powers and meets its obligations under this Act.
- '(2) An insurer, including WorkCover, commits an offence if the insurer—
- (a) contravenes, or otherwise acts inconsistently with, the code of practice; and
 - (b) does not follow a way that is as effective as, or more effective than, the code of practice for complying with a requirement of this Act.

Maximum penalty—1 000 penalty units.'

63 Amendment of s 540 (Application of pt 2)

- (1) Section 540(1)(a)(iv), after '66'—
insert—
' , 109A'.
- (2) Section 540(1)(a)(viii) and (ix)—
omit, insert—
- '(viii) to allow or reject an application for compensation;
or
 - (ix) to terminate or suspend payment of compensation;
or
 - (ixa) to increase or decrease a weekly payment of compensation under chapter 3; or'.
- (3) Section 540(1)(b)(ii) and (iii)—
omit, insert—

- '(ii) to allow or reject an application for compensation;
or
- (iii) to terminate or suspend payment of compensation;
or
- (iiiia) to increase or decrease a weekly payment of
compensation under chapter 3; or'.

**64 Amendment of s 545 (Review of decision or failure to
make a decision)**

(1) Section 545(1)—

insert—

'(d) set aside the decision and return the matter to the
decision-maker with the directions the Authority
considers appropriate.'

(2) Section 545—

insert—

'(1A) The Authority may act under subsection (1)(d) only if the
Authority—

- (a) has considered information that was not available to, or
known by, the decision-maker when the decision-maker
made its decision; or
- (b) believes on reasonable grounds that the decision-maker
did not have satisfactory evidence or information to
make its decision; or
- (c) believes on reasonable grounds that the decision-maker
has not observed natural justice in making its decision.'

(3) Section 545(4)—

omit, insert—

'(4) The Authority may extend the time in subsection (1)—

- (a) with the applicant's consent, to allow the applicant a
right of appearance or to make representations under
section 543; or

- (b) with the applicant's consent, to obtain information under section 544; or
- (c) if the applicant applies to the Authority in writing for time to give the Authority further information.'

65 Amendment of s 546 (Notice of review decision)

- (1) Section 546(2), 'section 540(1)(a)(viii)'—
omit, insert—
'section 540(1)(a)(vii)'.
 - (2) Section 546(3)(b), after 'notice of the decision'—
insert—
' , unless the Authority has acted under section 545(1)(d)'.
 - (3) Section 546—
insert—
 - '(3A) A decision of the Authority under section 545 to return a matter to the decision-maker can not be appealed.'

66 Insertion of new s 546A

After section 546—

insert—

'546A Matter returned to decision-maker

- '(1) This section applies if the Authority returns a matter under section 545 to a decision-maker.
- '(2) The decision-maker must, within the time specified by the Authority—
 - (a) make a decision; and
 - (b) give the applicant and the Authority written notice of the fresh decision including—
 - (i) the reasons for the decision; and
 - (ii) the applicant's rights of review and appeal; and

- (c) if the decision relates to a matter mentioned in section 540(1)(a)(vii) to (xiii) or (1)(b) or (c),¹³ give a copy of the fresh decision to the claimant or worker and to the employer.’.

67 Amendment of s 548 (Application of div 1)

Section 548(a)—

omit, insert—

- ‘(a) a review decision, other than a decision to return a matter to a decision-maker under section 545;’.

68 Insertion of new s 548A

After section 548—

insert—

‘548A Meaning of *appeal body*

- ‘(1) An *appeal body* for this part is—
- (a) an industrial magistrate; or
 - (b) the industrial commission.
- ‘(2) However, the appeal body is an industrial magistrate—
- (a) for a decision of the Authority’s board under section 107E;¹⁴ or
 - (b) for a decision of the Authority about a matter mentioned in section 540(1)(a)(i) to (vi);¹⁵ or
 - (c) for a non-reviewable decision.’.

69 Amendment of s 549 (Who may appeal)

- (1) Section 549(1) and (2), ‘industrial magistrate’—

13 Section 540 (Application of pt 2)

14 Section 107E (Authority’s board may approve amount payable under industrial instrument)

15 Section 540 (Application of pt 2)

omit, insert—

‘appeal body’.

(2) Section 549(2)—

omit, insert—

‘(2) An insurer aggrieved by a decision of the Authority to confirm, vary or set aside a decision of the insurer mentioned in section 540(1)(a)(i) to (vi) may appeal to an industrial magistrate against the decision of the Authority.

‘(3) If the appellant is an employer—

(a) the claimant or worker may, if the claimant or worker wishes, be a party to the appeal; and

(b) an insurer may, if the insurer wishes, be a party to the appeal if the appeal is against a decision of the Authority to confirm, vary or set aside a decision of the insurer mentioned in section 540(1)(a)(i) to (vi).

‘(4) If the appellant is WorkCover, an employer may, if the employer wishes, be a party to the appeal.’.

70 Amendment of s 550 (Procedure for appeal)

(1) Section 550(4)—

omit, insert—

‘(3A) An appeal may be started only with 1 appeal body.

‘(4) The appeal may be started only by giving a written notice of appeal to the appeal body.

‘(4A) If the appeal body is the industrial commission, the notice of appeal must be filed in the industrial registry.’.

(2) Section 550(5), ‘The’—

omit, insert—

‘If the appeal body is an industrial magistrate, the’.

(3) Section 550—

insert—

- (9) If a notice of appeal required to be filed in a Magistrates Court is filed in the industrial registry, the industrial registrar may send any relevant documents to the registrar of the appropriate Magistrates Court.
- (10) If a notice of appeal required to be filed in the industrial registry is filed in a Magistrates Court, the registrar of the Magistrates Court may send any relevant documents to the industrial registrar.’

71 Amendment of s 552 (Notice of time and place for hearing)

Section 552(1), after ‘The registrar of’—

insert—

‘the industrial commission or’.

72 Amendment of s 554 (Exchanging evidence before hearing)

- (1) Section 554(1), 7 days’—

omit, insert—

‘10 business days’.

- (2) Section 554(2), ‘industrial magistrate’—

omit, insert—

‘appeal body’.

73 Replacement of s 555 (Adjourning hearing)

Section 555—

omit, insert—

‘555 Adjourned hearing

- (1) The appeal body may, at any time before or after the start of the hearing, adjourn the hearing if—
- (a) the appeal body is satisfied the hearing could be held more conveniently at a future time; or

- (b) if the appeal body is an industrial magistrate, the appeal body is satisfied that the hearing could be held more conveniently at another place or before another industrial magistrate—
 - (i) having regard to the difficulty or expense of producing witnesses; or
 - (ii) for another appropriate reason.
- ‘(2) If subsection (1)(b) applies—
 - (a) the appeal body 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.’.

74 Amendment of s 556 (Additional medical evidence)

- (1) Section 556(2) and (3), ‘industrial magistrate’—
omit, insert—
‘appeal body’.
- (2) Section 556(3) and (5)(a), ‘the magistrate’—
omit, insert—
‘the appeal body’.

75 Amendment of s 557 (Correcting defects in proceedings)

- (1) Section 557(1), ‘industrial magistrate’—
omit, insert—
‘appeal body’.
- (2) Section 557(2), ‘magistrate’—
omit, insert—
‘appeal body’.
- (3) Section 557(4), ‘magistrate’s’—

omit, insert—

'appeal body's'.

76 Amendment of s 558 (Powers of industrial magistrate)

(1) Section 558, heading—

omit, insert—

'558 Powers of appeal body'.

(2) Section 558(1), 'industrial magistrate'—

omit, insert—

'appeal body'.

(3) Section 558(1)(d) and (2), 'magistrate'—

omit, insert—

'appeal body'.

(4) Section 558(3), 'magistrate's'—

omit, insert—

'appeal body's'.

77 Amendment of s 559 (Decision of industrial magistrate)

(1) Section 559, heading—

omit, insert—

'559 Decision of appeal body'.

(2) Section 559, 'industrial magistrate'—

omit, insert—

'appeal body'.

(3) Section 559(a), 'magistrate's'—

omit, insert—

'appeal body's'.

78 Amendment of s 560 (Recovery of costs)

Section 560(1), 'industrial magistrate'—
omit, insert—
'appeal body'.

79 Amendment of s 561 (Appeal from industrial magistrate to Industrial Court)

(1) Section 561, heading—
omit, insert—

'561 Appeal from appeal body to Industrial Court'.

(2) Section 561(1), 'industrial magistrate's'—
omit, insert—
'appeal body's'.

(3) Section 561(3), 'magistrate'—
omit, insert—
'appeal body'.

80 Amendment of s 566 (Decision about payment of compensation)

Section 566(1), 'an industrial magistrate'—
omit, insert—
'the appeal body'.

81 Amendment of s 569 (Starting appeals)

Section 569(2)(a), 'deemed premium'—
omit, insert—
'deemed levy'.

82 Amendment of s 573 (Disclosure of information)

Section 573—

insert—

- ‘(3A) The Authority may, if asked by an insurer, disclose to the insurer any information it has that is relevant to a claim against the insurer.’.

83 Amendment of s 576 (Information not actionable)

Section 576(2) and (3)—

omit, insert—

- ‘(2) Action can not be brought against the Authority or the insurer, or a person acting for any of them, by a person claiming to be aggrieved about the disclosure in relation to—
- (a) a claimant’s physical or mental condition; or
 - (b) a claimant’s capacity or incapacity for work; or
 - (c) the credibility of any of the following—
 - (i) an employer;
 - (ii) an insurer;
 - (iii) a claimant;
 - (iv) a contributor;
 - (v) another person involved in the claim, if the disclosure is relevant to the claim.
- ‘(3) Subsections (1) and (2) apply to—
- (a) information in the possession of WorkCover only to the extent the information came into WorkCover’s possession—
 - (i) under its powers and functions under the Act; or
 - (ii) because of a disclosure by the Authority under section 573(3A) or an insurer under section 573(4);¹⁶ and

16 Section 573 (Disclosure of information)

- (b) information in the possession of a self-insurer only to the extent the information came into the self-insurer's possession—
 - (i) under its powers and functions under section 92 or 92A;¹⁷ or
 - (ii) because of a disclosure by the Authority under section 573(3A) or an insurer under section 573(4).'

84 Amendment of s 579 (Summary proceedings for offences other than against ch 8)

- (1) Section 579—

insert—

'(1A) A proceeding for an offence committed by WorkCover against section 486B(2)¹⁸ is to be taken in a summary way under the *Justices Act 1886* before an industrial magistrate on the complaint of—

- (a) the chief executive officer of the Authority; or
- (b) a person authorised for the purpose by the chief executive officer of the Authority; or
- (c) the Attorney-General.'

- (2) Section 579(2), 'The proceeding for the offence'—

omit, insert—

'A proceeding for an offence other than an offence against section 486B(2).'

- (3) Section 579(3), 'The'—

omit, insert—

'A'.

- (4) Section 579(3)(b)—

17 Section 92 (Powers of self-insurers) or 92A (Powers of local government self-insurers)

18 Section 486B (Effect of code of practice)

omit, insert—

‘(b) within 6 months after the commission of the offence comes to the knowledge of—

(i) for a proceeding mentioned in subsection (1A)—the chief executive officer of the Authority; or

(ii) for a proceeding mentioned in subsection (2)—the chief executive officer of the Authority or WorkCover;’.

(5) Section 579(4), ‘the proceeding’—

omit, insert—

‘a proceeding’.

(6) Section 579—

insert—

‘(5) A person aggrieved by a decision of the industrial magistrate in the proceeding may appeal against the decision to a District Court judge under the *Justices Act 1886*.’.

85 Omission of s 585 (Entitlements to compensation under industrial instrument prohibited and void)

Section 585—

omit.

86 Insertion of new ch 16

After section 611—

insert—

'Chapter 16 Transitional provisions for Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004

'612 Definitions for ch 16

'In this chapter—

amending Act means the *Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004*.

'613 Workers, employers and injuries

'Sections 11, 30 and 32,¹⁹ as in force immediately before the commencement of this section, continue to apply in relation to an injury sustained by a worker before the commencement as if the amending Act had not been enacted.

'614 Excess period

'Sections 65 and 66,²⁰ as in force immediately before the commencement of this section, continue to apply in relation to an injury sustained by a worker before 1 July 2005 as if the amending Act had not been enacted.

'615 Employers who pay own claims

'The amendments of this Act made by sections 15 to 17 of the amending Act apply only in relation to an injury sustained by a worker on or after 1 January 2005.

19 Sections 11 (Who is a *worker*), 30 (Who is an *employer*) and 32 (Meaning of *injury*)

20 Sections 65 (Meaning of *excess period*) and 66 (Employer's liability for excess period)

'616 Entitlement to compensation

'The following provisions, as in force immediately before 1 January 2005, continue to apply in relation to an injury sustained by a worker before 1 January 2005 as if the amending Act had not been enacted—

- section 105
- chapter 3, part 6, part 10, division 4 and part 11
- section 585.²¹

'617 Decision about application for compensation

'Section 134,²² as in force immediately before the commencement of this section, continues to apply to an application for compensation made before the commencement.

'618 When entitlement to compensation stops

'Section 144B²³ applies only in relation to an injury sustained by a worker on or after the commencement of the section.

'619 Weekly payment for total incapacity

'The provisions of chapter 3, part 9, division 4,²⁴ as in force immediately before the commencement of this section, continue to apply in relation to an injury sustained by a worker before the commencement as if the amending Act had not been enacted.

21 Section 105 (Meaning of *amount payable under an industrial instrument*), chapter 3 (Compensation), part 6 (Maximum statutory compensation), part 10 (Entitlement to compensation for permanent impairment), division 4 (Additional lump sum compensation), part 11 (Compensation on worker's death) and section 585 (Entitlements to compensation under industrial instrument prohibited and void)

22 Section 134 (Decision about application for compensation)

23 Section 144B (When payment of medical treatment, hospitalisation and expenses stops)

24 Chapter 3 (Compensation), part 9 (Weekly payment of compensation), division 4 (Entitlement for total incapacity)

'620 Recovery of compensation claim costs from third party

'The provisions of chapter 3, part 13²⁵ apply only in relation to an application for compensation made on or after the commencement of this section.

'621 Public hospitalisation

'The provisions of chapter 4, part 2, division 3, subdivision 2²⁶ apply only to the hospitalisation of a worker as an in-patient at a public hospital on or after the commencement of this section.

'622 Damages for particular services

'Chapter 5, part 10,²⁷ as in force immediately before the commencement of this section, continues to apply to a proceeding for damages only if the trial in the proceeding was started before the commencement.

'623 Review of decisions of insurer

(1) The provisions of chapter 13, parts 1 and 2,²⁸ as in force immediately before the commencement of this section, continue to apply to a decision of WorkCover or a self-insurer made before the commencement as if the amending Act had not been enacted.

(2) In this section—

decision includes failure to make a decision.

25 Chapter 3 (Compensation), part 13 (Compensation claim costs and third parties)

26 Chapter 4 (Injury management), part 2 (Liability for medical treatment, hospitalisation and expenses), division 3 (Hospitalisation), subdivision 2 (Public hospitalisation)

27 Chapter 5 (Access to damages), part 10 (No right to particular damages)

28 Chapter 13 (Reviews and appeals), parts 1 (Internal review of proposed decisions) and 2 (Authority's review of decisions)

'624 Appeal of review decision

'Sections 548, 549 and 554,²⁹ as in force immediately before the commencement of this section, continue to apply to a review decision of the Authority made before the commencement as if the amending Act had not been enacted.

'625 Appeals generally

'The provisions of chapter 3, part 3, division 1,³⁰ as in force immediately before the commencement of this section, continue to apply to a decision mentioned in section 548³¹ as if the amending Act had not been enacted.'

87 Amendment of sch 2 (Who is a worker)

Schedule 2, heading—

omit, insert—

'Schedule 2 Who is a worker in particular circumstances'.

88 Amendment of sch 3 (Who is an employer)

(1) Schedule 3, heading—

omit, insert—

'Schedule 3 Who is an employer in particular circumstances'.

(2) Schedule 3, part 1, heading—

omit.

(3) Schedule 3, part 1, sections 1, 2 and 3, 'of service'—

29 Sections 548 (Application of div 1), 549 (Who may appeal) and 554 (Exchanging evidence before hearing)

30 Chapter 3 (Compensation), part 3 (Compensation entitlements of particular workers), division 1 (Workers on ships)

31 Section 548 (Application of div 1)

omit, insert—

‘(regardless of whether the contract is a contract of service)’.

- (4) Schedule 3, part 2—

omit.

89 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *amount payable under an industrial instrument, deemed premium and hospitalisation—*

omit.

- (2) Schedule 6—

insert—

‘***amount payable***, under an industrial instrument, see section 107B.

appeal body, for chapter 13, part 3, see section 548A.

compulsory conference see section 289.

contracted hospital see section 215.

contribution claim see section 292A.

contribution notice see section 278A.

contributor means a person added as a contributor under section 278A.

contributor's response see section 278B.

deemed levy means a levy calculated under a regulation.

hospital see section 215.

hospitalisation, of a worker, means the admission of the worker in a private hospital or public hospital for medical treatment for the worker's injury.

party, for chapter 5, see section 233.

private patient see section 215.

public patient see section 215.

superannuation contribution means a superannuation contribution under the *Payroll Tax Act 1971*.

usual employment see section 107C.’.

- (3) Schedule 6, definition *wages*, paragraph (b)—
omit, insert—

‘(b) superannuation contributions, for deciding the amount of compensation payable to a worker under chapter 3 or 4; and’.

Part 3 Amendment of Workplace Health and Safety Act 1995

90 Act amended in pt 3 and sch

This part and the schedule amend the *Workplace Health and Safety Act 1995*.

91 Amendment of s 3A (Relationship with Electrical Safety Act 2002)

Section 3A(3), example, ‘at work’—
omit.

92 Replacement of s 9 (What is a *workplace*?)

Section 9—
omit, insert—

‘9 What is a *workplace*?

‘A ***workplace*** is any place where work is, or is to be, performed by—

- (a) a worker; or
- (b) a person conducting a business or undertaking.

Examples—

- 1 a construction workplace
- 2 a vessel used for teaching members of the public to scuba dive
- 3 a vehicle supplied by an employer for use by a worker in the performance of work'.

93 Amendment of s 10 (Who is an *employer*?)

Section 10(1)(a), 'for gain or reward'—
omit.

94 Amendment of s 14 (What is a *construction workplace*?)

Section 14(1)(a), 'after discounting for'—
omit, insert—
'including'.

95 Omission of s 16 (When is a worker at work?)

Section 16—
omit.

96 Amendment of s 26 (How obligations can be discharged if regulation etc. made)

Section 26(3), after 'obligation'—
insert—
'for exposure to the risk'.

97 Amendment of s 28 (Obligations of employers)

Section 28(1) and (2)—
omit, insert—

- '(1) An employer has an obligation to ensure each of the employer's workers is not exposed to risks to their health and

safety arising out of the conduct of the employer's business or undertaking.

- '(2) 'An employer has an obligation to ensure the employer is not exposed to risks to their health and safety arising out of the conduct of the employer's business or undertaking.'

98 Amendment of s 29 (Obligations of self-employed persons)

Section 29(1)—

omit, insert—

- '(1) A self-employed person has an obligation to ensure the self-employed person is not exposed to risks to their health and safety arising out of the conduct of the self-employed person's business or undertaking.'

99 Amendment of s 29A (Obligations of persons conducting business or undertaking)

- (1) Section 29A(1)—

omit, insert—

- '(1) A person (the *relevant person*) who conducts a business or undertaking has an obligation to ensure each person who performs a work activity for the purposes of the business or undertaking is not exposed to risks to their health and safety.'

- (2) Section 29A(2), example, from 'section 28'—

omit, insert—

'section 28 to ensure the person's own employees, if any, are not exposed to risks to their health and safety, the person also has, under this section, an obligation to ensure the labour hire employees are not exposed to risks to their health and safety while they are performing the work activity.'

100 Amendment of s 38 (Regulations)

Section 38(7)(b), 'registrable workplaces and'—

omit.

101 Replacement of s 41 (Advisory standards and industry codes of practice)

Section 41—

omit, insert—

‘41 Code of practice about managing exposure to risks

- ‘(1) The Minister may make a code of practice that states ways to manage exposure to risks common to industry or a part of industry.

Example of a code of practice—

A code of practice about managing noise exposure may provide advice about identifying sources of noise, assessing actual or potential levels of noise exposure and eliminating or minimising noise exposure as a risk to health at a workplace.

Example of a part of industry—

- 1 the rural sector
- 2 canegrowing within the rural sector

- ‘(2) The Minister must notify the making of a code of practice.
- ‘(3) A code of practice expires 10 years after its commencement.
- ‘(4) The Minister must ensure that a copy of each code of practice and any document applied, adopted or incorporated by the code of practice is made available for inspection, without charge, during normal business hours at each department office dealing with workplace health and safety.
- ‘(5) A notice mentioned in subsection (2) is subordinate legislation.’.

102 Insertion of new s 42DA

After section 42D—

insert—

‘42DA Giving workplace health and safety undertaking

- ‘(1) This section applies if the identified person proposes to make a workplace health and safety undertaking.
- ‘(2) The undertaking must be received by the chief executive within the time prescribed under a regulation.’.

103 Amendment of s 42I (Contravention of workplace health and safety undertaking)

(1) Section 42I(2), 'the industrial court'—

omit, insert—

'an industrial magistrate'.

(2) Section 42I(3) and (4), 'court'—

omit, insert—

'magistrate'.

104 Insertion of new s 103A

Part 9, division 2, before section 104—

insert—

'103A Inspectors may give advice to persons with workplace health and safety obligation

'An inspector may give advice to a person who has a workplace health and safety obligation in relation to the person's compliance with this Act.'

105 Amendment of s 108 (General powers after entering places)

Section 108(5), after 'for the person'—

insert—

', if the person is an individual,'.

106 Amendment of s 117 (Improvement notice)

(1) Section 117(2), from 'may' to 'require'—

omit, insert—

'may direct'.

(2) Section 117—

insert—

- '(2A) The direction may be given orally, but must be confirmed by written notice (an **improvement notice**) given to the person as soon as practicable.'
- (3) Section 117(3)(c)—
omit, insert—
'(c) briefly, how the provision is being, or has been, contravened; and'.
- (4) Section 117(4)—
omit, insert—
- '(4) The person must comply with—
(a) the direction; and
(b) the improvement notice.
Maximum penalty for subsection (4)—40 penalty units.'

107 Amendment of s 118 (Prohibition notice)

- (1) Section 118(1) and (2)—
omit, insert—
- '(1) This section applies if an inspector reasonably believes that circumstances causing, or likely to cause, a risk of serious bodily injury, work caused illness or a dangerous event have arisen, or are likely to arise, in relation to a workplace, relevant workplace area, work activity, plant or substance.
- '(2) The inspector may direct the person in control of the workplace, relevant workplace area, work activity, plant or substance that caused or is likely to cause, the circumstances to stop using, or allowing to be used, the workplace, area, plant or substance or to stop the activity.'
- (2) Section 118(4)—
omit, insert—
- '(4) The person must comply with—
(a) the direction; and
(b) the prohibition notice.'

Maximum penalty—40 penalty units or 6 months imprisonment.’.

- (2A) Section 118(6)(a), ‘an immediate’—

omit, insert—

‘the’.

- (3) Section 118(6)(c) and (d)—

omit.

- (4) Section 118(7)—

omit, insert—

- ‘(7) For this section, a person is *in control* of a workplace, relevant workplace area, work activity, plant or substance if the person has, or reasonably appears to have, authority to exercise control over the workplace, area, activity, plant or substance.’.

108 Amendment of s 120 (Power to require name and address)

- (1) Section 120(1)(a) and (b), ‘at a workplace’—

omit.

- (2) Section 120(1)(b), ‘just’—

omit.

109 Amendment of s 121 (Power to inquire into workplace incident)

Section 121(6), after ‘for the person’—

insert—

‘, if the person is an individual,’.

110 Amendment of s 122 (Power to require production of certain documents)

Section 122(3)—

omit, insert—

- '(3) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement under subsection (1)(b) if complying with the requirement might tend to incriminate the person.'

111 Amendment of s 144 (Offences by witnesses)

Section 144(4), 'It'—

omit, insert—

'If the person is an individual, it'.

112 Replacement of s 182 (Revocation of accredited provider's appointment)

Section 182—

omit, insert—

'182 Suspension or revocation of accredited provider's appointment

'The chief executive may suspend or revoke an accredited provider's appointment.³²'.

113 Replacement of pt 17, divs 2 and 3

Part 17, divisions 2 and 3—

omit, insert—

'Division 2 Transitional provisions for Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004

'190 Existing advisory standards

- '(1) The *Workplace Health and Safety (Advisory Standards) Notice 1998* (the *notice*) is repealed.

32 An accredited provider may appeal under section 152 (Who may appeal?) against a decision to suspend or revoke the officer's appointment.

- '(2) The advisory standards mentioned in the notice, and as in force immediately before the commencement of this section—
- (a) are continued in force as codes of practice; and
 - (b) expire 10 years after their commencement.
- '(3) To remove any doubt, it is declared that subsection (2)(b) does not prevent a statutory instrument, mentioned in the subsection and being continued in force, from being amended or repealed before its expiry under this Act.

'191 Existing codes of practice

- '(1) The industry codes of practice mentioned in the *Workplace Health and Safety (Industry Codes of Practice) Notice 1999*, and as in force immediately before the commencement of this section—
- (a) are continued in force as codes of practice; and
 - (b) expire 10 years after their commencement.
- '(2) To remove any doubt, it is declared that subsection (1)(b) does not prevent a statutory instrument, mentioned in the subsection and being continued in force, from being amended or repealed before its expiry under this Act.'

114 Amendment of sch 2 (Specified high risk plant)

- (1) Schedule 2, section 1, 'gas cylinder'—
omit, insert—
'LP gas cylinder'.
- (2) Schedule 2, section 2, definition *gas cylinder*—
omit, insert—
'***LP gas cylinder*** means a cylinder with a water capacity of more than 0.1 kg that contains liquefied petroleum gas under pressure.'

115 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *gas cylinder* and *workplace activity*—
omit.
- (2) Schedule 3—
insert—
'LP gas cylinder see schedule 2.
waters include Queensland waters.'
- (3) Schedule 3, definition *place*, 'or under the water'—
omit, insert—
' , under'.
- (4) Schedule 3, definition *workplace incident*—
omit, insert—
'workplace incident means—
 - (a) an incident resulting in a person suffering—
 - (i) a work injury; or
 - (ii) a work caused injury; or
 - (b) an incident resulting in a dangerous event; or
 - (c) another matter decided by the Minister to be a workplace incident.'

Part 4 Amendment of Electrical Safety Act 2002

116 Act amended in pt 4 and sch

This part and the schedule amend the *Electrical Safety Act 2002*.

117 Amendment of s 14 (Meaning of *electrical equipment*)

- (1) Section 14(1)(c)—
renumber as section 14(1)(d).
- (2) Section 14(1)—
insert—
'(c) operated by electricity at an extra low voltage, if the equipment forms part of an electrical installation located in a hazardous area; or'.
- (3) Section 14—
insert—
'(3) In this section—
'hazardous area has the meaning given by AS/NZS 3000³³ as in force from time to time.'

118 Amendment of s 18 (Meaning of *electrical work*)

- (1) Section 18(2)(d), from 'registered' to '1995'—
omit, insert—
'under the *Workplace Health and Safety Act 1995* that is prescribed under a regulation for this paragraph'.
- (2) Section 18(2)(j)—
renumber as section 18(2)(n).
- (3) Section 18(2)—
insert—
'(j) erecting structures for the support of electrical equipment;
Examples of structures—
electric poles and towers

³³ AS/NZS 3000 (Electrical installations), known as the Australian/New Zealand Wiring Rules, is a standard published jointly by Standards Australia and Standards New Zealand. It may be purchased from Standards Australia.

- (k) locating, mounting or fixing in place electrical equipment, other than—
 - (i) making or terminating electrical connections to the equipment; or
 - (ii) installing supply conductors that will connect the equipment to a supply of electricity;
- (l) assisting a licensed electrical worker to perform work on electrical equipment under the direct supervision of the electrical worker, if performing the work does not involve the person directly contacting live electrical equipment;
- (m) maintaining the structural parts of the electrical traction system on a railway, other than overhead electric lines, that forms part of the works of an electrical entity, if the work is structural work performed under a safe system of work;’.

119 Amendment of s 44 (Code of practice about discharging electrical safety obligation)

Section 44(2)—

omit, insert—

- ‘(2) A code of practice expires 10 years after its commencement.’.

120 Insertion of new s 49A

After section 49—

insert—

‘49A Giving electrical safety undertaking

- ‘(1) This section applies if the identified person proposes to make an electrical safety undertaking.
- ‘(2) The undertaking must be received by the chief executive within the time prescribed under a regulation.’.

121 Amendment of s 54 (Contravention of electrical safety undertaking)

(1) Section 54(2), 'the industrial court'—

omit, insert—

'an industrial magistrate'.

(2) Section 54(3) and (4), 'court'—

omit, insert—

'magistrate'.

122 Insertion of new pt 4, div 1A

After section 57—

insert—

'Division 1A Rectification of defective electrical work

'57A Power of chief executive to direct defective electrical work to be rectified

'(1) This section applies if—

(a) the chief executive considers that a person has contravened section 55 or 56;³⁴ and

(b) the chief executives considers that —

(i) the way the electrical work was performed was not electrically safe; or

(ii) the person who actually performed the electrical work was negligent or incompetent in performing the work; or

(iii) because of the performance of the work, a person or property is not electrically safe.

'(2) The chief executive may direct the person to rectify the electrical work.

34 Section 55 (Requirement for electrical work licence) or 56 (Requirement for electrical contractor licence)

'57B Notice of proposed action

- '(1) Before the chief executive gives a direction to rectify the electrical work, the chief executive must give the person a written notice—
- (a) stating that the chief executive proposes to direct the person to rectify the electrical work within the period stated in the direction (the *proposed action*); and
 - (b) stating the grounds for the proposed action; and
 - (c) outlining the facts and circumstances forming the basis for the grounds; and
 - (d) inviting the person to show, within a stated time of at least 14 days, why the proposed action should not be taken.
- '(2) The chief executive must consider any representations made by the person within the stated time.
- '(3) If the chief executive still considers a ground exists to take the proposed action, the chief executive may direct the person to rectify the electrical work within the period stated in the direction.
- '(4) The chief executive must give the person—
- (a) written notice of the decision; and
 - (b) include with the written notice an information notice for the decision.
- '(5) If the direction is given to a person who is not currently licensed to carry out the required work, the person must have the work carried out by a licensed contractor.
- '(6) The person to whom the direction is given must comply with the requirement, unless the person has a reasonable excuse.
- Maximum penalty—100 penalty units.
- '(7) It is not a reasonable excuse for a person not to comply with the requirement that a contractor engaged by the person to perform the work had failed to perform the work.'

123 Insertion of new pt 4, div 2A

After section 64—

insert—

'Division 2A Miscellaneous requirements

'64A Chief executive may ask for further information or documents from licence holder

- '(1) The chief executive may, by written notice given to the holder of an electrical licence, require the person to give the chief executive, within a reasonable period of at least 21 days stated in the notice, information or a document the chief executive reasonably requires to satisfy the chief executive that the person continues to satisfy the eligibility requirements for the issue of the licence.

Example of information—

The person continues to hold public liability insurance of the required amount under a contract of insurance approved by the chief executive.

- '(2) The chief executive may, in the notice, require the person to verify the further information or document by statutory declaration.
- '(3) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.'

124 Amendment of s 88 (Functions of licensing committee)

Section 88(1)(c), 'hear appeals against'—

omit, insert—

'review'.

125 Replacement of s 134 (Revocation of accredited auditor's appointment)

Section 134—

omit, insert—

'134 Suspension or revocation of accredited auditor's appointment

'The chief executive may suspend or revoke an accredited auditor's appointment.'

126 Insertion of new s 143A

Part 11, division 3, before section 144—

insert—

'143A Inspectors may give advice to persons with electrical safety obligation

'An inspector may give advice to a person who has an electrical safety obligation in relation to the person's compliance with this Act.'

127 Amendment of s 144 (General powers after entering place)

Section 144(6), after 'for the person'—

insert—

‘, if the person is an individual,’.

128 Amendment of s 153 (Improvement notice)

Section 153(4)(c)—

omit, insert—

‘(c) briefly, how the provision is being, or has been, contravened; and’.

129 Amendment of s 154 (Electrical safety protection notice)

Section 154(8)(e)—

omit.

130 Amendment of s 157A (Power to inquire into serious electrical incident or dangerous electrical event)

Section 157A(6), after 'for the person'—

insert—

' , if the person is an individual, '.

131 Amendment of s 158 (Power to require production of certain documents)

Section 158(3), 'It'—

omit, insert—

'If the person is an individual, it'.

132 Insertion of new pt 16

After section 241—

insert—

**'Part 16 Transitional provision for
Workers' Compensation and
Rehabilitation and Other Acts
Amendment Act 2004**

'242 Existing codes of practice

'(1) The codes of practice mentioned in the *Electrical Safety (Codes of Practice) Notice 2002*, and as in force immediately before the commencement of this section, expire 10 years after their commencement.

'(2) To remove any doubt, it is declared that subsection (1) does not prevent a code of practice mentioned in the subsection from being amended or repealed before its expiry under this Act.'

'50 Displacement of trading hours order

- '(1) This part applies only to a non-exempt shop in the south-east Queensland area to which the trading hours order applies.
- '(2) Despite section 28,³⁸ the trading hours order does not apply to a non-exempt shop in the south-east Queensland area to the extent the order is inconsistent with this part.

'51 Allowable hours on Sunday 26 December 2004

- '(1) On Sunday 26 December 2004, the occupier of a non-exempt shop, other than an excluded shop, must ensure the shop is closed.

Maximum penalty—40 penalty units.

- '(2) In this section—

excluded shop means a non-exempt shop in the following areas as defined in the trading hours order—

- (a) gold coast area;
- (b) sunshine coast area.

'52 Work on Sunday 26 December 2004 to be on a voluntary basis

'An employer must not require an employee to work on Sunday 26 December 2004 unless the employee agrees, in writing, to work on that day.

Maximum penalty—16 penalty units.

'53 Expiry of part

'This part expires on 31 March 2005.'

38 Section 28 (Occupier to comply with order relating to premises)

Schedule Minor amendments

sections 3, 90 and 116

Workers' Compensation and Rehabilitation Act 2003

- 1 Sections 58(6) and (10), 62(1)(b), 80(3) and 583(4)(g),
'21 days'—**
omit, insert—
'15 business days'.
- 2 Sections 66(5), 136(1), 167(2), 185(1), 278(2), (3) and (4),
281(6), 292(2), 542(6), 546(1) and 550(6), '14 days'—**
omit, insert—
'10 business days'.
- 3 Sections 77(3), 96(1)(b), 97(2), 101(2)(b) and (5), 102(4)(b),
131(2), 186(2), 190(2)(b), 542(4)(a), 550(1)(a), (b) and (2),
552(2), 569(4) and 572(2), '28 days'—**
omit, insert—
'20 business days'.
- 4 Section 77(4), '3 months'—**
omit, insert—
'60 business days'.
- 5 Section 79(2) and (3) and 103(3), '90 days'—**
omit, insert—
'60 business days'.

Schedule (continued)

- 6 Sections 77(5), 278(5), 281(5), 290(5) and (8), 372(3), 468(3), 510(2)(a), 542(4)(b) and 544(1)(a), '7 days'—**
omit, insert—
'5 business days'.
- 7 Section 80(2)(d), '42 days'—**
omit, insert—
'30 business days'.
- 8 Section 92(4), before 'exercised'—**
insert—
'performed or'.
- 9 Section 92(5), 'exercise the self-insurer's functions and'—**
omit, insert—
'perform the self-insurer's functions or exercise the self-insurer's'.
- 10 Section 92(7), 'and exercise the functions and'—**
omit, insert—
'the functions and exercise the'.
- 11 Section 96(3) and 133(3), '10 days'—**
omit, insert—
'8 business days'.
- 12 Chapter 3, part 9, division 8, heading—**
omit.

Schedule (continued)

- 13 Section 210, heading—**
omit, insert—
- '210 Insurer's liability for medical treatment, hospitalisation and expenses'.**
- 14 Section 282(1)(a), 'or'—**
omit.
- 15 Section 290(4), '30 days'—**
omit, insert—
'21 business days'.
- 16 Section 291, 'section 290(7)'—**
omit, insert—
'section 290A(3)'.
- 17 Section 545(1), '35 days'—**
omit, insert—
'25 business days'.
- 18 Chapter 13, part 3, division 1, heading, after 'magistrate'—**
insert—
' , industrial commission'.
- 19 Section 550(3), '28 day'—**
omit.

Schedule (continued)

20 Chapter 15, heading—

omit, insert—

‘Chapter 15 Transitional provisions for Act No. 27 of 2003’.

21 Schedule 2, part 1, section 1, after ‘only’, second mention—

insert—

‘is a worker’.

22 Schedule 2, part 1, section 2, before ‘unless’—

insert—

‘is a worker’.

23 Schedule 2, part 1, section 3, before ‘if’—

insert—

‘is a worker’.

24 Schedule 2, part 1, section 4, after ‘by commission’—

insert—

‘is a worker’.

25 Schedule 2, part 1, section 5, after ‘schedule,’—

insert—

‘is a worker’.

Schedule (continued)

- 26** **Schedule 2, part 1, section 6, after 'else'—**
insert—
 'is a worker'.
- 27** **Schedule 2, part 1, section 7, after 'other person'—**
insert—
 'is a worker'.
- 28** **Schedule 2, part 1, section 8, after 'another person'—**
insert—
 'is a worker'.
- 29** **Schedule 2, part 2, section 1, 'who'—**
omit, insert—
 'is not a worker if the person'.
- 30** **Schedule 2, part 2, section 2, 'while'—**
omit, insert—
 'is not a worker while the person is'.
- 31** **Schedule 2, part 2, section 3, before 'if'—**
insert—
 'is not a worker'.
- 32** **Schedule 2, part 2, section 4, after 'tuition'—**
insert—
 'is not a worker'.

Schedule (continued)

33 Schedule 2, part 2, section 5, after '606'—

insert—

'is not a worker'.

Workplace Health and Safety Act 1995

34 Sections 5, 6(a) and (b), 7(1) and (2), 22(1)(a) and (b), 31(1)(c) and 97(a), 'workplace activities'—

omit, insert—

'work activities'.

35 Sections 7(1), second example, 42C(1)(a)(i), schedule 3, definitions *dangerous event*, *work caused illness*, paragraphs (a) and (b) and *work injury*, paragraphs (a), (b)(ii) and (c), 'workplace activity'—

omit, insert—

'work activity'.

36 Section 7(3)(b), 'and advisory standards'—

omit, insert—

'and codes of practice'.

37 Section 26(3), 27(1), 37(1)(b) and 42, 'an advisory standard or industry'—

omit, insert—

'a'.

Schedule (continued)

38 Section 37(1)(c) and (3) and 45(2)(e), ‘, advisory standard or industry’—

omit, insert—

‘or’.

39 Section 37(3), ‘, standard’—

omit.

40 Part 4, heading—

omit, insert—

‘Part 4 Regulations, codes of practice and ministerial notices’.

41 Part 4, division 2, heading—

omit, insert—

‘Division 2 Codes of practice’.

42 Section 42, heading—

omit, insert—

‘42 Use of code of practice in proceedings’.

43 Section 42, ‘the standard or’—

omit, insert—

‘the’.

44 Section 42(c), ‘advisory standard or industry’—

omit.

Schedule (continued)

- 45 Section 42C(6), 'or advisory standard'—**
omit.
- 46 Section 45(2)(n), 'advisory standards and industry'—**
omit.
- 47 Section 56(2)(c), example, 'an industry'—**
omit, insert—
'a'.
- 48 Section 123, heading, after 'workplace,'—**
insert—
'relevant workplace area,'
- 49 Section 123(1), after 'workplace,'—**
insert—
'or a relevant workplace area,'.
- 50 Section 123(2), after 'part,'—**
insert—
'relevant workplace area,'.
- 51 Section 123(2), example, after 'a workplace'—**
insert—
' , relevant workplace area'.

Schedule (continued)

52 Section 123(2), example, after 'the workplace'—

insert—

'or relevant workplace area'.

53 Section 164(4), 'Workplace Relations Act 1997' and footnote—

omit, insert—

'Industrial Relations Act 1999'.

Electrical Safety Act 2002

54 Section 30(3), 'subsection (1)'—

omit, insert—

'subsection (2)'.

55 Part 15, heading—

omit, insert—

'Part 15 Transitional provisions for Act No. 42 of 2002'.