



Queensland

Workers' Compensation and Rehabilitation and Other Acts Amendment Bill 2004



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2004

A Bill

for

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

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	The Parliament of Queensland enacts—	1
	 Part 1 Preliminary	 2
Clause 1	Short title	3
	This Act may be cited as the <i>Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004</i> .	4 5
Clause 2	Commencement	6
	(1) The following provisions commence on 1 January 2005—	7
	• sections 12 to 17	8
	• section 19	9
	• sections 28 to 31	10
	• section 85	11
	• section 86 (to the extent it inserts sections 615 and 616)	12
	• section 89(1) (to the extent it omits definition <i>amount payable under an industrial instrument</i>)	13 14
	• section 89(2) (to the extent it inserts definitions <i>amount payable</i> and <i>usual employment</i>)	15 16
	• section 102	17
	• section 120.	18
	(2) Sections 100 and 118(1) commence on 1 February 2005.	19
	(3) The following provisions commence on 1 July 2005—	20
	• sections 8 and 9	21
	• section 61	22
	• section 86 (to the extent it inserts section 614)	23
	• section 89(3).	24
	(4) The following provisions commence on a day to be fixed by proclamation—	25 26

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- '(2) Also, schedule 2, part 1 sets out who is a **worker** in particular circumstances. 1
2
- '(3) However, schedule 2, part 2 sets out who is not a **worker** in particular circumstances. 3
4
- '(4) Only an individual can be a **worker** for this Act.'. 5

- Clause 5 Replacement of s 30 (Who is an employer)** 6
- Section 30— 7
- omit, insert—* 8
- '30 Who is an employer** 9
- '(1) An **employer** is a person— 10
- (a) for whom an individual works under a contract of service; or 11
12
- (b) who enters into a contract with an individual in the circumstances mentioned in schedule 2, part 1. 13
14
- '(2) Also, schedule 3 sets out who is an **employer** in particular circumstances. 15
16
- '(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. 17
18
19
20
- '(4) In this section— 21
- contract** includes agreement and arrangement. 22
- person** includes— 23
- (a) a government entity; and 24
- (b) the legal personal representative of a deceased individual.'. 25
26

- Clause 6 Amendment of s 32 (Meaning of injury)** 27
- Section 32(5)(c), after 'action by'— 28
- insert—* 29
- 'the Authority or'. 30

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Clause 7	Amendment of s 50 (When an employer contravenes the general obligation to insure)	1 2
	Section 50(a), 'before or immediately'—	3
	<i>omit, insert</i> —	4
	'within 5 business days'.	5
Clause 8	Replacement of s 65 (Meaning of <i>excess period</i>)	6
	Section 65—	7
	<i>omit, insert</i> —	8
'65	What is the <i>excess period</i>	9
	'(1) The <i>excess period</i> , 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	10 11 12 13
	'(2) The <i>excess period</i> ends at the end of the day that the amount of weekly compensation paid to the worker exceeds an amount prescribed under a regulation.'	14 15 16
Clause 9	Amendment of s 66 (Employer's liability for excess period)	17 18
	Section 66(2), before 'compensation'—	19
	<i>insert</i> —	20
	'weekly payment of'.	21
Clause 10	Amendment of s 81 (Annual levy payable)	22
	Section 81(2)—	23
	<i>omit, insert</i> —	24
	'(2) The levy may include—	25

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

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- (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’.

Clause 11	Amendment of s 84 (Bank guarantee or cash deposit)	9
	Section 84(3)—	10
	<i>omit, insert—</i>	11
	‘(3) The estimated claims liability—	12
	(a) must be assessed annually by an actuary approved by the Authority; and	13 14
	(b) must be calculated in the way prescribed under a regulation.’.	15 16
Clause 12	Replacement of ch 3, pt 1 hdg	17
	Chapter 3, part 1, heading—	18
	<i>omit, insert—</i>	19
	‘Part 1 Interpretation’.	20
Clause 13	Omission of s 105 (Meaning of <i>amount payable under an industrial instrument</i>)	21 22
	Section 105—	23
	<i>omit.</i>	24
Clause 14	Insertion of new ch 3, pt 1A	25
	After section 107—	26

² Section 364 (Funds and accounts)

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'107C Meaning of <i>usual employment</i>	1
'(1) A worker's <i>usual employment</i> is the worker's permanent position or classification of employment.	2 3
'(2) However, if a worker is temporarily appointed to another position or classification for a period, the worker's <i>usual employment</i> for the period of the temporary appointment is the temporary position or classification.	4 5 6 7
<i>Example of usual employment for subsection (2)—</i>	8
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.	9 10 11 12 13
'107D Entitlements to compensation under industrial instrument generally prohibited and void	14 15
'(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.	16 17 18 19
'(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.	20 21 22 23
'(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.	24 25 26 27
'(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.	28 29 30 31 32 33

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'107E Authority's board may approve amount payable under industrial instrument	1 2
'(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.	3 4 5 6
'(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.	7 8 9
'(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.	10 11 12 13
'(4) In deciding whether or not to approve the amount, the board must have regard to—	14 15
(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	16 17 18 19 20
(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.	21 22 23 24
'(5) The board must make a decision within 25 business days after it receives the request.	25 26
'(6) If the board refuses to approve the amount, the employer may appeal under chapter 13. ⁴	27 28
'(7) In this section—	29
<i>employee organisation</i> means an organisation of employees.	30
<i>workplace agreement</i> means—	31

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

4 Chapter 13 (Reviews and appeals)

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- | | | |
|--|---|--------|
| | (a) a Queensland workplace agreement under the <i>Industrial Relations Act 1999</i> ; or | 1
2 |
| | (b) an Australian workplace agreement under the <i>Workplace Relations Act 1996</i> (Cwlth). ⁷ . | 3
4 |

Clause 15	Amendment of s 109 (Who must pay compensation)	5
	Section 109(3)—	6
	<i>omit, insert—</i>	7
	‘(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.	8 9 10 11
	‘(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—	12 13 14 15
	(a) the worker has made an application for compensation under section 132; ⁵ and	16 17
	(b) the employer has complied with section 133A. ⁶	18
	‘(5) Subsections (2) and (3) are subject to section 66.’ ⁷ .	19
 Clause 16	 Insertion of new s 109A	 20
	After section 109—	21
	<i>insert—</i>	22
	‘109A When an employer contravenes obligation not to pay compensation payable by WorkCover	23 24
	‘(1) This section applies if an employer contravenes section 109(3).	25 26

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)

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- '(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. 1
2
3
- '(3) WorkCover may recover the amount from the employer— 4
(a) as a debt; or 5
(b) as an addition to a premium payable by the employer. 6
- '(4) The employer may apply in writing to WorkCover to waive or reduce the penalty because of extenuating circumstances. 7
8
- '(5) The application must specify the extenuating circumstances and the reasons the penalty should be waived or reduced in the particular case. 9
10
11
- '(6) WorkCover must consider the application and may— 12
(a) waive or reduce the penalty; or 13
(b) refuse to waive or reduce the penalty. 14
- '(7) If the employer is aggrieved by WorkCover's decision, the employer may have the decision reviewed under chapter 13.⁸. 15
16

- Clause 17 Insertion of new s 133A** 17
After section 133— 18
insert— 19
- '133A Employer's duty to tell WorkCover if worker asks for, or employer makes, a payment** 20
21
- '(1) An employer, other than a self-insurer, must give WorkCover written notice in the approved form if— 22
23
(a) a worker asks the employer for compensation for an injury sustained by the worker; or 24
25
(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. 26
27
28
29

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- '(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.'

- Clause 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).'

- Clause 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.

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Clause 20	Insertion of new ch 3, pt 8A	1
	After section 144—	2
	<i>insert—</i>	3
	‘Part 8A	4
	When entitlement to compensation stops	5
	‘144B When payment of medical treatment, hospitalisation and expenses stops	6 7
	‘The entitlement of a worker to the payment of medical treatment, hospitalisation and expenses under chapter 4 ⁹ for an injury stops when—	8 9 10
	(a) the entitlement of the worker to weekly payments of compensation under part 9 ¹⁰ stops; and	11 12
	(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.’.	13 14 15 16
Clause 21	Amendment of s 150 (Total incapacity—workers whose employment is governed by an industrial instrument)	17 18
	(1) Section 150(1)(b), ‘26 weeks’—	19
	<i>omit, insert—</i>	20
	‘39 weeks’.	21
	(2) Section 150(1)(b) and (c)—	22
	<i>renumber</i> as section 150(1)(c) and (d).	23
	(3) Section 150(1)—	24
	<i>insert—</i>	25

9 Chapter 4 (Injury management)

10 Part 9 (Weekly payments of compensation)

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- '(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 150(2), 'subsection (1)(b) or (c)'—
omit, insert—
'subsection (1)(b), (c) or (d)'.

Clause 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'.

Clause 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).

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- (3) Section 152(1)— 1
insert— 2
 ‘(b) from the end of the first 26 weeks of the incapacity until 3
 the end of the first 39 weeks of the incapacity, the 4
 greater of the following— 5
 (i) 75% of the worker’s NWE; 6
 (ii) 65% of QOTE; and’. 7
- (4) Section 152(2), ‘subsection (1)(b) or (c)’— 8
omit, insert— 9
 ‘subsection (1)(b), (c) or (d)’. 10

Clause 24 Amendment of s 157 (Total incapacity) 11

- (1) Section 157(5)(b), ‘26 weeks’— 12
omit, insert— 13
 ‘39 weeks’. 14
- (2) Section 157(5)(b) and (c)— 15
renumber as section 157(5)(c) and (d). 16
- (3) Section 157(5)— 17
insert— 18
 ‘(b) from the end of the first 26 weeks of the incapacity until 19
 the end of the first 39 weeks of the incapacity, the 20
 greater of the following— 21
 (i) 65% of QOTE; 22
 (ii) the reasonable cost of labour paid to replace the 23
 person; and’. 24

Clause 25 Amendment of s 159 (Total incapacity) 25

- (1) Section 159(1)(b), ‘26 weeks’— 26
omit, insert— 27
 ‘39 weeks’. 28

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(2) Section 159(1)(b) and (c)—	1
<i>renumber</i> as section 159(1)(c) and (d).	2
(3) Section 159(1)—	3
<i>insert</i> —	4
‘(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—	5 6 7
(i) the greater of the following—	8
(A) 75% of the amount stated in the person’s contract of insurance;	9 10
(B) 65% of QOTE;	11
(ii) if the person replaces the person’s labour—the payment under subsection (2); and’.	12 13
(4) Section 159(2), ‘and (b)(ii)’—	14
<i>omit, insert</i> —	15
‘, (b)(ii) and (c)(ii)’.	16
(5) Section 159(3), ‘subsection (1)(b) or (c)’—	17
<i>omit, insert</i> —	18
‘subsection (1)(b), (c) or (d)’.	19
Clause 26	20
Amendment of s 160 (Total incapacity—reference about impairment to medical assessment tribunal)	21
Section 160(1)—	22
<i>omit, insert</i> —	23
‘(1) This section applies if—	24
(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	25 26 27 28
(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	29 30

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	a person can not agree that the injury could result in a WRI of 15% or less.’.	1 2
Clause 27	Amendment, relocation and renumbering of s 177 (When weekly payments stop)	3 4
	(1) Section 177, heading—	5
	<i>omit, insert—</i>	6
	‘177 When weekly payments of compensation stop’.	7
	(2) Section 177(1), ‘under this part’—	8
	<i>omit, insert—</i>	9
	‘of compensation under part 9’.	10
	(3) Section 177—	11
	<i>relocate and renumber</i> , in chapter 3, part 8A, as section 144A.	12
Clause 28	Amendment of s 192 (Additional lump sum compensation for certain workers)	13 14
	Section 192(2), ‘\$157 955’—	15
	<i>omit, insert—</i>	16
	‘\$174 625’.	17
Clause 29	Amendment of s 193 (Additional lump sum compensation for gratuitous care)	18 19
	Section 193(6), ‘\$195 960’—	20
	<i>omit, insert—</i>	21
	‘\$216 635’.	22
Clause 30	Amendment of s 200 (Total dependency)	23
	(1) Section 200(2)(a), ‘\$263 255’—	24
	<i>omit, insert—</i>	25
	‘\$300 000’.	26
	(2) Section 200(2)(b), ‘\$9 875’—	27

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omit, insert—

'\$10 925'.

1

2

Clause 31 Amendment of s 202 (Workers under 21)

3

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

4

omit, insert—

5

'\$16 480'.

6

Clause 32 Insertion of new ch 3, pt 13

7

Chapter 3, after section 207—

8

insert—

9

**'Part 13 Compensation claim costs and
third parties**

10

11

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

12

- '(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.

13

14

15

16

17

Examples of reports—

18

- medical reports

19

- traffic incident reports

20

- '(2) The insurer—

21

- (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

22

23

24

- (b) may recover from the person as a debt a reasonable proportion of the costs reasonably incurred by the insurer in obtaining the reports.

25

26

27

- '(3) In deciding what is a reasonable proportion of the costs for subsection (2), a court must consider the extent to which the

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report is used for the purposes of managing the claim or
deciding liability. 1
2

‘(4) In this section— 3
report includes advice.’. 4

**Clause 33 Amendment of s 211 (Extent of liability for medical
treatment)** 5
6

Section 211(1)(b), ‘private’— 7
omit. 8

**Clause 34 Amendment of s 212 (Extent of liability for prosthetic
expenses)** 9
10

Section 212(3)— 11
omit. 12

Clause 35 Insertion of ch 4, pt 2, div 3, sdiv 1 hdg 13

Chapter 4, part 2, division 3, before section 215— 14
insert— 15

‘Subdivision 1 Interpretation’. 16

Clause 36 Amendment of s 215 (Definitions for div 3) 17

(1) Section 215, definitions *private hospital* and *public hospital*— 18
omit. 19

(2) Section 215— 20
insert— 21

‘*contracted hospital* means a hospital that provides public
health services to a patient under a contractual arrangement
with the State, but does not include— 22
23
24

(a) a public sector hospital under the *Health Services Act
1991*; or 25
26

(b) a Mater Misericordiae Public Hospital. 27

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<i>hospital</i> includes a day hospital.	1
<i>private hospital</i> means a hospital to which a worker is admitted as a private patient.	2 3
<i>private patient</i> means a worker who is a patient of a private doctor at a hospital that is not a contracted hospital.	4 5
<i>public hospital</i> means a hospital to which a worker is admitted as a public patient.	6 7
<i>public patient</i> means a patient who is not a private patient.’.	8

Clause 37	Insertion of new ch 4, pt 2, div 3, sdiv 2 hdg	9
	After section 215—	10
	<i>insert</i> —	11
	‘Subdivision 2 Private hospitalisation’.	12
Clause 38	Amendment of s 216 (Extent of liability for period of hospitalisation)	13 14
	(1) Section 216, heading—	15
	<i>omit, insert</i> —	16
	‘216 Extent of liability for hospitalisation at private hospital’.	17
	(2) Section 216(1), before ‘extends’—	18
	<i>insert</i> —	19
	‘at a private hospital’.	20
Clause 39	Amendment of s 217 (Cost of hospitalisation)	21
	(1) Section 217, heading—	22
	<i>omit, insert</i> —	23
	‘217 Cost of hospitalisation at private hospital’.	24
	(2) Section 217(1)—	25
	<i>omit, insert</i> —	26
	‘(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	27 28

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provision of the facility at a private hospital where a
procedure is carried out.' 1
2

Clause 40	Omission of s 218 (Maximum liability for cost of hospitalisation)	3 4
	Section 218—	5
	<i>omit.</i>	6
Clause 41	Insertion of new ch 4, pt 2, div 3, sdiv 3	7
	Before chapter 4, part 2, division 4—	8
	<i>insert—</i>	9
	'Subdivision 3 Public hospitalisation	10
'218	Extent of liability for hospitalisation in public hospital	11 12
	(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—	13 14 15
	(a) for non-elective hospitalisation—for not more than 4 days; or	16 17
	(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	18 19 20
	(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.	21 22 23 24
	(2) Subject to the <i>Health Services Act 1991</i> , 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.	25 26 27 28

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'218A Cost of hospitalisation	1
‘(1) The costs for which an insurer is liable for hospitalisation of a worker as an in-patient at a public hospital are—	2 3
(a) the cost for the provision of the facility at a public hospital where a procedure is carried out; and	4 5
(b) the cost of medical treatment provided at the hospital.	6
‘(2) The insurer must pay the cost of hospitalisation and medical treatment, whether the hospitalisation is provided at 1 time or at different times.	7 8 9
‘(3) The insurer must pay the cost of hospitalisation that is published by the Authority by industrial gazette notice.’.	10 11
Clause 42 Amendment of s 233 (Definitions for ch 5)	12
Section 233—	13
<i>insert—</i>	14
‘ <i>party</i> includes contributor.’.	15
Clause 43 Insertion of new ss 278A and 278B	16
After section 278—	17
<i>insert—</i>	18
'278A Insurer may add other person as contributor	19
‘(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 (<i>contribution notice</i>)—	20 21 22 23 24 25
(a) claiming an indemnity from, or contribution towards—	26
(i) the employer’s liability; and	27
(ii) the insurer’s liability; and	28
(b) stating the grounds on which the insurer holds the person liable; and	29 30

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- (c) stating any other information that may be prescribed under a regulation; and 1
2
- (d) accompanied by copies of documents about the claim given to or received from any other party under this Act. 3
4
- '(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— 5
6
7
 - (a) the agreement of the parties; or 8
 - (b) the court's leave. 9
- '(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. 10
11
12
13
14
- Maximum penalty for subsection (3)—50 penalty units. 15

'278B Contributor's response 16

- '(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*)— 17
18
19
20
21
 - (a) containing a statement of information prescribed under a regulation; and 22
23
 - (b) accompanied by any documents that may be prescribed under a regulation. 24
25
- '(2) The contributor's response must also state— 26
 - (a) whether the claim for the contribution or indemnity claimed in the contribution notice is admitted, denied or admitted in part; and 27
28
29
 - (b) if the claim for the contribution or indemnity is admitted in part, the extent, expressed as a percentage, to which it is admitted. 30
31
32
- '(3) An admission of liability in the contributor's response— 33

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- (a) is not binding on the contributor in relation to any other claim; and 1
2
- (b) is not binding on the contributor at all if it later appears the admission was induced by fraud. 3
4
- ‘(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.’. 5
6
7
8

- Clause 44 Amendment of s 279 (Claimant and insurer to cooperate)** 9
- (1) Section 279, heading— 10
omit, insert— 11
 - ‘279 Parties to cooperate’.** 12
 - (2) Section 279(1), ‘A claimant and an insurer’— 13
omit, insert— 14
‘The parties’. 15
 - (3) Section 279(1)(b), ‘the other party’— 16
omit, insert— 17
‘each other party’. 18
 - (4) Section 279(2)(a), ‘the claimant or the insurer’— 19
omit, insert— 20
‘a party’. 21
 - (5) Section 279(3) and (4)— 22
omit, insert— 23
 - ‘(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. 24
25
26
 - ‘(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. 27
28
29

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	‘(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.	1 2 3
	‘(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 5 6 7 8 9
	‘(4) A party must respond to a request from another party under subsection (1)(b) within 21 business days after receiving it.’.	10 11
	(6) Section 279(6), definition <i>relevant documents</i> , after ‘employer,’—	12 13
	<i>insert</i> —	14
	‘a contributor,’.	15
Clause 45	Amendment of s 281 (Claimant and insurer to attempt to resolve claim)	16 17
	(1) Section 281, heading—	18
	<i>omit, insert</i> —	19
‘281	Parties to attempt to resolve claim’.	20
	(2) Section 281(1), ‘claimant and the insurer’—	21
	<i>omit, insert</i> —	22
	‘parties’.	23
	(3) Section 281—	24
	<i>insert</i> —	25
	‘(4A) The insurer must, within 5 business days after giving the claimant the written notice, give a copy of the notice to any contributor.’.	26 27 28
Clause 46	Amendment of s 282 (Worker to undergo medical examination)	29 30
	Section 282(1), from ‘The’ to ‘expense’—	31

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omit, insert— 1
 'An insurer or a contributor may at any time ask the worker to 2
 undergo either or both of the following, whether at 1 time or at 3
 different times, at the expense of the insurer or contributor'. 4

Clause 47	Amendment of s 283 (Joint expert reports)	5
	(1) Section 283(1), 'An insurer and a claimant'—	6
	<i>omit, insert—</i>	7
	'Some or all of the parties'.	8
	(2) Section 283(2), 'Neither party'—	9
	<i>omit, insert—</i>	10
	'None of the parties'.	11
	(3) Section 283(3), 'both parties'—	12
	<i>omit, insert—</i>	13
	'the parties'.	14
	(4) Section 283(4), 'both parties'—	15
	<i>omit, insert—</i>	16
	'each party'.	17
 Clause 48	 Amendment of s 284 (Non-disclosure of certain material)	 18
	(1) Section 284(2)—	19
	<i>omit, insert—</i>	20
	'(2) However, the following must be disclosed even though 21 otherwise protected by legal professional privilege— 22	
	(a) investigative reports;	23
	(b) medical reports;	24
	(c) reports relevant to the worker's rehabilitation;	25

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- (d) relevant documents mentioned in section 279,¹¹ other than correspondence between a party and the party's lawyer'. 1
2
3
- (2) Section 284(3), after 'an insurer'— 4
omit, insert— 5
'or a contributor'. 6
- (3) Section 284(3), after 'the insurer'— 7
insert— 8
'or contributor'. 9

- Clause 49 Amendment of s 285 (Consequence of failure to give information)** 10
11
- Section 285(1), 'the other party'— 12
insert— 13
'another party'. 14

- Clause 50 Amendment of s 289 (Compulsory conference)** 15
- (1) Section 289(2), 'Either'— 16
omit, insert— 17
'Any'. 18
- (2) Section 289(8), from 'claimant in person' to 'behalf'— 19
omit, insert— 20
'claimant in person, a person authorised to settle on the insurer's behalf and a person authorised to settle on behalf of any contributor'. 21
22
23

- Clause 51 Amendment of s 290 (Procedure at conference)** 24
- (1) Section 290(1), 'both parties'— 25
omit, insert— 26

11 Section 279 (Parties to cooperate)

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‘all parties’.	1
(2) Section 290(4), ‘either party’—	2
<i>omit, insert—</i>	3
‘any party’.	4
(3) Section 290(5), first mention, ‘the other party’—	5
<i>omit, insert—</i>	6
‘each other party’.	7
(4) Section 290(5)(a), ‘other’—	8
<i>omit.</i>	9
(5) Section 290(6)(d), ‘the other party’—	10
<i>omit, insert—</i>	11
‘all other parties’.	12
(6) Section 290(6)(e), ‘subsection (7)’—	13
<i>omit, insert—</i>	14
‘section 290A(3)’.	15
(7) Section 290—	16
<i>insert—</i>	17
‘(9) In this section—	18
<i>party</i> does not include contributor.’	19
(8) Section 290(5) to (9)—	20
<i>relocate and renumber</i> as section 290A (1) to (5).	21
 Clause 52 Insertion of new s 290A hdg	 22
After section 290—	23
<i>insert—</i>	24
‘290A Exchange of material for compulsory conference’.	25

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Clause 53	Amendment of s 292 (Parties to make written final offer if claim not settled at compulsory conference)	1 2
	(1) Section 292, heading, ' Parties '—	3
	<i>omit, insert—</i>	4
	'Claimant and insurer' .	5
	(2) Section 292(1), 'each party'—	6
	<i>omit, insert—</i>	7
	'both the claimant and the insurer'.	8
	(3) Section 292—	9
	<i>insert—</i>	10
	'(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.	11 12 13
	'(1B) A consolidated final offer must detail the portion of the offer applicable to each claim.	14 15
	'(1C) A consolidated final offer can only be accepted or rejected in full.'	16 17
 Clause 54	 Insertion of new s 292A	 18
	Chapter 5, part 6, division 1, after section 292—	19
	<i>insert—</i>	20
	'292A Offer to contribute	21
	'(1) This section applies if an insurer makes a claim (a <i>contribution claim</i>) to recover contribution or indemnity against a person in relation to a claim made by a claimant.	22 23 24
	'(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.	25 26 27 28
	'(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—	29 30 31

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- (a) the costs of the party who made the offer; and 1
 (b) any costs the party is liable to pay to the claimant.' 2

Clause 55	Amendment of s 293 (Settlement of claim for damages)	3
	Section 293, after 'a claim'—	4
	<i>insert</i> —	5
	'or contribution claim'.	6
Clause 56	Amendment of s 296 (Claimant to have given complying notice of claim or insurer to have waived compliance)	7 8
	Section 296(b), 'claimant or'—	9
	<i>omit, insert</i> —	10
	'claimant, a contributor or'.	11
Clause 57	Replacement of ch 5, pt 10 (No right to particular damages)	12 13
	Chapter 5, part 10—	14
	<i>omit, insert</i> —	15
	'Part 10 No right to damages for particular services	16 17
	'308 Application of pt 10	18
	'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.	19 20 21 22
	'308A Definitions for pt 10	23
	'In this part—	24

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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.

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'308C Worker performed services before injury	1
'(1) This section applies if, before the worker sustained the injury, the worker usually performed particular services.	2 3
'(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.	4 5 6 7 8 9 10
'308D Gratuitous services provided to worker before injury	11
'(1) This section applies if—	12
(a) before the worker sustained the injury, the worker was usually provided with particular services that were gratuitous services; and	13 14 15
(b) after the worker sustains the injury—	16
(i) the worker is, or is to be, provided with paid services of substantially the same type; or	17 18
(ii) the worker is, or is to be, provided with gratuitous services of substantially the same type.	19 20
'(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.	21 22 23 24
'308E Services not required by or provided to worker before injury	25 26
'(1) This section applies if the worker usually did not require or was not provided with particular services before the worker sustained the injury.	27 28 29
'(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	30 31 32 33

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have been provided to the worker after the worker sustained
the injury are gratuitous services.’. 1
2

Clause 58	Amendment of s 313 (Costs if written final offer by insurer)	3 4
	Section 313(2), ‘a party’—	5
	<i>omit, insert</i> —	6
	‘the insurer or the claimant’.	7
Clause 59	Amendment of s 316 (Principles about orders as to costs)	8
	Section 316(2), ‘party to the proceeding’—	9
	<i>omit, insert</i> —	10
	‘claimant or an insurer’.	11
Clause 60	Amendment of s 330 (General statement of Authority’s functions)	12 13
	(1) Section 330(2)(d) to (l)—	14
	<i>renumber</i> as section 330(2)(e) to (m).	15
	(2) Section 330(2)—	16
	<i>insert</i> —	17
	‘(d) to approve amounts payable under an industrial instrument for the purposes of section 107B; ¹² ’.	18 19
Clause 61	Amendment of s 453 (WorkCover’s solvency)	20
	(1) Section 453, heading—	21
	<i>omit, insert</i> —	22
	‘453 WorkCover’s capital adequacy’.	23
	(2) Section 453(1)(b) and (c)—	24
	<i>omit, insert</i> —	25

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

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‘(b) maintains capital adequacy as required under a regulation.’. 1
2

Clause 62 **Insertion of new ch 9, pt 3** 3

Chapter 9, after section 486— 4

insert— 5

‘Part 3 **The Minister and codes of practice** 6
7

‘486A Code of practice 8

‘(1) The Minister may make a code of practice that states— 9

(a) ways an insurer may perform its functions under this Act in relation to the management of its claims; and 10
11

(b) ways an insurer may exercise its powers under this Act in relation to the management of its claims; and 12
13

(c) ways an insurer may meet its obligations under this Act in relation to the management of its claims. 14
15

‘(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. 16
17
18

‘(3) The Authority must recommend the making of a code of practice to the Minister. 19
20

‘(4) The Authority must consult with the Minister before giving the recommendation. 21
22

‘(5) The Minister must notify the making of a code of practice. 23

‘(6) A code of practice expires 10 years after its commencement. 24

‘(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. 25
26
27
28
29

‘(8) If a code of practice is inconsistent with a regulation, the regulation prevails to the extent of the inconsistency. 30
31

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'(9) A notice mentioned in subsection (5) is subordinate legislation. 1
2

'486B Effect of code of practice 3

'(1) Unless otherwise stated in a code of practice, the code of 4
practice does not state all that an insurer must do, or must not 5
do, to perform its functions, exercise its powers and meets its 6
obligations under this Act. 7

'(2) An insurer, including WorkCover, commits an offence if the 8
insurer— 9

(a) contravenes, or otherwise acts inconsistently with, the 10
code of practice; and 11

(b) does not follow a way that is as effective as, or more 12
effective than, the code of practice for complying with a 13
requirement of this Act. 14

Maximum penalty—1 000 penalty units.' 15

Clause 63 Amendment of s 540 (Application of pt 2) 16

(1) Section 540(1)(a)(iv), after '66'— 17
insert— 18

' , 109A'. 19

(2) Section 540(1)(a)(viii) and (ix)— 20

omit, insert— 21

'(viii) to allow or reject an application for compensation; 22
or 23

(ix) to terminate or suspend payment of compensation; 24
or 25

(ixa) to increase or decrease a weekly payment of 26
compensation under chapter 3; or'. 27

(3) Section 540(1)(b)(ii) and (iii)— 28

omit, insert— 29

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	‘(ii) to allow or reject an application for compensation; or	1 2
	(iii) to terminate or suspend payment of compensation; or	3 4
	(iiiia) to increase or decrease a weekly payment of compensation under chapter 3; or’.	5 6
Clause 64	Amendment of s 545 (Review of decision or failure to make a decision)	7 8
	(1) Section 545(1)—	9
	<i>insert—</i>	10
	‘(d) set aside the decision and return the matter to the decision-maker with the directions the Authority considers appropriate.’.	11 12 13
	(2) Section 545—	14
	<i>insert—</i>	15
	‘(1A) The Authority may act under subsection (1)(d) only if the Authority—	16 17
	(a) has considered information that was not available to, or known by, the decision-maker when the decision-maker made its decision; or	18 19 20
	(b) believes on reasonable grounds that the decision-maker did not have satisfactory evidence or information to make its decision; or	21 22 23
	(c) believes on reasonable grounds that the decision-maker has not observed natural justice in making its decision.’.	24 25
	(3) Section 545(4)—	26
	<i>omit, insert—</i>	27
	‘(4) The Authority may extend the time in subsection (1)—	28
	(a) with the applicant’s consent, to allow the applicant a right of appearance or to make representations under section 543; or	29 30 31

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- (b) with the applicant's consent, to obtain information under section 544; or 1
2
- (c) if the applicant applies to the Authority in writing for time to give the Authority further information.' 3
4

Clause 65	Amendment of s 546 (Notice of review decision)	5
	(1) Section 546(2), 'section 540(1)(a)(viii)'—	6
	<i>omit, insert—</i>	7
	'section 540(1)(a)(vii)'.	8
	(2) Section 546(3)(b), after 'notice of the decision'—	9
	<i>insert—</i>	10
	', unless the Authority has acted under section 545(1)(d)'.	11
	(3) Section 546—	12
	<i>insert—</i>	13
	'(3A) A decision of the Authority under section 545 to return a matter to the decision-maker can not be appealed.'	14 15

Clause 66	Insertion of new s 546A	16
	After section 546—	17
	<i>insert—</i>	18
	'546A Matter returned to decision-maker	19
	'(1) This section applies if the Authority returns a matter under section 545 to a decision-maker.	20 21
	'(2) The decision-maker must, within the time specified by the Authority—	22 23
	(a) make a decision; and	24
	(b) give the applicant and the Authority written notice of the fresh decision including—	25 26
	(i) the reasons for the decision; and	27
	(ii) the applicant's rights of review and appeal; and	28

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(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.’ 1
2
3
4

Clause 67 Amendment of s 548 (Application of div 1) 5

Section 548(a)— 6

omit, insert— 7

‘(a) a review decision, other than a decision to return a matter to a decision-maker under section 545;’. 8
9

Clause 68 Insertion of new s 548A 10

After section 548— 11

insert— 12

‘548A Meaning of *appeal body* 13

‘(1) An *appeal body* for this part is— 14

(a) an industrial magistrate; or 15

(b) the industrial commission. 16

‘(2) However, the appeal body is an industrial magistrate— 17

(a) for a decision of the Authority’s board under section 107E;¹⁴ or 18
19

(b) for a decision of the Authority about a matter mentioned in section 540(1)(a)(i) to (vi);¹⁵ or 20
21

(c) for a non-reviewable decision.’. 22

Clause 69 Amendment of s 549 (Who may appeal) 23

(1) Section 549(1) and (2), ‘industrial magistrate’— 24

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)

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omit, insert— 1

‘appeal body’. 2

(2) Section 549(2)— 3

omit, insert— 4

‘(2) An insurer aggrieved by a decision of the Authority to 5
confirm, vary or set aside a decision of the insurer mentioned 6
in section 540(1)(a)(i) to (vi) may appeal to an industrial 7
magistrate against the decision of the Authority. 8

‘(3) If the appellant is an employer— 9

(a) the claimant or worker may, if the claimant or worker 10
wishes, be a party to the appeal; and 11

(b) an insurer may, if the insurer wishes, be a party to the 12
appeal if the appeal is against a decision of the 13
Authority to confirm, vary or set aside a decision of the 14
insurer mentioned in section 540(1)(a)(i) to (vi). 15

‘(4) If the appellant is WorkCover, an employer may, if the 16
employer wishes, be a party to the appeal.’. 17

Clause 70 Amendment of s 550 (Procedure for appeal) 18

(1) Section 550(4)— 19

omit, insert— 20

‘(3A) An appeal may be started only with 1 appeal body. 21

‘(4) The appeal may be started only by giving a written notice of 22
appeal to the appeal body. 23

‘(4A) If the appeal body is the industrial commission, the notice of 24
appeal must be filed in the industrial registry.’. 25

(2) Section 550(5), ‘The’— 26

omit, insert— 27

‘If the appeal body is an industrial magistrate, the’ 28

(3) Section 550— 29

insert— 30

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	‘(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.	1 2 3 4
	‘(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.’.	5 6 7 8
Clause 71	Amendment of s 552 (Notice of time and place for hearing)	9 10
	Section 552(1), after ‘The registrar of’—	11
	<i>insert</i> —	12
	‘the industrial commission or’.	13
Clause 72	Amendment of s 554 (Exchanging evidence before hearing)	14 15
	(1) Section 554(1), 7 days’—	16
	<i>omit, insert</i> —	17
	‘10 business days’.	18
	(2) Section 554(2), ‘industrial magistrate’—	19
	<i>omit, insert</i> —	20
	‘appeal body’.	21
Clause 73	Replacement of s 555 (Adjourning hearing)	22
	Section 555—	23
	<i>omit, insert</i> —	24
	‘555 Adjourned hearing	25
	‘(1) The appeal body may, at any time before or after the start of the hearing, adjourn the hearing if—	26 27
	(a) the appeal body is satisfied the hearing could be held more conveniently at a future time; or	28 29

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- (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.’.

- Clause 74 Amendment of s 556 (Additional medical evidence)** 14
- (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’.
- Clause 75 Amendment of s 557 (Correcting defects in proceedings)** 21
- (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’—

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omit, insert— 1
‘appeal body’s’. 2

Clause 76	Amendment of s 558 (Powers of industrial magistrate)	3
	(1) Section 558, heading—	4
	<i>omit, insert—</i>	5
	‘558 Powers of appeal body’.	6
	(2) Section 558(1), ‘industrial magistrate’—	7
	<i>omit, insert—</i>	8
	‘appeal body’.	9
	(3) Section 558(1)(d) and (2), ‘magistrate’—	10
	<i>omit, insert—</i>	11
	‘appeal body’.	12
	(4) Section 558(3), ‘magistrate’s’—	13
	<i>omit, insert—</i>	14
	‘appeal body’s’.	15
 Clause 77	 Amendment of s 559 (Decision of industrial magistrate)	 16
	(1) Section 559, heading—	17
	<i>omit, insert—</i>	18
	‘559 Decision of appeal body’.	19
	(2) Section 559, ‘industrial magistrate’—	20
	<i>omit, insert—</i>	21
	‘appeal body’.	22
	(3) Section 559(a), ‘magistrate’s’—	23
	<i>omit, insert—</i>	24
	‘appeal body’s’.	25

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Clause 78	Amendment of s 560 (Recovery of costs)	1
	Section 560(1), 'industrial magistrate'—	2
	<i>omit, insert</i> —	3
	'appeal body'.	4
Clause 79	Amendment of s 561 (Appeal from industrial magistrate to Industrial Court)	5
	(1) Section 561, heading—	7
	<i>omit, insert</i> —	8
	'561 Appeal from appeal body to Industrial Court'.	9
	(2) Section 561(1), 'industrial magistrate's'—	10
	<i>omit, insert</i> —	11
	'appeal body's'.	12
	(3) Section 561(3), 'magistrate'—	13
	<i>omit, insert</i> —	14
	'appeal body'.	15
Clause 80	Amendment of s 566 (Decision about payment of compensation)	16
	Section 566(1), 'an industrial magistrate'—	17
	<i>omit, insert</i> —	19
	'the appeal body'.	20
Clause 81	Amendment of s 569 (Starting appeals)	21
	Section 569(2)(a), 'deemed premium'—	22
	<i>omit, insert</i> —	23
	'deemed levy'.	24
Clause 82	Amendment of s 573 (Disclosure of information)	25
	Section 573—	26

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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.’.

Clause 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)

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- (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).'

Clause 84	Amendment of s 579 (Summary proceedings for offences other than against ch 8)	9 10
	(1) Section 579— <i>insert—</i>	11 12
	'(1A) A proceeding for an offence committed by WorkCover against section 486B(2) ¹⁸ is to be taken in a summary way under the <i>Justices Act 1886</i> before an industrial magistrate on the complaint of—	13 14 15 16
	(a) the chief executive officer of the Authority; or	17
	(b) a person authorised for the purpose by the chief executive officer of the Authority; or	18 19
	(c) the Attorney-General.'	20
	(2) Section 579(2), 'The proceeding for the offence'— <i>omit, insert—</i>	21 22
	'A proceeding for an offence other than an offence against section 486B(2).'	23 24
	(3) Section 579(3), 'The'— <i>omit, insert—</i>	25 26
	'A'.	27
	(4) Section 579(3)(b)—	28

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

18 Section 486B (Effect of code of practice)

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<i>omit, insert—</i>	1
‘(b) within 6 months after the commission of the offence comes to the knowledge of—	2
(i) for a proceeding mentioned in subsection (1A)—the chief executive officer of the Authority; or	3
(ii) for a proceeding mentioned in subsection (2)—the chief executive officer of the Authority or WorkCover;’.	4
(5) Section 579(4), ‘the proceeding’—	5
<i>omit, insert—</i>	6
‘a proceeding’.	7
(6) Section 579—	8
<i>insert—</i>	9
‘(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 <i>Justices Act 1886</i> .’.	10
	11
	12
	13
	14
	15
	16
	17

Clause 85	Omission of s 585 (Entitlements to compensation under industrial instrument prohibited and void)	18
	Section 585—	19
	<i>omit.</i>	20
		21

Clause 86	Insertion of new ch 16	22
	After section 611—	23
	<i>insert—</i>	24

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'Chapter 16	Transitional provisions for Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004	1 2 3 4 5
'612	Definitions for ch 16	6
	'In this chapter—	7
	<i>amending Act</i> means the <i>Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004</i> .	8 9
'613	Workers, employers and injuries	10
	'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.	11 12 13 14
'614	Excess period	15
	'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.	16 17 18 19
'615	Employers who pay own claims	20
	'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.	21 22 23

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)

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'616 Entitlement to compensation	1
‘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—	2 3 4 5
• section 105	6
• chapter 3, part 6, part 10, division 4 and part 11	7
• section 585. ²¹	8
 '617 Decision about application for compensation	 9
‘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.	10 11 12 13
 '618 When entitlement to compensation stops	 14
‘Section 144B ²³ applies only in relation to an injury sustained by a worker on or after the commencement of the section.	15 16
 '619 Weekly payment for total incapacity	 17
‘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.	18 19 20 21 22

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)

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'620	Recovery of compensation claim costs from third party	1 2
	‘The provisions of chapter 3, part 13 ²⁵ apply only in relation to an application for compensation made on or after the commencement of this section.	3 4 5
'621	Public hospitalisation	6
	‘The provisions of chapter 4, part 2, division 3, subdivision 2 ²⁶ apply only to the hospitalisation of a worker as an in-patient at a public hospital on or after the commencement of this section.	7 8 9 10
'622	Damages for particular services	11
	‘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.	12 13 14 15
'623	Review of decisions of insurer	16
	‘(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.	17 18 19 20 21
	(2) In this section—	22
	<i>decision</i> includes failure to make a decision.	23

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)

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'624	Appeal of review decision	1
	'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.	2 3 4 5
'625	Appeals generally	6
	'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 548 ³¹ as if the amending Act had not been enacted.'	7 8 9 10
Clause 87	Amendment of sch 2 (Who is a worker)	11
	Schedule 2, heading—	12
	<i>omit, insert—</i>	13
	'Schedule 2 Who is a worker in particular circumstances'.	14 15
Clause 88	Amendment of sch 3 (Who is an employer)	16
	(1) Schedule 3, heading—	17
	<i>omit, insert—</i>	18
	'Schedule 3 Who is an employer in particular circumstances'.	19 20
	(2) Schedule 3, part 1, heading—	21
	<i>omit.</i>	22
	(3) Schedule 3, part 1, sections 1, 2 and 3, 'of service'—	23

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)

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omit, insert— 1
 ‘(regardless of whether the contract is a contract of service)’ 2
 (4) Schedule 3, part 2— 3
omit. 4

Clause 89	Amendment of sch 6 (Dictionary)	5
	(1) Schedule 6, definitions <i>amount payable under an industrial instrument, deemed premium</i> and <i>hospitalisation—</i>	6 7
	<i>omit.</i>	8
	(2) Schedule 6—	9
	<i>insert—</i>	10
	‘ <i>amount payable</i> , under an industrial instrument, see section 107B.	11 12
	<i>appeal body</i> , for chapter 13, part 3, see section 548A.	13
	<i>compulsory conference</i> see section 289.	14
	<i>contracted hospital</i> see section 215.	15
	<i>contribution claim</i> see section 292A.	16
	<i>contribution notice</i> see section 278A.	17
	<i>contributor</i> means a person added as a contributor under section 278A.	18 19
	<i>contributor's response</i> see section 278B.	20
	<i>deemed levy</i> means a levy calculated under a regulation.	21
	<i>hospital</i> see section 215.	22
	<i>hospitalisation</i> , of a worker, means the admission of the worker in a private hospital or public hospital for medical treatment for the worker's injury.	23 24 25
	<i>party</i> , for chapter 5, see section 233.	26
	<i>private patient</i> see section 215.	27
	<i>public patient</i> see section 215.	28

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Examples—

- | | | |
|--|--|---|
| | 1 a construction workplace | 1 |
| | 2 a vessel used for teaching members of the public to scuba dive | 2 |
| | 3 a vehicle supplied by an employer for use by a worker in the performance of work'. | 3 |
| | | 4 |
| | | 5 |

Clause 93	Amendment of s 10 (Who is an employer?)	6
	Section 10(1)(a), 'for gain or reward'—	7
	<i>omit.</i>	8
Clause 94	Amendment of s 14 (What is a construction workplace?)	9
	Section 14(1)(a), 'after discounting for'—	10
	<i>omit, insert—</i>	11
	'including'.	12
Clause 95	Omission of s 16 (When is a worker at work?)	13
	Section 16—	14
	<i>omit.</i>	15
Clause 96	Amendment of s 26 (How obligations can be discharged if regulation etc. made)	16
	Section 26(3), after 'obligation'—	17
	<i>insert—</i>	18
	'for exposure to the risk'.	19
		20
Clause 97	Amendment of s 28 (Obligations of employers)	21
	Section 28(1) and (2)—	22
	<i>omit, insert—</i>	23
	'(1) An employer has an obligation to ensure each of the employer's workers is not exposed to risks to their health and	24
		25

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safety arising out of the conduct of the employer's business or undertaking. 1
2

'(2) 'An employer has an obligation to ensure the employer is not 3
exposed to risks to their health and safety arising out of the 4
conduct of the employer's business or undertaking.' 5

Clause 98 Amendment of s 29 (Obligations of self-employed persons) 6
7

Section 29(1)— 8

omit, insert— 9

'(1) A self-employed person has an obligation to ensure the 10
self-employed person is not exposed to risks to their health 11
and safety arising out of the conduct of the self-employed 12
person's business or undertaking.' 13

Clause 99 Amendment of s 29A (Obligations of persons conducting business or undertaking) 14
15

(1) Section 29A(1)— 16

omit, insert— 17

'(1) A person (the *relevant person*) who conducts a business or 18
undertaking has an obligation to ensure each person who 19
performs a work activity for the purposes of the business or 20
undertaking is not exposed to risks to their health and safety.' 21

(2) Section 29A(2), example, from 'section 28'— 22

omit, insert— 23

'section 28 to ensure the person's own employees, if any, are 24
not exposed to risks to their health and safety, the person also 25
has, under this section, an obligation to ensure the labour hire 26
employees are not exposed to risks to their health and safety 27
while they are performing the work activity.' 28

Clause 100 Amendment of s 38 (Regulations) 29

Section 38(7)(b), 'registrable workplaces and'— 30

omit. 31

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Clause 101	Replacement of s 41 (Advisory standards and industry codes of practice)	1 2
	Section 41—	3
	<i>omit, insert—</i>	4
'41	Code of practice about managing exposure to risks	5
	‘(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.	6 7 8
	<i>Example of a code of practice—</i>	9
	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.	10 11 12 13
	<i>Example of a part of industry—</i>	14
	1 the rural sector	15
	2 canegrowing within the rural sector	16
	‘(2) The Minister must notify the making of a code of practice.	17
	‘(3) A code of practice expires 10 years after its commencement.	18
	‘(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.	19 20 21 22 23
	‘(5) A notice mentioned in subsection (2) is subordinate legislation.’.	24 25
Clause 102	Insertion of new s 42DA	26
	After section 42D—	27
	<i>insert—</i>	28
	'42DA Giving workplace health and safety undertaking	29
	‘(1) This section applies if the identified person proposes to make a workplace health and safety undertaking.	30 31
	‘(2) The undertaking must be received by the chief executive within the time prescribed under a regulation.’.	32 33

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Clause 103	Amendment of s 42I (Contravention of workplace health and safety undertaking)	1 2
	(1) Section 42I(2), ‘the industrial court’—	3
	<i>omit, insert—</i>	4
	‘an industrial magistrate’.	5
	(2) Section 42I(3) and (4), ‘court’—	6
	<i>omit, insert—</i>	7
	‘magistrate’.	8
Clause 104	Insertion of new s 103A	9
	Part 9, division 2, before section 104—	10
	<i>insert—</i>	11
	‘103A Inspectors may give advice to persons with workplace health and safety obligation	12 13
	‘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.’.	14 15 16
Clause 105	Amendment of s 108 (General powers after entering places)	17 18
	Section 108(5), after ‘for the person’—	19
	<i>insert—</i>	20
	‘, if the person is an individual,’.	21
Clause 106	Amendment of s 117 (Improvement notice)	22
	(1) Section 117(2), from ‘may’ to ‘require’—	23
	<i>omit, insert—</i>	24
	‘may direct’.	25
	(2) Section 117—	26
	<i>insert—</i>	27

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- '(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.'

Clause 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.

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	Maximum penalty—40 penalty units or 6 months imprisonment.’.	1 2
(3)	Section 118(6)(c) and (d)— <i>omit.</i>	3 4
(4)	Section 118(7)— <i>omit, insert—</i>	5 6
‘(7)	For this section, a person is <i>in control</i> 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.’.	7 8 9 10

Clause 108	Amendment of s 120 (Power to require name and address)	11 12
(1)	Section 120(1)(a) and (b), ‘at a workplace’— <i>omit.</i>	13 14
(2)	Section 120(1)(b), ‘just’— <i>omit.</i>	15 16

Clause 109	Amendment of s 121 (Power to inquire into workplace incident)	17 18
	Section 121(6), after ‘for the person’— <i>insert—</i>	19 20
	‘, if the person is an individual,’.	21

Clause 110	Amendment of s 122 (Power to require production of certain documents)	22 23
	Section 122(3)— <i>omit, insert—</i>	24 25
‘(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.’.	26 27 28 29

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Clause 111	Amendment of s 144 (Offences by witnesses)	1
	Section 144(4), 'It'—	2
	<i>omit, insert—</i>	3
	'If the person is an individual, it'.	4
Clause 112	Replacement of s 182 (Revocation of accredited provider's appointment)	5
	Section 182—	6
	<i>omit, insert—</i>	7
'182	Suspension or revocation of accredited provider's appointment	9
	'The chief executive may suspend or revoke an accredited provider's appointment. ³² '.	10
		11
		12
Clause 113	Replacement of pt 17, divs 2 and 3	13
	Part 17, divisions 2 and 3—	14
	<i>omit, insert—</i>	15
'Division 2	Transitional provisions for Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004	16
		17
		18
		19
'190	Existing advisory standards	20
	'(1) The <i>Workplace Health and Safety (Advisory Standards) Notice 1998</i> (the <i>notice</i>) is repealed.	21
		22
	'(2) The advisory standards mentioned in the notice, as in force immediately before the commencement of this section—	23
	(a) are continued in force as codes of practice; and	24
	(b) expire 10 years after their commencement.	25
		26

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

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'191	Existing codes of practice	1
	‘The industry codes of practice mentioned in the <i>Workplace Health and Safety (Industry Codes of Practice) Notice 1999</i> , as in force immediately before the commencement of this section, expire 10 years after their commencement.’	2 3 4 5
Clause 114	Amendment of sch 2 (Specified high risk plant)	6
	(1) Schedule 2, section 1, ‘gas cylinder’—	7
	<i>omit, insert—</i>	8
	‘LP gas cylinder’.	9
	(2) Schedule 2, section 2, definition <i>gas cylinder</i> —	10
	<i>omit, insert—</i>	11
	‘ LP gas cylinder means a cylinder with a water capacity of more than 0.1 kg that contains liquefied petroleum gas under pressure.’.	12 13 14
Clause 115	Amendment of sch 3 (Dictionary)	15
	(1) Schedule 3, definitions <i>gas cylinder</i> and <i>workplace activity</i> —	16
	<i>omit.</i>	17
	(2) Schedule 3—	18
	<i>insert—</i>	19
	‘ LP gas cylinder see schedule 2.	20
	waters include Queensland waters.’.	21
	(3) Schedule 3, definition <i>place</i> , ‘or under the water’—	22
	<i>omit, insert—</i>	23
	‘, under’.	24
	(4) Schedule 3, definition <i>workplace incident</i> —	25
	<i>omit, insert—</i>	26
	‘ workplace incident means—	27
	(a) an incident resulting in a person suffering—	28

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- | | |
|--|--------|
| (i) a work injury; or | 1 |
| (ii) a work caused injury; or | 2 |
| (b) an incident resulting in a dangerous event; or | 3 |
| (c) another matter decided by the Minister to be a workplace incident.’. | 4
5 |

Part 4	Amendment of Electrical Safety Act 2002	6 7
---------------	--	--------

- | | | |
|-------------------|---|----------------|
| Clause 116 | Act amended in pt 4 and sch | 8 |
| | This part and the schedule amend the <i>Electrical Safety Act 2002</i> . | 9
10 |
| Clause 117 | Amendment of s 14 (Meaning of <i>electrical equipment</i>) | 11 |
| | (1) Section 14(1)(c)— | 12 |
| | <i>renumber as</i> section 14(1)(d). | 13 |
| | (2) Section 14(1)— | 14 |
| | <i>insert—</i> | 15 |
| | ‘(c) operated by electricity at an extra low voltage, if the equipment forms part of an electrical installation located in a hazardous area; or’. | 16
17
18 |
| | (3) Section 14— | 19 |
| | <i>insert—</i> | 20 |
| | ‘(3) In this section— | 21 |
| | ‘ <i>hazardous area</i> has the meaning given by AS/NZS 3000 ³³ as in force from time to time.’. | 22
23 |

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.

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Clause 118	Amendment of s 18 (Meaning of <i>electrical work</i>)	1
	(1) Section 18(2)(d), from 'registered' to '1995'—	2
	<i>omit, insert—</i>	3
	'under the <i>Workplace Health and Safety Act 1995</i> that is	4
	prescribed under a regulation for this paragraph'.	5
	(2) Section 18(2)(j)—	6
	<i>renumber</i> as section 18(2)(n).	7
	(3) Section 18(2)—	8
	<i>insert—</i>	9
	'(j) erecting structures for the support of electrical	10
	equipment;	11
	<i>Examples of structures—</i>	12
	electric poles and towers	13
	(k) locating, mounting or fixing in place electrical	14
	equipment, other than—	15
	(i) making or terminating electrical connections to the	16
	equipment; or	17
	(ii) installing supply conductors that will connect the	18
	equipment to a supply of electricity;	19
	(l) assisting a licensed electrical worker to perform work on	20
	electrical equipment under the direct supervision of the	21
	electrical worker, if performing the work does not	22
	involve the person directly contacting live electrical	23
	equipment;	24
	(m) maintaining the structural parts of the electrical traction	25
	system on a railway, other than overhead electric lines,	26
	that forms part of the works of an electrical entity, if the	27
	work is structural work performed under a safe system	28
	of work;'	29
Clause 119	Amendment of s 44 (Code of practice about discharging electrical safety obligation)	30 31
	Section 44(2)—	32

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omit, insert—

1

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

2

Clause 120 Insertion of new s 49A

3

After section 49—

4

insert—

5

‘49A Giving electrical safety undertaking

6

‘(1) This section applies if the identified person proposes to make an electrical safety undertaking.

7

8

‘(2) The undertaking must be received by the chief executive within the time prescribed under a regulation.’.

9

10

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

11

12

(1) Section 54(2), ‘the industrial court’—

13

omit, insert—

14

‘an industrial magistrate’.

15

(2) Section 54(3) and (4), ‘court’—

16

omit, insert—

17

‘magistrate’.

18

Clause 122 Insertion of new pt 4, div 1A

19

After section 57—

20

insert—

21

‘Division 1A Rectification of defective electrical work

22

23

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

24

25

‘(1) This section applies if—

26

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(a) the chief executive considers that a person has contravened section 55 or 56; ³⁴ and	1 2
(b) the chief executives considers that —	3
(i) the way the electrical work was performed was not electrically safe; or	4 5
(ii) the person who actually performed the electrical work was negligent or incompetent in performing the work; or	6 7 8
(iii) because of the performance of the work, a person or property is not electrically safe.	9 10
‘(2) The chief executive may direct the person to rectify the electrical work.	11 12
‘57B Notice of proposed action	13
‘(1) Before the chief executive gives a direction to rectify the electrical work, the chief executive must give the person a written notice—	14 15 16
(a) stating that the chief executive proposes to direct the person to rectify the electrical work within the period stated in the direction (the <i>proposed action</i>); and	17 18 19
(b) stating the grounds for the proposed action; and	20
(c) outlining the facts and circumstances forming the basis for the grounds; and	21 22
(d) inviting the person to show, within a stated time of at least 14 days, why the proposed action should not be taken.	23 24 25
‘(2) The chief executive must consider any representations made by the person within the stated time.	26 27
‘(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.	28 29 30 31

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

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- '(4) The chief executive must give the person— 1
 (a) written notice of the decision; and 2
 (b) include with the written notice an information notice for 3
 the decision. 4
- '(5) If the direction is given to a person who is not currently 5
 licensed to carry out the required work, the person must have 6
 the work carried out by a licensed contractor. 7
- '(6) The person to whom the direction is given must comply with 8
 the requirement, unless the person has a reasonable excuse. 9
 Maximum penalty—100 penalty units. 10
- '(7) It is not a reasonable excuse for a person not to comply with 11
 the requirement that a contractor engaged by the person to 12
 perform the work had failed to perform the work.' 13

Clause 123 Insertion of new pt 4, div 2A 14
 After section 64— 15
insert— 16

'Division 2A Miscellaneous requirements 17

**'64A Chief executive may ask for further information or 18
 documents from licence holder** 19

- '(1) The chief executive may, by written notice given to the holder 20
 of an electrical licence, require the person to give the chief 21
 executive, within a reasonable period of at least 21 days stated 22
 in the notice, information or a document the chief executive 23
 reasonably requires to satisfy the chief executive that the 24
 person continues to satisfy the eligibility requirements for the 25
 issue of the licence. 26
Example of information— 27
 The person continues to hold public liability insurance of the required 28
 amount under a contract of insurance approved by the chief executive. 29
- '(2) The chief executive may, in the notice, require the person to 30
 verify the further information or document by statutory 31
 declaration. 32

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	‘(3)	The person must comply with the notice, unless the person has a reasonable excuse.	1 2
		Maximum penalty—40 penalty units.’.	3
Clause 124	Amendment of s 88 (Functions of licensing committee)		4
		Section 88(1)(c), ‘hear appeals against’—	5
		<i>omit, insert—</i>	6
		‘review’.	7
Clause 125	Replacement of s 134 (Revocation of accredited auditor’s appointment)		8 9
		Section 134—	10
		<i>omit, insert—</i>	11
‘134	Suspension or revocation of accredited auditor’s appointment		12 13
		‘The chief executive may suspend or revoke an accredited auditor’s appointment.’.	14 15
Clause 126	Insertion of new s 143A		16
		Part 11, division 3, before section 144—	17
		<i>insert—</i>	18
‘143A	Inspectors may give advice to persons with electrical safety obligation		19 20
		‘An inspector may give advice to a person who has an electrical safety obligation in relation to the person’s compliance with this Act.’.	21 22 23
Clause 127	Amendment of s 144 (General powers after entering place)		24 25
		Section 144(6), after ‘for the person’—	26
		<i>insert—</i>	27
		‘, if the person is an individual,’.	28

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Clause 128	Amendment of s 153 (Improvement notice)	1
	Section 153(4)(c)—	2
	<i>omit, insert—</i>	3
	‘(c) briefly, how the provision is being, or has been, contravened; and’.	4 5
Clause 129	Amendment of s 154 (Electrical safety protection notice)	6
	Section 154(8)(e)—	7
	<i>omit.</i>	8
Clause 130	Amendment of s 157A (Power to inquire into serious electrical incident or dangerous electrical event)	9 10
	Section 157A(6), after ‘for the person’—	11
	<i>insert—</i>	12
	‘, if the person is an individual,’.	13
Clause 131	Amendment of s 158 (Power to require production of certain documents)	14 15
	Section 158(3), ‘It’—	16
	<i>omit, insert—</i>	17
	‘If the person is an individual, it’.	18
Clause 132	Insertion of new pt 16	19
	After section 241—	20
	<i>insert—</i>	21
‘Part 16	Transitional provision for Workers’ Compensation and Rehabilitation and Other Acts Amendment Act 2004	22 23 24 25

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'242	Existing codes of practice	1
	‘The codes of practice mentioned in the <i>Electrical Safety (Codes of Practice) Notice 2002</i> , as in force at the commencement of this section, expire 10 years after their commencement.’.	2 3 4 5
Part 5		
Amendment of Industrial Relations Act 1999		6 7
Clause 133	Act amended in pt 5	8
	This part amends the <i>Industrial Relations Act 1999</i> .	9
Clause 134	Amendment of s 267 (Commission’s jurisdiction is exclusive)	10 11
	Section 267, after ‘by this Act’—	12
	<i>insert</i> —	13
	‘or another Act’.	14
Part 6		
Amendment of Statutory Instruments Act 1992		15 16
Clause 135	Act amended in pt 6	17
	This part amends the <i>Statutory Instruments Act 1992</i> .	18
Clause 136	Amendment of s 46 (When is preparation of a regulatory impact statement unnecessary?)	19 20
	Section 46(1)(k)—	21
	<i>omit, insert</i> —	22

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- | | |
|---|-------------|
| ‘(k) a notice about a code of practice made under the
<i>Workplace Health and Safety Act 1995</i> , section 41; ³⁵ | 1
2 |
| (l) a notice about a code of practice made under the
<i>Electricity Safety Act 2002</i> , section 44; ³⁶ | 3
4 |
| (m) a notice about a code of practice made under the
<i>Workers' Compensation and Rehabilitation Act 2003</i> ,
section 486A. ³⁷ . | 5
6
7 |

35 *Workplace Health and Safety Act 1995*, section 41 (Code of practice about managing exposure to risks)

36 *Electrical Safety Act 2002*, section 44 (Code of practice about discharging electrical safety obligation)

37 *Workers' Compensation and Rehabilitation Act 2003*, section 486A (Code of practice)

Schedule	Minor amendments	1
	sections 3, 90 and 116	2
	Workers' Compensation and Rehabilitation Act 2003	3
1	Sections 58(6) and (10), 62(1)(b), 80(3) and 583(4)(g), '21 days'— <i>omit, insert—</i> '15 business days'.	4 5 6 7
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'— <i>omit, insert—</i> '10 business days'.	8 9 10 11
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'— <i>omit, insert—</i> '20 business days'.	12 13 14 15 16
4	Section 77(4), '3 months'— <i>omit, insert—</i> '60 business days'.	17 18 19
5	Section 79(2) and (3) and 103(3), '90 days'— <i>omit, insert—</i> '60 business days'.	20 21 22

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'— <i>omit, insert—</i> '5 business days'.	1 2 3 4
7	Section 80(2)(d), '42 days'— <i>omit, insert—</i> '30 business days'.	5 6 7
8	Section 92(4), before 'exercised'— <i>insert—</i> 'performed or'.	8 9 10
9	Section 92(5), 'exercise the self-insurer's functions and'— <i>omit, insert—</i> 'perform the self-insurer's functions or exercise the self-insurer's'.	11 12 13 14 15
10	Section 92(7), 'and exercise the functions and'— <i>omit, insert—</i> 'the functions and exercise the'.	16 17 18
11	Section 96(3) and 133(3), '10 days'— <i>omit, insert—</i> '8 business days'.	19 20 21
12	Chapter 3, part 9, division 8, heading— <i>omit.</i>	22 23

Schedule (continued)

13	Section 210, heading—	1
	<i>omit, insert—</i>	2
'210	Insurer's liability for medical treatment, hospitalisation and expenses'.	3 4
14	Section 282(1)(a), 'or'—	5
	<i>omit.</i>	6
15	Section 290(4), '30 days'—	7
	<i>omit, insert—</i>	8
	'21 business days'.	9
16	Section 291, 'section 290(7)'—	10
	<i>omit, insert—</i>	11
	'section 290A(3)'.	12
17	Section 545(1), '35 days'—	13
	<i>omit, insert—</i>	14
	'25 days'.	15
18	Chapter 13, part 3, division 1, heading, after 'magistrate'—	16 17
	<i>insert—</i>	18
	', industrial commission'.	19
19	Section 550(3), '28 day'—	20
	<i>omit.</i>	21

Schedule (continued)

20	Chapter 15, heading— <i>omit, insert—</i>	1 2
	‘Chapter 15 Transitional provisions for Act No. 27 of 2003’.	3 4
21	Schedule 2, part 1, section 1, after ‘only’, second mention— <i>insert—</i> ‘is a worker’.	5 6 7 8
22	Schedule 2, part 1, section 2, before ‘unless’— <i>insert—</i> ‘is a worker’.	9 10 11
23	Schedule 2, part 1, section 3, before ‘if’— <i>insert—</i> ‘is a worker’.	12 13 14
24	Schedule 2, part 1, section 4, after ‘by commission’— <i>insert—</i> ‘is a worker’.	15 16 17
25	Schedule 2, part 1, section 5, after ‘schedule,’— <i>insert—</i> ‘is a worker’.	18 19 20

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Schedule (continued)

26	Schedule 2, part 1, section 6, after ‘else’— <i>insert—</i> ‘is a worker’.	1 2 3
27	Schedule 2, part 1, section 7, after ‘other person’— <i>insert—</i> ‘is a worker’.	4 5 6
28	Schedule 2, part 1, section 8, after ‘another person’— <i>insert—</i> ‘is a worker’.	7 8 9
29	Schedule 2, part 2, section 1, ‘who’— <i>omit, insert—</i> ‘is not a worker if the person’.	10 11 12
30	Schedule 2, part 2, section 2, ‘while’— <i>omit, insert—</i> ‘is not a worker while the person is’.	13 14 15
31	Schedule 2, part 2, section 3, before ‘if’— <i>insert—</i> ‘is not a worker’.	16 17 18
32	Schedule 2, part 2, section 4, after ‘tuition’— <i>insert—</i> ‘is not a worker’.	19 20 21

Schedule (continued)

33	Schedule 2, part 2, section 5, after '606'— <i>insert—</i> 'is not a worker'.	1 2 3
Workplace Health and Safety Act 1995		4
34	Sections 5, 6(a) and (b), 7(1) and (2), 22(1)(a) and (b), 31(1)(c) and 97(a), 'workplace activities'— <i>omit, insert—</i> 'work activities'.	5 6 7 8
35	Sections 7(1), second example, 42C(1)(a)(i), schedule 3, definitions <i>dangerous event, work caused illness,</i> paragraphs (a) and (b) and <i>work injury</i>, paragraphs (a), (b)(ii) and (c), 'workplace activity'— <i>omit, insert—</i> 'work activity'.	9 10 11 12 13 14
36	Section 7(3)(b), 'and advisory standards'— <i>omit, insert—</i> 'and codes of practice'.	15 16 17
37	Section 26(3), 27(1), 37(1)(b) and 42, 'an advisory standard or industry'— <i>omit, insert—</i> 'a'.	18 19 20 21

Schedule (continued)

45	Section 42C(6), 'or advisory standard'— <i>omit.</i>	1 2
46	Section 45(2)(n), 'advisory standards and industry'— <i>omit.</i>	3 4
47	Section 56(2)(c), example, 'an industry'— <i>omit, insert—</i> 'a'.	5 6 7
48	Section 123, heading, after 'workplace,'— <i>insert—</i> 'relevant workplace area,'	8 9 10
49	Section 123(1), after 'workplace,'— <i>insert—</i> 'or a relevant workplace area,'.	11 12 13
50	Section 123(2), after 'part,'— <i>insert—</i> 'relevant workplace area,'.	14 15 16
51	Section 123(2), example, after 'a workplace'— <i>insert—</i> ' , relevant workplace area'.	17 18 19

Schedule (continued)

52	Section 123(2), example, after ‘the workplace’— <i>insert—</i> ‘or relevant workplace area’.	1 2 3
53	Section 164(4), ‘Workplace Relations Act 1997’ and footnote— <i>omit, insert—</i> ‘Industrial Relations Act 1999’.	4 5 6 7
Electrical Safety Act 2002		8
54	Section 30(3), ‘subsection (1)’— <i>omit, insert—</i> ‘subsection (2)’.	9 10 11
55	Part 15, heading— <i>omit, insert—</i>	12 13
‘Part 15	Transitional provisions for Act No. 42 of 2002’.	14 15