



Queensland

Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2013

Includes amendments agreed during Consideration



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Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2013

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2013

A Bill

for

An Act to amend the *Civil Liability Act 2003*, the *Motor Accident Insurance Act 1994*, the *Personal Injuries Proceedings Act 2002*, the *Workers' Compensation and Rehabilitation Act 2003* and the *Workers' Compensation and Rehabilitation Regulation 2003* for particular purposes and to make minor or consequential amendments of legislation as stated in schedules 1 and 2

[s 1]

The Parliament of Queensland enacts—

Chapter 1 Preliminary

Clause 1 Short title

This Act may be cited as the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2013*.

Clause 2 Commencement

Chapter 2 and schedule 1 are taken to have commenced on the day the Bill for this Act was introduced into the Legislative Assembly.

Chapter 2 Amendments relating to workers' compensation and rehabilitation commencing on introduction

Part 1 Amendment of Workers' Compensation and Rehabilitation Act 2003

Clause 3 Act amended

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

Note—

See also the amendments in chapter 3, part 1 and schedules 1 and 2.

Clause 4 Omission of s 39 (Meaning of *work related impairment*)

Section 39—

omit.

Clause 5 Omission of ch 3, pt 3, div 4 (Workers with prescribed disfigurement)

Chapter 3, part 3, division 4—

omit.

Clause 6 Renumbering of ch 3, pt 3, div 5 (Workers with latent onset injuries that are terminal conditions)

Chapter 3, part 3, division 5—

renumber as chapter 3, part 3, division 4.

Clause 7 Amendment of s 128A (Application of div 5)

Section 128A, heading, 'div 5'—

omit, insert—

div 4

Clause 8 Amendment of s 130 (Injuries caused by misconduct)

(1) Section 130(1)(b), (2) and (3), 'WRI'—

omit, insert—

DPI

(2) Section 130(3)(a) and (b), after 'degree of'—

insert—

permanent

Clause 9 Insertion of new s 132A

After section 132—

insert—

**132A Applying for assessment of DPI before
applying for compensation**

- (1) This section applies to a worker who has not made an application under section 132.
- (2) The worker may apply to the insurer to have the worker's injury assessed under section 179 to decide if the worker's injury has resulted in a DPI.
- (3) An application under subsection (1) must be—
 - (a) lodged with the insurer; and
 - (b) in the approved form; and
 - (c) accompanied by—
 - (i) a certificate in the approved form given by a doctor who attended the worker; and
 - (ii) any other evidence or particulars prescribed under a regulation.
- (4) A registered dentist may issue the certificate mentioned in subsection (3)(c)(i) for an oral injury.
- (5) If the worker can not complete an application because of a physical or mental incapacity, someone else may complete it on the worker's behalf.

**Clause 10 Amendment of s 160 (Total incapacity—reference about
impairment to medical assessment tribunal)**

- (1) Section 160(1)(a) and (b), 'WRI'—

omit, insert—

DPI

- (2) Section 160(2) and (4), after 'degree of'—

insert—

permanent

- (3) Section 160(3), after 'question of'—

insert—

the degree of permanent

Clause 11 Amendment of ch 3, pt 10, div 2 hdg (Assessment of permanent impairment under table of injuries)

Chapter 3, part 10, division 2, heading, 'under table of injuries'—
omit.

Clause 12 Amendment of s 179 (Assessment of permanent impairment)

- (1) Section 179(1), after 'worker'—

insert—

who has made an application under section 132

- (2) Section 179(3)—

omit, insert—

- (3) The degree of permanent impairment must be assessed in accordance with the GEPI to decide the DPI for the injury, and a report complying with the GEPI must be given to the insurer.

- (3) Section 179—

insert—

- (4) If the worker sustains permanent impairment from multiple injuries sustained in 1 event—

- (a) the degree of permanent impairment for the injuries, other than a psychiatric or psychological injury, must be assessed together to decide the DPI for the injuries; and
- (b) the degree of permanent impairment for the psychiatric or psychological injury must be assessed separately to decide the DPI for the injury.

Clause 13 Amendment of s 180 (Calculation of lump sum compensation)

Section 180(1)—

omit, insert—

- (1) If, as a result of an assessment under section 179, a worker is entitled to lump sum compensation, the amount of the lump sum compensation must be calculated under a regulation having regard to the DPI.

Clause 14 Replacement of s 183 (Calculation of WRI)

Section 183—

omit, insert—

183 Guidelines for assessing a worker's degree of permanent impairment and deciding DPI

- (1) The Authority must make guidelines for assessing a worker's degree of permanent impairment for an injury to decide the DPI for the injury.
- (2) The guidelines are to be called the Guidelines for Evaluation of Permanent Impairment.
- (3) The Authority must publish the guidelines in the gazette.

- (4) The guidelines take effect—
 - (a) when published in the gazette; or
 - (b) if a later date is specified in the gazette—on the later date.
- (5) The Authority must consult with the Minister before making or amending the guidelines.

Clause 15 Amendment of s 185 (Insurer to give notice of assessment of permanent impairment)

- (1) Section 185(2)—
omit, insert—
 - (2) To remove any doubt, it is declared that if a worker sustains multiple injuries in an event, the insurer must give the notice only after the worker's DPI for all injuries has been decided.
- (2) Section 185(3)(b)(i), 'degree of permanent impairment attributable to'—
omit, insert—
DPI for
- (3) Section 185(3)(b)(ii)—
omit.
- (4) Section 185(3)(b)(iii)—
renumber as section 185(3)(b)(ii).
- (5) Section 185(3)(c) and (d), 'WRI'—
omit, insert—
DPI
- (6) Section 185(4)—
omit.

Clause 16 Amendment of s 189 (Worker's decision about lump sum compensation—WRI less than 20% or no WRI)

(1) Section 189, heading, 'WRI'—

omit, insert—

DPI

(2) Section 189(1)(a)(i) and (b), 'WRI'—

omit, insert—

DPI

Clause 17 Amendment of s 237 (General limitation on persons entitled to seek damages)

(1) Section 237(1)—

omit, insert—

(1) The following are the only persons entitled to seek damages for an injury sustained by a worker—

(a) the worker, if the worker—

(i) has received a notice of assessment from the insurer for the injury and the DPI for the assessed injury is more than 5%; or

(ii) has a terminal condition;

(b) a dependant of the deceased worker, if the injury results in the worker's death.

(2) Section 237(3), 'under subsection (1)(a)(ii)'—

omit.

Clause 18 Amendment of s 238 (Worker with terminal condition)

(1) Section 238(2)(a) to (c)—

renumber as section 238(2)(c) to (e).

- (2) Section 238(2)—
insert—
 - (a) section 239;
 - (b) part 2, division 4;
- (3) Section 238(3)—
omit.
- (4) Section 238(4), 'or (3)'—
omit.
- (5) Section 238(4)—
renumber as section 238(3).

Clause 19 Amendment of s 239 (Worker who is required to make election to seek damages)

Section 239(1)—
omit, insert—

- (1) This section applies if a worker's notice of assessment states that the worker's DPI is less than 20%.

Clause 20 Amendment of s 240 (Consequences, to costs, of seeking damages)

- (1) Section 240(1), from 'worker' to 'more'—
omit, insert—

worker who does not have a terminal condition and the claimant's notice of assessment states that the claimant's DPI is 20% or more

- (2) Section 240(2) and (3)—
omit, insert—

- (2) If the claimant is a worker who does not have a terminal condition and the claimant's notice of assessment states that the claimant's DPI is less than 20%, part 12, division 2 applies in relation to costs in the claimant's proceeding for damages.
- (3) If the claimant is a worker who has a terminal condition, part 12, division 1 applies in relation to costs in the claimant's proceeding for damages.

Clause 21 Replacement of ch 5, pt 2, divs 3–7

Chapter 5, part 2, divisions 3 to 7—

omit, insert—

Division 3 Urgent proceedings

241 Application of div 3

This division applies to a claimant who is a person mentioned in section 237(1).

242 Need for urgent proceedings

- (1) This section applies in relation to an urgent need for the claimant to start a proceeding for damages.
- (2) Section 276 provides a way for the claimant to satisfy section 302(2).
- (3) Also, the claimant may, under section 298, seek leave to start a proceeding for damages for an injury without complying with section 275.
- (4) However, if the leave mentioned in subsection (3) is given, a proceeding started by leave is stayed until the claimant complies with section 275.

Clause 22 Replacement of ch 5, pt 2, div 8 hdg (Review of worker's decision to accept payment of lump sum compensation for injury—WRI less than 20% or no WRI)

Chapter 5, part 2, division 8, heading—

omit, insert—

Division 4

**Review of worker's
decision to accept
payment of lump sum
compensation for
injury—DPI of less
than 20%**

Clause 23 Amendment of s 265 (Application of div 8)

(1) Section 265, heading 'div 8'—

omit, insert—

div 4

(2) Section 265(b)—

omit, insert—

(b) the worker has been assessed under chapter 3, part 10 as having sustained a DPI of less than 20%.

Clause 24 Amendment of s 266 (Decision not to seek damages reviewable in certain circumstances)

(1) Section 266(1)(b), from 'of limitation' to '1974'—

omit, insert—

mentioned in section 302(1)

(2) Section 266(2)(a), 'degree of permanent impairment was assessed'—

omit, insert—

DPI was decided

- (3) Section 266(2)(c)(i), 'permanent impairment was previously assessed'—

omit, insert—

DPI was previously decided

- (4) Section 266(2)(c)(ii), 'would have entitled the worker to an additional WRI'—

omit, insert—

has resulted in an additional DPI

- (5) Section 266(7)(a), 'is an additional WRI of 10% or more'—

omit, insert—

has resulted in an additional DPI of 10% or more

- (6) Section 266(7)(d)—

omit, insert—

- (d) the additional DPI, when added to the worker's previous DPI, results in a DPI of the worker of 20% or more.

Clause 25 Amendment of s 275 (Notice of claim for damages)

- (1) Section 275(1), from 'of limitation' to '1974'—

omit, insert—

mentioned in section 302(1)

- (2) Section 275(8)—

insert—

- (d) for a claimant other than a worker with a terminal condition or a dependant—the notice of assessment for the injury sustained by the worker.

Clause 26 Amendment of s 296 (Claimant to have given complying notice of claim or insurer to have waived compliance)

Section 296(a), 'terminal condition'—

omit, insert—

claimant with a terminal condition or to whom section 302(1)(b) or (c) applies

Clause 27 Replacement of s 299 (Other provision for urgent proceedings)

Section 299—

omit, insert—

299 Other provision for urgent proceedings

Part 2, division 3 provides for the urgent starting of proceedings by persons mentioned in section 237(1), and for the staying of those proceedings.

Clause 28 Amendment of s 302 (Alteration of period of limitation)

(1) Section 302(1) and (2)—

renumber as section 302(2) and (3).

(2) Section 302—

insert—

(1) A claimant may bring a proceeding for damages for a personal injury—

(a) generally—within the period of limitation allowed for bringing a proceeding for damages for personal injury under the *Limitations of Actions Act 1974*; or

(b) if the insurer gave the worker the notice of assessment for the injury less than 6 months before the end of the period mentioned in paragraph (a)—

- (i) within 6 months after the insurer gives the notice of assessment; or
 - (ii) if, before the end of the period mentioned in subparagraph (i), the worker advises the insurer that the worker does not agree with the DPI stated in the notice of assessment—within 6 months after a tribunal decides the DPI; or
 - (c) if at least 6 months before the end of the period mentioned in paragraph (a), the worker asks the insurer to have the worker's injury assessed to decide if the injury has resulted in a DPI and the insurer has not given a notice of assessment for the injury before the end of that period—
 - (i) within 6 months after the insurer gives the notice of assessment; or
 - (ii) if, before the end of the period mentioned in subparagraph (i), the worker advises the insurer that the worker does not agree with the DPI stated in the notice of assessment—within 6 months after a tribunal decides the DPI.
- (3) Section 302(2), as renumbered, from 'of limitation allowed' to '1974'—
omit, insert—
mentioned in subsection (1)
- (4) Section 302(2)(a), as renumbered, 'the period of limitation'—
omit, insert—
that period

Clause 29 Amendment of ch 5, pt 12, div 1 hdg (Costs applying to worker with WRI of 20% or more, worker with latent onset injury that is a terminal condition, or dependant)

Chapter 5, part 12, division 1, heading, 'WRI of 20% or more, worker with latent onset injury that is a'—

omit, insert—

| DPI of 20% or more, worker with

Clause 30 Amendment of s 310 (Application of div 1)

Section 310(a) and (b)—

omit, insert—

- (a) a worker who does not have a terminal condition, if the worker's DPI is 20% or more; or
- (b) a worker who has a terminal condition; or

Clause 31 Replacement of ch 5, pt 12, div 2 hdg and s 315

Chapter 5, part 12, division 2, heading and section 315—

omit, insert—

**Division 2 Costs applying to worker
who does not have a
terminal condition and has
DPI of less than 20%**

315 Application of div 2

This division applies if the claimant is a worker who does not have a terminal condition and has a DPI of less than 20%.

Clause 32 Amendment of s 500 (Reference to tribunals)

- (1) Section 500(1)(c) and (h)—
omit.
- (2) Section 500(1)(d) after 'worker's'—
insert—
permanent

Clause 33 Amendment of s 501 (Reference about application for compensation)

- (1) Section 501(2)(c) and (5)(b), from 'under'—
omit, insert—
resulting in permanent impairment and the insurer
asks—the DPI for the injury.
- (2) Section 501(3)(b)—
omit, insert—
(b) the DPI for the injury.
- (3) Section 501(6)—
omit.

Clause 34 Amendment of s 502 (Reference about worker's capacity for work)

- (1) Section 502(3)(c), from 'under'—
omit, insert—
resulting in permanent impairment and the insurer
asks—the DPI for the injury.
- (2) Section 502(4)—
omit.

Clause 35 Omission of s 503 (Reference about worker's injury)

Section 503—

omit.

Clause 36 Amendment of s 504 (Reference about worker's impairment)

(1) Section 504, heading, after 'worker's'—

insert—

permanent

(2) Section 504(2)(b)—

omit, insert—

(b) the DPI for the injury.

(3) Section 504(3)—

omit.

Clause 37 Amendment of s 505 (Reference about worker's permanent impairment)

(1) Section 505(2)(b)(ii)—

omit, insert—

(ii) the DPI for the injury.

(2) Section 505(3)—

omit.

Clause 38 Amendment of s 507 (Reference about review of worker's permanent impairment)

(1) Section 507(2)—

insert—

(c) the additional DPI for the injury.

(2) Section 507(3)—

omit.

Clause 39 Omission of s 508 (Assessment of additional compensation for prescribed disfigurement)

Section 508—

omit.

Clause 40 Insertion of new ch 31

After chapter 30—

insert—

Chapter 31 Transitional provisions for the Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2013

Part 1 Amendments commencing on introduction of Bill

678 Injuries sustained before commencement

- (1) This section applies if a worker sustained an injury before the commencement.

-
- (2) The pre-amended Act continues to apply in relation to the injury as if the amendment Act had not been enacted.
- (3) Without limiting subsection (2)—
- (a) the amount of compensation payable in relation to the injury must be worked out under the pre-amended Act; and
- (b) chapter 5 of the pre-amended Act applies in relation to damages for the injury.
- (4) In this section—

amendment Act means the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2013*.

commencement means the commencement of this section.

pre-amended Act means this Act as in force before the commencement.

Clause 41 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *prescribed disfigurement*, *table of injuries*, *work related impairment* and *WRI*—
omit.

- (2) Schedule 6—
insert—

DPI, for an injury of a worker, means an estimate, expressed as a percentage, of the degree of the worker's permanent impairment assessed and decided in accordance with the GEPI.

GEPI means the Guidelines for the Evaluation of Permanent Impairment made under section 183.

- (3) Schedule 6, definition *notice of assessment*, 'WorkCover'—
omit, insert—
an insurer

Part 2 Amendment of Workers' Compensation and Rehabilitation Regulation 2003

Clause 42 Regulation amended

This part amends the *Workers' Compensation and Rehabilitation Regulation 2003*.

Note—

See also the amendments in chapter 3, part 2 and schedules 1 and 2.

Clause 43 Insertion of new s 85A

After section 85—

insert—

85A Application for compensation for assessment of DPI—Act, s 132A

For section 132A(3)(c)(ii) of the Act, a worker must give the insurer, to the extent the insurer reasonably requires—

- (a) proof of injury and its cause; and
- (b) proof of the nature, extent and duration of incapacity resulting from the injury.

Clause 44 Amendment of s 86 (Certificate given by dentist, doctor or nurse practitioner)

Section 86(1), after '132(3)(a)'—

insert—

or 132A(3)(c)(i)

Clause 45 Replacement of ss 92–95

Sections 92 to 95—

omit, insert—

92 Calculating lump sum compensation—Act, s 180

The amount of lump sum compensation for a worker's DPI is calculated by multiplying the maximum statutory compensation by the worker's DPI.

Example—

A worker's DPI is assessed as 10%. The maximum statutory compensation is \$296,165. The lump sum compensation is \$29,616.50.

Clause 46 Omission of s 99A (Criteria for rehabilitation and return to work coordinator—Act, s 41(a))

Section 99A—

omit.

Clause 47 Amendment of s 99C (Employer's obligation to appoint rehabilitation and return to work coordinator—Act, s 226(1))

Section 99C(1) to (5)—

omit, insert—

- (1) An employer meets the criteria for being required to appoint a rehabilitation and return to work coordinator if—

- (a) for an employer who employs workers at a workplace in a high risk industry—the wages of the employer in Queensland for the preceding financial year were more than 2600 times QOTE; or
 - (b) otherwise—the wages of the employer in Queensland for the preceding financial year were more than 5200 times QOTE.
- (2) An employer may appoint 1 rehabilitation and return to work coordinator for more than 1 workplace if the person can reasonably perform the person's functions as a rehabilitation and return to work coordinator for each workplace.

Clause 48 Omission of pt 6, div 2 (Workplace rehabilitation policy and procedures)

Part 6, division 2—

omit.

Clause 49 Renumbering of pt 6, div 1A (Rehabilitation and return to work coordinators)

Part 6, division 1A—

renumber as part 6, division 2.

Clause 50 Amendment of s 114 (Who this division applies to)

- (1) Section 114(a), 'WRI'—

omit, insert—

DPI

- (2) Section 114(b)—

omit, insert—

- (b) a worker who has a terminal condition; or
- (c) a dependant.

Clause 51 Omission of sch 2 (Table of injuries)

Schedule 2—

omit.

Clause 52 Amendment of sch 3 (Graduated scale of additional compensation for certain workers)

- (1) Schedule 3, section 1(1), 'WRI'—

omit, insert—

DPI

- (2) Schedule 3, section 2(1) and (2)—

omit, insert—

A worker who sustains a DPI shown in column 1 is entitled to additional lump sum compensation in the amount shown for the corresponding entry in column 2.

- (3) Schedule 3, section 2, table, column 1, heading, 'WRI'—

omit, insert—

DPI

Clause 53 Amendment of sch 4 (Graduated scale for additional compensation for gratuitous care)

- (1) Schedule 4, section 2(1), from 'WRI' to 'Act'—

omit, insert—

DPI

- (2) Schedule 4, section 2, table, column 1, heading 'WRI'—
omit, insert—

DPI

Clause 54 Amendment of sch 8 (Matters to which court is to have regard in the application of schedule 9)

- (1) Schedule 8, section 10—

omit, insert—

10 DPI

The extent of DPI is an important consideration, but not the only consideration affecting the assessment of an ISV.

- (2) Schedule 8, section 11, heading, 'whole person impairment percentage'—

omit, insert—

DPI

- (3) Schedule 8, section 11, 'whole person impairment percentage, it must state how the percentage is calculated'—

omit, insert—

DPI, it must state how the DPI is decided

- (4) Schedule 8, section 11(c), 'percentage'—

omit, insert—

DPI

- (5) Schedule 8, section 12(2)—

omit, insert—

- (2) In assessing an ISV, a court must give greater weight to a medical assessment of a DPI based on the criteria for the assessment of DPI provided under AMA 5 than to a medical assessment of a DPI not based on the criteria.

Clause 55 Amendment of sch 13 (Dictionary)

Schedule 13, definitions *structural loss* and *whole person impairment*—
omit.

**Part 3 Minor and consequential
amendments**

Clause 56 Legislation amended in sch 1

Schedule 1 amends the legislation mentioned in it.

**Chapter 3 Amendments relating to
workers' compensation and
rehabilitation commencing
on assent**

**Part 1 Amendment of Workers'
Compensation and
Rehabilitation Act 2003**

Clause 57 Act amended

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

Note—

See also the amendments in chapter 2, part 1 and schedules 1 and 2.

Clause 58 Replacement of s 6 (Administration)

Section 6—

omit, insert—

6 Administration

This Act provides for the efficient administration of the scheme and of this Act through the establishment of the office of the Workers' Compensation Regulator and WorkCover.

Clause 59 Amendment of s 32 (Meaning of *injury*)

(1) Section 32(1)—

omit, insert—

(1) An ***injury*** is personal injury arising out of, or in the course of, employment if—

(a) for an injury other than a psychiatric or psychological disorder—the employment is a significant contributing factor to the injury; or

(b) for a psychiatric or psychological disorder—the employment is the major significant contributing factor to the injury.

(2) Section 32(2), 'significant'—

omit.

(3) Section 32(3)(b)—

omit, insert—

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

-
- (i) a personal injury other than a psychiatric or psychological disorder;
 - (ii) a disease;
 - (iii) a medical condition other than a psychiatric or psychological disorder, if the condition becomes a personal injury or disease because of the aggravation;
 - (ba) an aggravation of a psychiatric or psychological disorder, if the aggravation arises out of, or in the course of, employment and the employment is the major significant contributing factor to the aggravation;
- (4) Section 32(4), after '(3)(b)'—
- insert—*
- and (ba)

Clause 60 Amendment of s 34 (Injury while at or after worker attends place of employment)

Section 34(2), 'significant'—
omit.

Clause 61 Amendment of s 35 (Other circumstances)

Section 35(2), 'significant'—
omit.

Clause 62 Amendment of s 41 (Meaning of *rehabilitation and return to work coordinator*)

Section 41(a)—
omit, insert—

- (a) is appropriately qualified to perform the functions of a rehabilitation and return to work coordinator under this Act; and

Clause 63 Amendment of s 54 (Setting of premium)

Section 54(4), 'and the Authority'—
omit.

Clause 64 Amendment of s 81 (Annual levy payable)

- (1) Section 81(2)—
omit.
- (2) Section 81(4) to (8), 'Authority'—
omit, insert—
Regulator
- (3) Section 81(10), 'Authority's'—
omit, insert—
Regulator's
- (4) Section 81(3) to (10)—
renumber as section 81(2) to (9).

Clause 65 Amendment of s 101 (Recovery of ongoing costs from former self-insurer)

- (1) Section 101(4) and (5), 'Authority'—
omit, insert—
Regulator
- (2) Section 101(6)—
omit.

- (3) Section 101(7)—
renumber as section 101(6).

Clause 66 Amendment of s 105H (Recovery of ongoing costs from non-scheme employer)

- (1) Section 105H(4) and (5), 'Authority'—
omit, insert—
Regulator
- (2) Section 105H(6)—
omit.
- (3) Section 105H(7)—
renumber as section 105H(6).

Clause 67 Replacement of s 107 (Meaning of *QOTE*)

Section 107—
omit, insert—

107 Meaning of *QOTE*

QOTE, for a financial year, means the amount of Queensland full-time adult persons ordinary time earnings declared by the Australian Statistician in the original series of the statistician's average weekly earnings publication most recently published before the start of the financial year.

Clause 68 Amendment of s 108 (Compensation entitlement)

Section 108(2), after '32(3)(b)'—
insert—
or (ba)

68A Replacement of s 186 (Worker's disagreement with assessment of permanent impairment)

Section 186—

omit, insert—

186 Worker's disagreement with assessment of permanent impairment

- (1) This section applies if—
 - (a) the worker's degree of permanent impairment has not been assessed by a medical assessment tribunal; and
 - (b) the worker does not agree with the degree of permanent impairment stated in the notice of assessment (the *original notice*).
- (2) The worker must advise the insurer within 20 business days after the original notice is given (the *decision period*) that the worker—
 - (a) does not agree with the degree of permanent impairment; and
 - (b) requests—
 - (i) that the insurer has the worker's injury assessed again under section 179 by an entity mentioned in section 179(2) and agreed to by the worker and the insurer, (other than the entity that gave the report to the insurer under section 179(3)); or
 - (ii) that the insurer refer the question of degree of permanent impairment to a tribunal for decision.
- (3) If the worker makes a request mentioned in subsection (2)(b)(i), the insurer must decide, within 10 business days after receiving the request, whether to have the worker's injury assessed again under section 179 to decide if the

worker's injury has resulted in a degree of permanent impairment.

- (4) If, under subsection (3), the insurer decides to have the worker's injury assessed again under section 179, the original notice is taken to have never been given.
- (5) If the insurer has the worker's injury assessed again under section 179, the worker can not make a further request mentioned in subsection (2)(b)(i).
- (6) If—
 - (a) under subsection (3), the insurer decides not to have the worker's injury assessed again under section 179; or
 - (b) the worker makes a request mentioned in subsection (2)(b)(ii);the insurer must refer the question of degree of permanent impairment to a medical assessment for decision.
- (7) The degree of permanent impairment may then be decided only by a medical assessment tribunal.

Clause 69 Amendment of s 210 (Insurer's liability for medical treatment, hospitalisation and expenses)

- (1) Section 210(2), 'the Authority'—
omit, insert—
WorkCover
- (2) Section 210—
insert—
 - (3) Before imposing a condition under subsection (2) WorkCover must consult with self-insurers.

Clause 70 Amendment of s 217 (Cost of hospitalisation at private hospital)

(1) Section 217(3)(a), 'the Authority'—

omit, insert—

WorkCover

(2) Section 217—

insert—

(4) In fixing a cost of hospitalisation to be published under subsection (3)(a), WorkCover must consult with self-insurers.

Clause 71 Amendment of s 218A (Cost of hospitalisation)

(1) Section 218A(3), 'the Authority'—

omit, insert—

WorkCover

(2) Section 218A—

insert—

(4) In fixing a cost of hospitalisation to be published under subsection (3), WorkCover must consult with self-insurers.

Clause 72 Replacement of s 220 (Insurer's responsibility for worker's rehabilitation)

Section 220—

omit, insert—

220 Insurer's responsibility for worker's rehabilitation

(1) An insurer must take the steps it considers practicable to secure the rehabilitation and early return to suitable duties of workers who have an entitlement to compensation.

-
- (2) Without limiting subsection (1), an insurer must refer a worker who has lodged a notice of claim to an accredited return to work program of the insurer, unless the insurer is satisfied that, as a result of the injury, the worker will not be able to participate in the program.
- (3) An insurer must take the steps it considers practicable to coordinate the development and maintenance of a rehabilitation and return to work plan in consultation with the injured worker, the worker's employer and treating registered persons.
- (4) In this section—
accredited return to work program, of an insurer, means a return to work program managed by the insurer that is accredited by the Regulator.

Examples of return to work programs—

vocational assessments, reskilling or retraining, job placement, host employment

Clause 73 Omission of s 221 (Authority's responsibility for rehabilitation)

Section 221—

omit.

Clause 74 Amendment of s 222 (Liability for rehabilitation fees and costs)

- (1) Section 222(3), 'the Authority'—

omit, insert—

WorkCover

- (2) Section 222—

insert—

- (5) Before imposing a condition under subsection (3)
WorkCover must consult with self-insurers.

**Clause 75 Amendment of s 227 (Employer's obligation to have
workplace rehabilitation policy and procedures)**

- (1) Section 227(1), from 'meets' to 'regulation'—

omit, insert—

must appoint a rehabilitation and return to work
coordinator under section 226(1)

- (2) Section 227(3)(b), 'Authority'—

omit, insert—

Regulator

- (3) Section 227(4), from 'and must' to 'regulation'—

omit.

Clause 76 Amendment of s 231 (Worker must mitigate loss)

Section 231(3), 'or the Authority'—

omit.

Clause 77 Amendment of s 267 (Mitigation of loss)

Section 267(3), 'or the Authority'—

omit.

Clause 78 Amendment of s 278 (Response to notice of claim)

Section 278(3), '(2)(c)'—

omit, insert—

(2)(d)

Clause 79 Replacement of s 306F (Worker performed services before injury)

Section 306F—

omit, insert—

306F Worker performed services before injury

- (1) This section applies if—
 - (a) before the worker sustained the injury, the worker usually performed particular services; and
 - (b) after the worker sustained the injury, the worker is provided with services of substantially the same type (the *provided services*); and
 - (c) all or part of the provided services are gratuitous services.
- (2) A court can not award damages for the cost or value of—
 - (a) the part of the services that are gratuitous services; or
 - (b) services of substantially the same type as the gratuitous services that are to be provided to the worker in the future as either gratuitous services or paid services.
- (3) However, this section does not apply if the court is satisfied that the services mentioned in subsection (2)(a)—
 - (a) were usually provided to the worker as paid services; and
 - (b) were provided as gratuitous services only in exceptional circumstances.

Example of exceptional circumstances for paragraph (b)—

During a 2-year period, paid services were provided to the worker on a weekly basis. However, the provider of the services was on holidays, or otherwise unable to provide the services, on 2 occasions. On those 2 occasions the services were provided as gratuitous services.

Clause 80 Replacement of s 306H (Services not required by or provided to worker before injury)

Section 306H—

omit, insert—

306H Services not required by or provided to worker before injury

- (1) This section applies if—
 - (a) before the worker sustained the injury, the worker usually did not require or was not usually provided with particular services; and
 - (b) after the worker sustains the injury, the worker is provided with services (the *provided services*); and
 - (c) all or part of the provided services are gratuitous services.
- (2) A court can not award damages for the cost or value of—
 - (a) the part of the provided services that are gratuitous services; or
 - (b) services of substantially the same type as the gratuitous services that are to be provided to the worker in the future as either gratuitous services or paid services.
- (3) However, this section does not apply if the court is satisfied that the services mentioned in

subsection (2)(a) were provided as gratuitous services only in exceptional circumstances.

Example of exceptional circumstances for subsection (3)—

During a 2-year period after the worker sustains the injury, the provided services were provided on a weekly basis. However, the provider of the services was on holidays, or otherwise unable to provide the services, on 2 occasions. On those 2 occasions the services were provided as gratuitous services.

Clause 81 Amendment of s 306V (Indexation of particular amounts)

Section 306V(2) and (3), '4 quarters'—

omit, insert—

12 months

Clause 82 Replacement of ch 7 (The Authority)

Chapter 7—

omit, insert—

Chapter 7 The Workers' Compensation Regulator

Part 1 Office and appointment

326 Establishment of office and appointment of Regulator

- (1) The office of the Workers' Compensation Regulator is established.
- (2) The Governor in Council may appoint a public service officer as the Workers' Compensation Regulator (the *Regulator*).

- (3) The Regulator is appointed under the *Public Service Act 2008* and may hold that appointment in conjunction with his or her other public service office.
- (4) The Regulator must act independently when making a decision under this Act but otherwise is subject to direction in the person's capacity as a public service officer or an officer of the department.

Part 2 Functions and powers

327 Functions of the Regulator

The Regulator has the following functions—

- (a) to regulate the workers' compensation scheme;
- (b) to monitor the compliance of insurers with this Act;
- (c) to monitor the performance of insurers under this Act, including the consistent application of this Act;
- (d) to decide applications relating to self-insurance;
- (e) to approve amounts payable under an industrial instrument for the purposes of section 107B;
- (f) to undertake reviews of decisions under chapter 13, part 2 and manage appeals under chapter 13, part 3;

- (g) to support and oversee the efficient administration of medical assessment tribunals;
- (h) to undertake workplace rehabilitation and return to work accreditation activities;
- (i) to provide rehabilitation advisory services;
- (j) to maintain a database for scheme-wide reporting;
- (k) to promote education about the workers' compensation scheme;
- (l) to collect fees under the Act;
- (m) to administer grants under the Act;
- (n) to perform other functions given to the Regulator under this or another Act.

328 Powers of the Regulator

- (1) Subject to this Act, the Regulator has the power to do all things necessary or convenient to be done for or in connection with the performance of the Regulator's functions.
- (2) Without limiting subsection (1), the Regulator has all the powers and functions that an authorised person has under this Act.

329 Delegation by the Regulator

The Regulator may delegate a function or power under this Act to an appropriately qualified—

- (a) public service employee; or
- (b) authorised person; or
- (c) person, or a person of a class, prescribed under a regulation.

Part 3 Authorised persons

Division 1 Appointment of authorised persons

330 Appointment of authorised persons

- (1) The Regulator may, by instrument, appoint any of the following as an authorised person for the Regulator—
 - (a) a public service employee;
 - (b) the holder of a statutory office;
 - (c) a person of a class prescribed under a regulation.
- (2) The following are taken to be authorised persons appointed by the Regulator—
 - (a) a person appointed as an inspector under the *Industrial Relations Act 1999*, but only for the purposes of chapter 4, part 6, while that person holds the appointment;
 - (b) a person appointed as an inspector under the *Work Health and Safety Act 2011*, while that person holds the appointment.

331 Accountability of authorised persons

- (1) An authorised person must give written notice to the Regulator of all interests, pecuniary or otherwise, that the authorised person has, or acquires, and that conflict or could conflict with the proper performance of the authorised person's functions.
- (2) The Regulator must give a direction to an authorised person not to deal, or to no longer

deal, with a matter if the Regulator becomes aware that the authorised person has a potential conflict of interest in relation to a matter and the Regulator considers that the authorised person should not deal, or should no longer deal, with the matter.

Note—

Failure to comply with subsection (1) or a direction under subsection (2) may result in action by the Regulator under section 332 or disciplinary action under the *Public Service Act 2008*.

332 Suspension and ending of appointment of authorised persons

- (1) The Regulator may suspend or end the appointment of a person appointed under section 330(1).
- (2) A person's appointment as an authorised person ends when the person ceases to be eligible for appointment as an authorised person.

Division 2 Identity cards

333 Identity cards

- (1) The Regulator must issue an identity card to each authorised person.
- (2) The card must—
 - (a) contain a recent photo of the authorised person; and
 - (b) contain a copy of the authorised person's signature; and
 - (c) identify the person as an authorised person under this Act; and

- (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

334 Production or display of identity card

- (1) In exercising a power under this Act in relation to a person in the person's presence, an authorised person must—
 - (a) produce the authorised person's identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the person's inspection at the first reasonable opportunity.

335 Return of identity card

If a person to whom an identity card has been issued ceases to be an authorised person, the person must return the identity card to the Regulator as soon as practicable.

Maximum penalty—40 penalty units.

Division 3 Functions of authorised persons etc.

336 Functions of authorised persons

An authorised person has the following functions under this Act—

- (a) to provide to the Regulator information and advice about compliance with this Act;
- (b) to require compliance with this Act through the issuing of notices;
- (c) to investigate contraventions of this Act and assist in the prosecution of offences against this Act.

337 Conditions on authorised persons' compliance powers

An authorised person's powers under this Act are subject to any conditions stated in the instrument of the authorised person's appointment.

338 Authorised persons subject to Regulator's directions

- (1) An authorised person is subject to the Regulator's direction in the exercise of powers under this Act.
- (2) A direction under subsection (1) may be of a general nature or may relate to a stated matter or stated class of matter.
- (3) Without limiting subsection (1), the Regulator must issue directions to authorised persons to ensure powers are exercised under this Act in a way that minimises any adverse effect on the privacy, confidentiality and security of persons and businesses.

339 Protection from liability

- (1) An authorised person does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to an authorised person, the liability attaches instead to the State.

Clause 83 Amendment of s 409 (Meaning of *community service obligations*)

Section 409(2)(g), '476'—

omit, insert—

481

Clause 84 Amendment of s 424 (Establishment of board)

Section 424(2), '7'—

omit, insert—

9

Clause 85 Amendment of s 427 (Role of board)

- (1) Section 427(d), 'and the Authority'—

omit.

- (2) Section 427(e), 'Authority'—

omit, insert—

Regulator

Clause 86 Omission of ch 9, pt 1 (The Minister and the Authority)

Chapter 9, part 1—

omit.

Clause 87 Renumbering of ch 9, pts 2 and 3

Chapter 9, parts 2 and 3—

renumber as chapter 9, parts 1 and 2.

Clause 88 Insertion of new s 481A

After section 481—

insert—

481A Amounts payable by WorkCover on Minister's instruction

- (1) WorkCover must make payments to organisations or bodies that the Minister considers will help in—
 - (a) the treatment or alleviation of injury sustained by workers; or
 - (b) the prevention or recognition of injury to workers; or
 - (c) making employers and workers aware of their rights, and procedures they need to follow, under the Act; or
 - (d) scheme-wide rehabilitation and return to work programs for workers.
- (2) A payment must be approved by the Governor in Council by gazette notice before it is made.
- (3) The Minister must cause a copy of the approval to be tabled in the Legislative Assembly within 14 sitting days after it is given.

Clause 89 Amendment of s 483 (Notice of suspected threat to full funding because of direction or notification)

Section 483—

insert—

- (8) This section does not apply to a direction or notification given for the purposes of section 481A.

Clause 90 Amendment of s 486A (Code of practice)

- (1) Section 486A(3), (4) and (7), 'Authority'—
omit, insert—
Regulator
- (2) Section 486A(7), 'each of the Authority's offices'—
omit, insert—
the Regulator's office

Clause 91 Amendment of s 488 (Membership of committee)

- (1) Section 488(2), 'must'—
omit, insert—
may
- (2) Section 488(2)(e)—
omit, insert—
(e) the Regulator;

Clause 92 Amendment of s 495 (Conditions of appointment to tribunal)

Section 495(3)(d), 'the Authority or'—
omit.

Clause 93 Amendment of s 517 (Protection from liability)

Section 517(2), 'Authority'—
omit, insert—

State

Clause 94 Replacement of ch 12, pt 1 (Authorised officers and enforcement)

Chapter 12, part 1—

omit, insert—

**Part 1 Authorised persons
and enforcement**

Division 1 Power to enter

Subdivision 1 General powers of entry

518 Powers of entry

- (1) For performing functions under this Act, an authorised person may at any time enter a place that is, or that the authorised person reasonably suspects is, a workplace.
- (2) An entry may be made under subsection (1) with, or without, the consent of the person with management or control of the workplace.
- (3) If an authorised person enters a place under subsection (1) and it is not a workplace, the authorised person must leave the place immediately.
- (4) An authorised person may enter any place if the entry is authorised by a search warrant.

519 Notification of entry

- (1) An authorised person may enter a place under section 518 without prior notice to any person.
- (2) An authorised person must, as soon as practicable after entry to a workplace or suspected workplace, take all reasonable steps to notify the following persons of the entry and the purpose of the entry—
 - (a) the person conducting a relevant business or undertaking at the workplace;
 - (b) the person with management or control of the workplace.
- (3) However, an authorised person is not required to notify any person if to do so would defeat the purpose for which the place was entered or cause unreasonable delay.
- (4) In this section—

relevant business or undertaking means a business or undertaking in relation to which the authorised person is exercising the power of entry.

520 Persons assisting authorised persons

- (1) A person (the ***assistant***), including an interpreter, may accompany an authorised person entering a place under section 518 to assist the authorised person if the authorised person considers the assistance is necessary.
- (2) The assistant—
 - (a) may do the things at the place, and in the way, that the authorised person reasonably requires to assist the authorised person to exercise the authorised person's powers under this part; but

- (b) must not do anything that the authorised person does not have power to do, except as permitted under a search warrant.
- (3) Anything done lawfully by the assistant is taken for all purposes to have been done by the authorised person.

Subdivision 2 Search warrants

521 Search warrants

- (1) An authorised person may apply to a magistrate for a search warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

- (4) The magistrate may issue a search warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
 - (b) the evidence is, or may be within the next 72 hours, at the place.
- (5) The search warrant must state—

- (a) that a stated authorised person may, with necessary and reasonable help and force, enter the place and exercise the authorised person's powers under this part; and
- (b) the offence for which the search warrant is sought; and
- (c) the evidence that may be seized under the search warrant; and
- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 7 days after the search warrant's issue, the search warrant ends.

522 Electronic application

- (1) An application under section 521 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised person reasonably considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the authorised person's remote location.
- (2) The application—
 - (a) may not be made before the authorised person prepares a written application under section 521(2); but
 - (b) may be made before the application is sworn.
- (3) The magistrate may issue the search warrant (the *original warrant*) only if the magistrate is satisfied—

- (a) it was necessary to make the application under this section; and
 - (b) the way the application was made was appropriate.
- (4) After the magistrate issues the original warrant—
 - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised person, including, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised person; or
 - (b) otherwise—
 - (i) the magistrate must tell the authorised person the information mentioned in section 521(5); and
 - (ii) the authorised person must complete a form of warrant, including by writing on it the information mentioned in section 521(5) provided by the magistrate.
- (5) The copy of the original warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.
- (6) The authorised person must, at the first reasonable opportunity, send to the magistrate—
 - (a) the written application complying with section 521(2); and
 - (b) if the authorised person completed a form of warrant under subsection (4)(b)—the completed form of warrant.

- (7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—
 - (a) attach the documents to the original warrant; and
 - (b) give the original warrant and documents to the clerk of the court of the Magistrates Court.
- (8) Despite subsection (5), if—
 - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a search warrant issued under this section; and
 - (b) the original warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a search warrant authorised the exercise of the power.
- (9) This section does not limit section 521.

523 Entry procedure

- (1) This section applies if an authorised person is intending to enter a place under a search warrant issued under this subdivision.
- (2) Before executing a search warrant, the authorised person named in the warrant or an assistant to the authorised person must do or make a reasonable attempt to do the following things—
 - (a) identify himself or herself to a person who is an occupier of the place and is present by producing the authorised person's identity

- card or another document evidencing the authorised person's appointment;
 - (b) give the person a copy of the warrant;
 - (c) tell the person the authorised officer is authorised by the warrant to enter the place;
 - (d) give any person at the place an opportunity to allow the authorised person immediate entry without using force.
- (3) However, the authorised person or an assistant to the authorised person is not required to comply with subsection (1) if he or she reasonably believes that immediate entry to the place is needed to ensure—
- (a) the safety of any person; or
 - (b) that the effective execution of the search warrant is not frustrated.

524 Copy of search warrant to be given to person with management or control of place

- (1) If the person who has or appears to have management or control of a place is present at the place when a search warrant is being executed, the authorised person must—
- (a) identify himself or herself to that person by producing his or her identity card for inspection; and
 - (b) give that person a copy of the execution copy of the warrant.
- (2) In this section—
- execution copy*** includes a duplicate warrant mentioned in section 522(5).

Subdivision 3 Limitation on entry powers

525 Places used for residential purposes

Despite anything else in this part, the powers of an authorised person under this part in relation to entering a place are not exercisable in relation to any part of a place that is used only for residential purposes except—

- (a) with the consent of the person with management or control of the place; or
- (b) under the authority conferred by a search warrant; or
- (c) for the purpose only of gaining access to a suspected workplace, but only—
 - (i) if the authorised person reasonably believes that no reasonable alternative access is available; and
 - (ii) at a reasonable time having regard to the times at which the authorised person believes work is being carried out at the place to which access is sought.

Division 2 Specific powers after entry

Subdivision 1 General

526 General powers

- (1) An authorised person who enters a place under this part may do all or any of the following—
 - (a) search any part of the place;

- (b) inspect, examine, take measurements of or film any part of the place or anything at the place;
 - (c) take for examination a thing, or a sample of or from a thing, at the place;
 - (d) place an identifying mark in or on anything at the place;
 - (e) take to, into or onto the place and use any person, equipment and materials the authorised person reasonably requires for exercising the authorised person's functions under this part;
 - (f) take an extract from, or copy, a document at the place, or take the document to another place to copy;
 - (g) produce an image or writing at the place from an electronic document or, to the extent it is not practicable, take a thing containing an electronic document to another place to produce an image or writing;
 - (h) remain at the place for the time necessary to achieve the purpose of the entry.
- (2) The authorised person may take a necessary step to allow the exercise of a power under subsection (1).
 - (3) If the authorised person takes a document from the place to copy it, the authorised person must copy the document and return it to the place as soon as practicable.
 - (4) If the authorised person takes from the place an article or device reasonably capable of producing a document from an electronic document, the authorised person must produce the document

and return the article or device as soon as practicable.

- (5) In this section—

examine includes analyse, test, account, measure, weigh, grade, gauge and identify.

film includes photograph, videotape and record an image in another way.

527 Power to require reasonable help

- (1) An authorised person who enters a place under this part may make a requirement (a *help requirement*) of an occupier of the place or a person at the place to give the authorised person reasonable help to exercise a power under section 526, including, for example, to produce a document or to give information.
- (2) When making the help requirement, the authorised person must give the person an offence warning for the requirement.

528 Offence to contravene help requirement

- (1) A person of whom a help requirement under section 527 has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) It is a reasonable excuse for an individual not to comply with a help requirement if complying might tend to incriminate the individual or expose the individual to a penalty.
- (3) However, subsection (2) does not apply if a document or information the subject of the help

requirement is required to be held or kept by the person under this Act.

Subdivision 2 Seizure

529 Power to seize evidence etc.

- (1) An authorised person who enters a place under this part, other than under a search warrant, may seize anything, including a document, at the place if the authorised person reasonably believes the thing is evidence of an offence against this Act.
- (2) An authorised person who enters a place with a search warrant may seize the evidence for which the warrant was issued.
- (3) An authorised person who enters a place with a search warrant may also seize anything else at the place if the authorised person reasonably believes—
 - (a) the thing is evidence of an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed or used to continue or repeat the offence.

530 Receipt for seized things

- (1) As soon as practicable after an authorised person seizes a thing under this subdivision, the authorised person must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must leave the receipt in a conspicuous

position and in a reasonably secure way at the place of seizure.

- (3) The receipt must describe generally each thing seized and its condition.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable, given the thing's nature, condition and value, to give the receipt required by this section.

531 Access to seized thing

- (1) Until a thing seized under this subdivision is returned, the authorised person who seized the thing must allow an owner of the thing—
 - (a) to inspect it at any reasonable time and from time to time; and
 - (b) if it is a document—to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.
- (3) The inspection or copying must be allowed free of charge.

532 Return of seized thing

- (1) The authorised person must return a thing seized under this subdivision to an owner—
 - (a) generally—at the end of 6 months after the seizure; or
 - (b) if a proceeding for an offence involving the thing is started within the 6 months—at the end of the proceeding and any appeal from the proceeding.

- (2) Despite subsection (1), if the thing was seized as evidence, the authorised person must return the thing seized to an owner as soon as practicable after the authorised person is satisfied—
 - (a) its continued retention as evidence is no longer necessary; and
 - (b) it is lawful for the owner to possess it.
- (3) Nothing in this section affects a lien or other security over the seized thing.

Division 3 Other powers of authorised person etc.

532A Power to require name and address

- (1) This section applies if an authorised person—
 - (a) finds a person committing an offence against this Act; or
 - (b) finds a person in circumstances that lead the authorised person to reasonably suspect the person has just committed an offence against this Act; or
 - (c) has information that leads the authorised person to reasonably suspect a person has just committed an offence against this Act.
- (2) The authorised person may require the person to state the person's name and residential address.
- (3) The authorised person may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—
 - (a) be in possession of evidence of the correctness of the stated name or address; or

- (b) otherwise be able to give the evidence.
- (4) When making a personal details requirement, the authorised person must give the person an offence warning for the requirement.
- (5) A requirement under this section is a *personal details requirement*.

532B Offence to contravene personal details requirement

- (1) A person of whom a personal details requirement has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) A person may not be convicted of an offence under subsection (1) unless the person is found guilty of the offence in relation to which the personal details requirement was made.
- (3) In this section—
person details requirement see section 532A(5).

532C Power to require information or documents from particular persons

- (1) This section applies if an authorised person reasonably believes that a person has information, or documents providing information, relevant to any of the following matters—
 - (a) any person's liability to insure as an employer, including liability for premiums;
 - (b) any person's entitlement to compensation;
 - (c) any person's entitlement to claim damages;

- (d) any offence the authorised person reasonably believes has been committed against this Act.
- (2) The authorised person may require the person to give the information or produce for inspection the documents to the authorised person at a reasonable time and place nominated by the authorised person and allow the authorised person to make a copy of the documents.
- (3) To remove any doubt, it is declared that under subsection (2), an authorised person may require the information to be given, or the documents to be produced immediately, at the place the requirement is made, if the requirement is reasonable in the circumstances.
- (4) When making the requirement, the authorised person must give the person an offence warning for the requirement.
- (5) The person must comply with the requirement, unless the person has a reasonable excuse.
Maximum penalty—100 penalty units.
- (6) It is a reasonable excuse for an individual not to comply with a requirement under subsection (2) if complying might tend to incriminate the individual or expose the individual to a penalty.
- (7) The person does not commit an offence against this section if the information or documents sought by the authorised person are not in fact relevant to a matter mentioned in subsection (1).

532D Keeping and inspection of particular documents

- (1) An employer or contractor must keep the documents about workers, and contracts for the

performance of work, prescribed under a regulation.

Maximum penalty—100 penalty units.

- (2) A regulation may prescribe the particulars the documents must contain.
- (3) The employer or contractor must—
 - (a) keep each document for at least 3 financial years after the last entry is made in it; and
 - (b) make available for inspection by an authorised person, or produce to the authorised person for inspection, the documents at a reasonable time and place nominated by the authorised person; and
 - (c) permit the authorised person to make a copy of a document.

Maximum penalty—100 penalty units.

- (4) The authorised person may keep the document to make a copy of it.
- (5) The authorised person must return the document to the person as soon as practicable after making the copy.

Division 4 Damage and compensation

532E Duty to avoid inconvenience and minimise damage

In exercising a power under this part, an authorised person must take all reasonable steps to cause as little inconvenience, and do as little damage, as possible.

Note—

See also section 532G.

532F Notice of damage

- (1) This section applies if an authorised person or an assistant to an authorised person damages a thing when exercising or purporting to exercise a power under this part.
- (2) However, this section does not apply to damage the authorised person reasonably considers is trivial or if the authorised person reasonably believes—
 - (a) there is no-one apparently in possession of the thing; or
 - (b) the thing has been abandoned.
- (3) The authorised person must give notice of the damage to the person who appears to the authorised person to be an owner, or person in control, of the thing.
- (4) However, if for any reason it is not practicable to comply with subsection (3), the authorised person must—
 - (a) leave the notice at the place where the damage happened; and
 - (b) ensure it is left in a conspicuous position and in a reasonably secure way.
- (5) The authorised person may delay complying with subsection (3) or (4) if the authorised person reasonably suspects complying with the subsection may frustrate or otherwise hinder an investigation by the authorised person.
- (6) The delay may be only for so long as the authorised person continues to have the reasonable suspicion and remains in the vicinity of the place.
- (7) If the authorised person believes the damage was caused by a latent defect in the thing or other

circumstances beyond the control of the authorised person or the assistant, the authorised person may state the belief in the notice.

- (8) The notice must state—
- (a) particulars of the damage; and
 - (b) that the person who suffered the damage may claim compensation under section 532G.

532G Compensation

- (1) A person may claim compensation if the person incurs loss because of the exercise, or purported exercise, of a power by or for an authorised person including a loss arising from compliance with a requirement made of the person under this part.
- (2) The compensation may be claimed from—
 - (a) for the exercise, or purported exercise, of a power by or for an authorised person of the Regulator—the State; or
 - (b) for the exercise, or purported exercise, of a power by or for an authorised person of WorkCover—WorkCover.
- (3) The compensation may be claimed and ordered in a proceeding—
 - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
 - (b) for an alleged offence against this Act the investigation of which gave rise to the claim for compensation.

- (4) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (5) In considering whether it is just to order compensation, the court must have regard to any relevant offence committed by the claimant.
- (6) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.
- (7) Section 532E does not provide for a statutory right of compensation other than is provided by this section.
- (8) In this section—
loss includes costs and damage.

Division 5 Offences in relation to authorised persons

532H Offence to hinder or obstruct authorised person

- (1) A person must not obstruct an authorised person exercising a power, or someone helping an authorised person exercising a power, unless the person has a reasonable excuse.
Maximum penalty—100 penalty units.
- (2) If a person has obstructed an authorised person, or someone helping an authorised person, and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—

- (a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and
 - (b) the authorised person considers the person's conduct an obstruction.
- (3) In this section—
obstruct includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.

532I Impersonating an authorised person

A person must not impersonate an authorised person.

Maximum penalty—100 penalty units.

532J Giving authorised person false or misleading information

A person must not, in relation to the administration of this Act, give an authorised person information, or a document containing information, that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

Division 6 Recovery of costs

532K Costs of investigation

- (1) This section applies if a person is convicted by a court of an offence against this Act.
- (2) The court may order the person to pay to the Regulator or WorkCover the reasonable costs of any investigation about the offence, including reasonable costs of preparing for the prosecution.

- (3) This section does not limit the orders for costs the court may make on the conviction.

Clause 95 Amendment of s 533 (Offences involving fraud)

Section 533(1), penalty—

omit, insert—

Maximum penalty—500 penalty units or 5 years imprisonment.

Clause 96 Amendment of s 536 (Duty to report fraud or false or misleading information or documents)

- (1) Section 536(1) and (2), 'believes on reasonable grounds'—

omit, insert—

reasonably believes

- (2) Section 536(1)—

insert—

- (c) WorkCover reasonably believes that a person is defrauding, or attempting to defraud, WorkCover.

- (3) Section 536(2)—

insert—

- (c) WorkCover reasonably believes that a person has stated anything, or given a document containing information, to WorkCover or a registered person that the person knows is false or misleading in a material particular.

- (4) Section 536(4), 'Authority'—

omit, insert—

Regulator

(5) Section 536—

insert—

- (5) WorkCover must give the Regulator the information it has in relation to the defrauding, attempting to defraud, stating of the thing or giving of the document.

Maximum penalty—50 penalty units.

Clause 97 Amendment of s 537 (Fraud and related offences and entitlement to compensation and damages)

Section 537(4)—

omit, insert—

- (4) The Regulator may represent WorkCover or the self-insurer for subsection (3).

Clause 98 Insertion of new ch 14, pt 1, div 1 and ch 14, pt 1, div 2 hdg

Chapter 14, part 1—

insert—

Division 1	Information and documents about pre-existing injuries and medical conditions of prospective worker
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571A Definitions for div 1

In this division—

employment process means any process for considering and selecting a person for employment.

false or misleading disclosure means any disclosure that would lead a prospective employer to reasonably believe that the duties the subject of the employment would not aggravate the prospective worker's pre-existing injury or condition.

pre-existing injury or medical condition, for an employment process, means an injury or medical condition existing during the period of the employment process that a person suspects or, ought reasonably to suspect, would be aggravated by performing the duties the subject of the employment.

prospective employer means a person conducting an employment process to select a prospective worker for employment.

prospective worker means a person subject to an employment process for selection for employment.

571B Obligation to disclose pre-existing injury or medical condition

- (1) If requested by a prospective employer, a prospective worker must disclose to the prospective employer the prospective worker's pre-existing injury or medical condition, if any.
- (2) Subsection (1) applies only if the request is made in writing and includes the following information—
 - (a) the nature of the duties the subject of the employment;
 - (b) that if the prospective worker knowingly makes a false or misleading disclosure, under section 571C, the prospective worker or any other claimant will not be entitled to

compensation or to seek damages for any event that aggravates the pre-existing injury or medical condition.

- (3) However, subsection (1) does not apply if the prospective worker is engaged, as a result of the employment process, by the prospective employer before the worker has had a reasonable opportunity to comply with subsection (1).

571C False or misleading disclosure

- (1) This section applies if a prospective worker—
- (a) has a pre-existing injury or medical condition; and
 - (b) knowingly makes a false or misleading disclosure under section 571B in relation to the injury or medical condition; and
 - (c) is employed under the employment process.
- (2) The prospective worker or any other claimant is not entitled to compensation or to seek damages for any event that aggravates the pre-existing injury or medical condition.

571D Prospective employer entitled to obtain particular documents

- (1) A prospective employer may apply to the Regulator for a copy of a prospective worker's claims history summary.
- (2) The application must be—
- (a) in the approved form; and
 - (b) accompanied by the application fee; and
 - (c) endorsed with the prospective worker's consent.

- (3) If the Regulator provides a copy of a worker's claims history summary to the prospective employer, the prospective employer must not do any of the following—
- (a) disclose to anyone else the contents of or information contained in the summary;
 - (b) give access to the document to anyone else;
 - (c) use the contents of or information contained in the summary for any purpose other than for the purposes of the employment process.

Maximum penalty—100 penalty units.

- (4) In this section—

application fee means the fee specified and published by the Regulator by gazette notice and that is not more than the reasonable cost to the Regulator in providing a copy of the claims history summary.

claims history summary, for a person, means a document issued by the Regulator that states the number and nature of the person's current or previous applications for compensation or claim for damages under this Act or a former Act.

Division 2 Other documents and information

Clause 99 Amendment of s 572 (Claimant or worker entitled to obtain certain documents)

- (1) Section 572(1), 'Authority'—

omit, insert—

Regulator

- (2) Section 572(3)(d)—

omit.

Clause 100 Amendment of s 573 (Permissible disclosure of information)

- (1) Section 573(1) to (3A) and (5), 'Authority'—

omit, insert—

Regulator

- (2) Section 573(5), 'Authority's'—

omit, insert—

Regulator's

- (3) Section 573(7), 'a director or employee of the Authority or WorkCover'—

omit, insert—

a prescribed person

- (4) Section 573(7)(a), 'Authority'—

omit, insert—

Regulator

- (5) Section 573(7)(c), 'chief executive officer'—

omit, insert—

Regulator or WorkCover's chief executive officer

- (6) Section 573(8), definition *chief executive officer*—

omit.

- (7) Section 573(8)—

insert—

former Authority means the Workers' Compensation Regulatory Authority established under this Act as in force before the commencement of this definition.

prescribed person means—

- (a) the Regulator; or
- (b) a director or employee of WorkCover; or
- (c) a director or employee of the former Authority.

Clause 101 Amendment of s 574 (Information from commissioner of police service)

- (1) Section 574(1)—

omit, insert—

- (1) The commissioner of the police service may, on the written request of the Regulator or WorkCover's chief executive officer, give to the Regulator or WorkCover information mentioned in subsection (2) about a person the Regulator or WorkCover reasonably suspects to have committed an offence against this Act.

- (2) Section 574(4), 'Authority'—

omit, insert—

Regulator

- (3) Section 574(5)—

omit.

Clause 102 Amendment of s 579 (Summary proceedings for offences other than against ch 8)

- (1) Section 579(1A), (2) and (3)(b), 'chief executive officer of the Authority'—

omit, insert—

Regulator

- (2) Section 579(4)(a), 'Authority'—

omit, insert—

Regulator

Clause 103 Amendment of s 580 (Recovery of debts under this Act)

- (1) Section 580(2), 'Authority'—

omit, insert—

Regulator

- (2) Section 580(3)—

omit, insert—

- (3) The Regulator or WorkCover may recover a debt—

- (a) on the complaint of the Regulator or WorkCover's chief executive officer under the *Justices Act 1886*, before an industrial magistrate; or
(b) by action for debt.

Clause 104 Amendment of s 583 (Evidence)

- (1) Section 583(1) and (2)(a), 'Authority's chief executive officer'—

omit, insert—

Regulator

- (2) Section 583(2)(b), 'Authority'—

omit, insert—

Regulator

- (3) Section 583(2)(c) and (d) and (4)(e) and (f), 'WRI'—

omit, insert—

DPI

- (4) Section 583(6)(b), 'the chief executive officer of the Authority or WorkCover'—

omit, insert—

the Regulator or WorkCover's chief executive officer

Clause 105 Amendment of s 586 (Approval of forms)

Section 586(2), 'Authority's chief executive officer'—

omit, insert—

Regulator

Clause 106 Insertion of new ss 586A and 586B

After section 586—

insert—

**586A Entering into an agreement for transfer of
employees to assist administration of
compensation scheme**

- (1) This section applies if the chief executive and WorkCover's chief executive officer consider it is necessary or desirable, to assist the administration of the workers' compensation scheme, to transfer employees—
 - (a) from the department to WorkCover; or
 - (b) from WorkCover to the department.
- (2) The chief executive and WorkCover's chief executive officer may enter into an agreement providing for the transfer (*transfer agreement*).
- (3) A transfer agreement must be signed by both the chief executive and WorkCover's chief executive officer.
- (4) The chief executive and WorkCover's board must comply with a transfer agreement.

586B Effect of transfer of employee

- (1) This section applies if a transfer agreement is entered into under section 586A for the transfer of an employee—
 - (a) from the department or WorkCover (the *former employer*); and
 - (b) to WorkCover or the department (the *new employer*).
- (2) From the date of transfer stated in the transfer agreement, the employee—
 - (a) ceases to be an employee of the former employer; and
 - (b) is employed by the new employer, under the relevant industrial instrument applying to that employer.
- (3) Also, the following applies for the employee—
 - (a) the employee retains and is entitled to all rights, benefits and entitlements that have accrued to the employee because of the employee's employment before the transfer;
 - (b) the employee's accruing rights, including to superannuation or recreation, sick, long service or other leave, are not affected;
 - (c) continuity of service is not interrupted, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service;
 - (d) the employment does not constitute a termination of employment or a retrenchment or redundancy;

- (e) the employee is not entitled to a payment or other benefit because he or she is no longer employed by the former employer.
- (4) Subsection (5) applies if the total remuneration to which the employee was entitled for the employment with the former employer is higher than the total remuneration payable under the relevant industrial instrument for a person starting in the position with the new employer to which the employee has been transferred.
- (5) The employee's total remuneration must not be increased until the employee's total remuneration aligns with the total remuneration payable under the relevant industrial instrument to a person who has held the position for the same amount of time.
- (6) This section has effect despite any other law or instrument.

Clause 107 Insertion of new ch 31, pt 2

Chapter 31, as inserted by this Act—

insert—

**Part 2 Amendments
commencing on assent**

Division 1 Preliminary

679 Definitions for pt 2

In this part—

amended Act means this Act as in force at the commencement.

amendment Act means the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2013*.

commencement means the commencement of this section.

former Authority means the Workers' Compensation Regulatory Authority established under the pre-amended Act.

former board means the former Authority's board of directors established under section 335 of the pre-amended Act.

former entity means—

- (a) the former Authority; or
- (b) the former board; or
- (c) the chief executive officer of the former Authority appointed under section 355 of the pre-amended Act.

pre-amended Act means this Act as in force before the commencement.

Division 2 Existing injuries

680 Injuries sustained before commencement

- (1) This section applies if a worker sustained an injury before the commencement.
- (2) The pre-amended Act continues to apply in relation to the injury as if the amendment Act had not been enacted.
- (3) Without limiting subsection (2)—
 - (a) the amount of compensation payable in relation to the injury must be worked out under the pre-amended Act; and

- (b) chapter 5 of the pre-amended Act applies in relation to damages for the injury.
- (4) In this section—
injury has the meaning given by section 32 of the pre-amended Act.

Division 3 Abolition of former Authority and transfer of assets etc.

681 Abolition of former Authority etc.

- (1) At the commencement—
 - (a) the former Authority and the former board are abolished; and
 - (b) the members of the former board stop being members of the board; and
 - (c) the appointment and employment of the chief executive officer of the former Authority ends.
- (2) Subsection (1)(b) or (c) does not affect the member's or chief executive officer's appointment in any other office.
- (3) This section is subject to section 683.

682 Employees of former Authority to be employed by department

- (1) This section applies to a person who, immediately before the commencement, was employed by the former Authority.
- (2) From the commencement—

- (a) the person ceases to be an employee of the former Authority; and
 - (b) is employed by the department under the department's relevant industrial instrument.
- (3) Also, the following applies for the person—
 - (a) the person retains and is entitled to all rights, benefits and entitlements that have accrued to the person because of the person's previous employment as an employee of the former Authority;
 - (b) the person's accruing rights, including to superannuation or recreation, sick, long service or other leave, are not affected;
 - (c) continuity of service is not interrupted, except that the person is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service;
 - (d) the employment does not constitute a termination of employment or a retrenchment or redundancy;
 - (e) the person is not entitled to a payment or other benefit because he or she is no longer employed by the former Authority.
- (4) If a person employed under subsection (2) was employed by the former Authority under a contract, the person is taken to be employed by the department under the contract under which the person was employed before the commencement.
- (5) Subsection (6) applies if a person mentioned in subsection (2) was entitled to total remuneration for the employment with the former Authority that is higher than the total remuneration payable under the relevant industrial instrument for a

person starting in the position with the department to which the person has been transferred.

- (6) The person's total remuneration must not be increased until the person's total remuneration aligns with the total remuneration payable under the relevant industrial instrument to a person who has held the position for the same amount of time.
- (7) Subject to this section, the chief executive may issue a direction to a person to facilitate the transition of employees from the former Authority to the department.
- (8) A person given a direction must comply with the direction.
- (9) This section has effect despite any other law or instrument.
- (10) In this section—
employee, of the former Authority, does not include the chief executive officer appointed under the section 355 of the pre-amended Act.

683 Continuation of former board until 30 June 2014 for particular purposes

- (1) The former board continues in existence until 30 June 2014 for—
 - (a) performing a function, or exercising a power delegated to the former board by the Regulator; and
 - (b) approving amounts under section 107E on behalf of the Regulator; and
 - (c) preparing a report under section 332, 333 or 334 of the pre-amended Act for operations

of the former Authority before
commencement; and

(d) the following—

- (i) keeping the Minister reasonably informed of the operation of the workers' compensation scheme;
- (ii) preparing and providing to the Minister reports and information that the Minister requires about the operation of the workers' compensation scheme;
- (iii) assisting the Regulator perform the functions stated in section 327 in a proper, effective and efficient way;
- (iv) monitoring the performance and outcomes of medical assessment tribunals;
- (v) keeping the Minister informed, on its own initiative or if the Minister asks, about the board's responsibilities and functions under this section.

(2) For subsection (1)(b), the board is taken to have been delegated the power mentioned in that section by the Regulator.

(3) Anything done by the former board under a delegation mentioned in subsection (1)(a) or (2) is taken to have been done by the Regulator.

(4) The following provisions of the pre-amended Act apply in relation to the board performing a function, or exercising a power, mentioned in subsection (1) as if the amendment Act had not been enacted—

- (a) chapter 7, part 4, divisions 2 and 3;
- (b) any other provision of the pre-amended Act relevant to the board performing functions.

- (5) A provision mentioned in subsection (4) applies—
 - (a) as if any reference in the provision to the Authority's chief executive officer were a reference to the Regulator; and
 - (b) with any other necessary changes.

684 State is legal successor

- (1) The State is the successor in law of the Authority.
- (2) Subsection (1) is not limited by another provision of this division.

685 Assets and liabilities etc. of former Authority

At the commencement—

- (a) the assets and liabilities of the former Authority immediately before the commencement become assets and liabilities of the State; and
- (b) any agreements, undertakings or other arrangements to which the former Authority is a party, in force immediately before the commencement—
 - (i) are taken to have been entered into by State; and
 - (ii) may be enforced against or by State.

686 Proceeding not yet started against former entity

- (1) This section applies if, immediately before the commencement, a proceeding could have been started by or against a former entity within a particular period (the *prescribed period*).

- (2) The proceeding may be started, within the prescribed period, by or against—
 - (a) for an appeal against a review decision of the former Authority—the Regulator; or
 - (b) otherwise—the State.

687 Proceeding to which former entity was a party

- (1) This section applies to a proceeding that, immediately before the commencement, had not ended and to which a former entity was a party.
- (2) At the commencement, the following entity becomes a party to the proceeding in place of the former entity—
 - (a) for an appeal against a review decision of the former entity—the Regulator;
 - (b) otherwise—the State.

688 Records of former entity

The records of a former entity are, from the commencement, records of—

- (a) if the record relates to a function of a former entity under this Act that, from the commencement, is a function of the Regulator—the Regulator; or
- (b) if the record relates to a function of a former entity under this Act that, from the commencement, is a function of WorkCover—WorkCover; or
- (c) otherwise—the State.

689 References to former entity

In an instrument, a reference to a former entity is taken, if the context permits, to be a reference to—

- (a) if the reference relates to a function of the former entity under this Act that, from the commencement, is a function of the Regulator—the Regulator; or
- (b) if the reference relates to a function of the former entity under this Act that, from the commencement, is a function of WorkCover—WorkCover; or
- (c) otherwise—the State.

690 Offences relating to former entity

- (1) This section applies if—
 - (a) under a provision of the pre-amended Act, a person who did or omitted to do an act in relation to a former entity or something done or required to be done by a former entity, committed an offence; and
 - (b) the provision is—
 - (i) amended by the amendment Act so that it no longer applies in relation to the former entity, or something done or required to be done by the former entity; or
 - (ii) is repealed by the amendment Act.
- (2) A proceeding for the offence may be continued or started, and the provisions of the pre-amended Act that are necessary or convenient to be used in relation to the proceeding continue to apply, as if the amendment Act had not been enacted.

- (3) For subsection (2), the *Acts Interpretation Act 1954*, section 20 applies, but does not limit the subsection.
- (4) Subsection (2) applies despite the Criminal Code, section 11.

691 Existing applications and requests made to former entity

- (1) This section applies to an application or request to a former entity under this Act made, but not decided, before the commencement.
- (2) The application or request is taken to have been made to the Regulator and must be dealt with by the Regulator under this Act, including as provided for in this chapter.
- (3) For the purpose of working out any time period relevant to dealing with the application or request—
 - (a) the application or request is taken to have been made to the Regulator when it was made to the former entity; and
 - (b) anything done by a former entity in relation to the application is taken to have been done by the Regulator when the former entity did the thing.
- (4) Anything done by or in relation to the former entity in relation to the application or request is taken to have been done by or in relation to the Regulator.
- (5) If, because of the operation of section 680, the pre-amended Act applies in relation to an application or request, the pre-amended Act applies—

- (a) as if a reference to a former entity was a reference to the Regulator; and
- (b) with any other necessary changes.

692 Table of costs

The table of costs decided by the Authority under the pre-amended Act and in effect immediately before the commencement—

- (a) continues in effect; and
- (b) is, from the commencement, taken to have been decided by WorkCover under the amended Act.

693 Cost of hospitalisation

- (1) A gazette notice published by the Authority for section 217 of the pre-amended Act and in effect immediately before the commencement—
 - (a) continues in effect; and
 - (b) is, from the commencement, taken to have been published by WorkCover under section 217 of the amended Act.
- (2) A gazette notice published by the Authority for section 218A of the pre-amended Act and in effect immediately before the commencement—
 - (a) continues in effect; and
 - (b) is, from the commencement, taken to have been published by WorkCover under section 218A of the amended Act.

694 Directions of Minister

- (1) This section applies to a direction given by the Minister under section 476, 477 or 479 of the pre-amended Act that has not been fully complied with immediately before the commencement.
- (2) The direction ceases to have effect at the commencement.

695 Monitoring and assessment of former Authority

- (1) This section applies to an investigation started, but not finished, under section 478 of the pre-amended Act before the commencement.
- (2) The investigation, and any requirement applying in relation to the investigation, ends at the commencement.

696 Other things done or started by the former entity

- (1) This section applies to anything done or started by a former entity under an Act (the *Act*)—
 - (a) whose effect had not ended, or that has not been finished, immediately before commencement; and
 - (b) that, at the commencement, is something that the Regulator can do under the Act; and
 - (c) that is not otherwise dealt with by a provision of the Act.

Example of a thing started by the former Authority—

the procedure for cancelling a self-insurer's licence under section 96 of the pre-amended Act

- (2) The thing done or started by the former entity—

- (a) continues to have effect; and
- (b) from the commencement, is taken to have been done or started by the Regulator; and
- (c) for a thing started by a former entity—may be completed by the Regulator.

697 Other things required to be done by or in relation to the former entity

- (1) This section applies to anything required to be done by, or in relation to, a former entity under an Act (the *Act*), if—
 - (a) the requirement to do the thing has not been complied with at the commencement; and
 - (b) at the commencement, the thing is something that the Regulator is required to do, or may require another person to do, under the Act; and
 - (c) compliance with the requirement to do the thing is not otherwise dealt with by a provision of this Act.

Example of requirement to which this section may apply—

a requirement to give advice or information to the former Authority (see, for example, section 68A of the pre-amended Act)

- (2) The requirement to do the thing—
 - (a) continues to have effect; and
 - (b) from the commencement, is taken to be a requirement of, or applying in relation to, the Regulator.

698 Evidentiary provisions

Sections 375(3), 376, 377 and 583(1) and (2) of the pre-amended Act continue to apply as if the amendment Act had not been enacted.

Division 4 Other provisions

699 Insurer's responsibility for worker's rehabilitation

- (1) Section 220(2) applies in relation to a worker who lodges a notice of claim, whether the claim is lodged before or after the commencement.
- (2) However, section 220(2) does not apply if a proceeding for damages in relation to the worker's injury has started before the commencement.

700 Disclosing pre-existing injury

Section 571B applies only in relation to an employment process, within the meaning of section 571A, started after the commencement.

701 Authorised persons

- (1) A person who, immediately before the commencement, was an authorised person appointed under section 370 of the pre-amended Act is taken to be an authorised person appointed under section 330—
 - (a) until the end of the term of appointment under the pre-amended Act; and
 - (b) on the conditions of the appointment under the pre-amended Act that are consistent with this Act.

- (2) The Regulator must issue the authorised person an identity card under section 333 as soon as practicable after the commencement.

702 Requirement of authorised person under previous s 519

- (1) This section applies to a requirement made by an authorised person under section 519(2) of the pre-amended Act if the time for complying with the requirement has not passed at the commencement.
- (2) The requirement—
 - (a) continues to have effect; and
 - (b) from the commencement, is taken to be a requirement made by an authorised person under section 532C(2).

703 Requirement of authorised person under previous s 520

- (1) This section applies to a requirement made by an authorised person under section 520(3)(b) of the pre-amended Act if the time for complying with the requirement has not passed at the commencement.
- (2) The requirement—
 - (a) continues to have effect; and
 - (b) from the commencement, is taken to be a requirement made by an authorised person under section 532D(3)(b).

704 Existing warrants

- (1) This section applies to a warrant issued under the pre-amended Act, chapter 12, part 1 (the

previous warrant) if, immediately before the commencement, the warrant was in effect and had not been executed.

- (2) The previous warrant—
 - (a) continues to have effect according to its terms; and
 - (b) is taken to be a search warrant issued under section 521.

705 Dealing with seized property

- (1) This section applies to a thing seized under the pre-amended Act, section 524, that has not been finally dealt with under the pre-amended Act before commencement.
- (2) The thing is taken to have been seized under section 529.
- (3) A receipt given for the thing under the pre-amended Act is taken to be a receipt given for the thing under section 530.
- (4) For applying this Act to the seizure, the period mentioned in section 532 is taken to have started when the thing was seized under the pre-amended Act.

706 Protection from liability

- (1) Section 374 of the pre-amended Act continues to apply, despite its repeal by the amendment Act, in relation to an act done or omission made by the authorised person before commencement.
- (2) For subsection (1), the reference in section 374(2) of the pre-amended Act to the Authority is taken to be a reference to the State.

707 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision, including by continuing the operation of a previous provision, about a matter for which—
 - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the pre-amended Act to the amended Act; and
 - (b) this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day that is not earlier than the day this section commences.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 1 year after the day this section commences.
- (5) In this section—

previous provision means a provision of the pre-amended Act that is amended or repealed by the amendment Act.

Clause 108 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *authorised person*, *Authority*, *Authority employee*, *board*, *chief executive officer* and *Workers' Compensation Regulatory Authority*—

omit.
- (2) Schedule 6—

insert—

authorised person means—

- (a) for chapter 7—a person appointed as an authorised person by the Regulator under section 330; or
- (b) for chapter 8—a person appointed as an authorised person by WorkCover under 466; or
- (c) otherwise—a person mentioned in paragraph (a) or (b).

board, for chapter 8 and chapter 9, part 1, means WorkCover's board.

chief executive officer means WorkCover's chief executive officer appointed under section 442.

employment process, for chapter 14, part 1, division 1, see section 571A.

false or misleading disclosure, for chapter 14, part 1, division 1, see section 571A.

occupier, of a place, includes the following—

- (a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;
- (b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;
- (c) if no-one apparently occupies the place—any person who is an owner of the place.

of, a place, includes at or on the place.

offence warning, for a requirement by an authorised person, means a warning that, without a reasonable excuse, it is an offence for the person of whom the requirement is made not to comply with it.

owner, of a thing that has been seized under chapter 12, part 1, division 2, subdivision 2, includes a person who would be entitled to possession of the thing had it not been seized.

pre-existing injury or medical condition, for chapter 14, part 1, division 1, see section 571A.

prospective employer, for chapter 14, part 1, division 1, see section 571A.

prospective worker, for chapter 14, part 1, division 1, see section 571A.

reasonably means on grounds that are reasonable in all the circumstances.

Regulator see section 326(2).

Regulator's office means the office of the department in which the Regulator predominantly works.

- (3) Schedule 6, definition *table of costs*, 'the Authority'—

omit, insert—

WorkCover

- (4) Schedule 6, definition *workers' compensation certificate protocol*, paragraph (a), 'Authority's chief executive officer appointed under section 355'—

omit, insert—

Regulator

Part 2 Amendment of Workers' Compensation and Rehabilitation Regulation 2003

Clause 109 Regulation amended

This part amends the *Workers' Compensation and Rehabilitation Regulation 2003*.

Note—

See also the amendments in chapter 2, part 2 and schedules 1 and 2.

Clause 110 Omission of s 4 (Authority's trading name—Act, s 328)

Section 4—

omit.

Clause 111 Amendment of s 21 (Additional amount for late payment of levy—Act, s 82)

(1) Section 21(1) and (2)(a), (b) and (c), 'Authority'—

omit, insert—

Regulator

(2) Section 21(2)(c), 'Authority's board'—

omit, insert—

Regulator

Clause 112 Amendment of s 88 (Examination of claimant or worker—Act, ss 135 and 510)

Section 88(2)(a), 'the Authority or'—

omit.

Clause 113 Amendment of sch 13 (Dictionary)

- (1) Schedule 13, definition *actuarial standard*, editor's note, from 'Authority's' to 'Brisbane'—

omit, insert—

Regulator's office

- (2) Schedule 13, definition *ophthalmologists guide*, editor's note, from 'Authority's' to 'Brisbane'—

omit, insert—

Regulator's office

Part 3 Minor and consequential amendments

Clause 114 Legislation amended in schedule 2

Schedule 2 amends the legislation mentioned in it.

Chapter 4 Other amendments

Part 1 Amendment of Civil Liability Act 2003

Clause 115 Act amended

This part amends the *Civil Liability Act 2003*.

[s 116]

Clause 116 Amendment of s 75 (Indexation of particular amounts)

Section 75(2) and (3), '4 quarters'—

omit, insert—

12 months

Clause 117 Amendment of sch 2 (Dictionary)

Schedule 2, definition *average weekly earnings*—

omit, insert—

average weekly earnings, for a financial year, means the amount of Queensland full-time adult persons ordinary time earnings declared by the Australian Statistician in the original series of the statistician's average weekly earnings publication most recently published before the start of the financial year.

Part 2 Amendment of Motor Accident Insurance Act 1994

Clause 118 Act amended

This part amends the *Motor Accident Insurance Act 1994*.

Clause 119 Amendment of s 4 (Definitions)

(1) Section 4, definitions *affordability index* and *average weekly earnings*—

omit.

(2) Section 4—

insert—

affordability index means 45% of Queensland full-time adult persons ordinary time earnings declared by the Australian Statistician in the original series of the statistician's average weekly earnings publication most recently published.

average weekly earnings, for a financial year, means the amount of Queensland full-time adult persons ordinary time earnings declared by the Australian Statistician in the original series of the statistician's average weekly earnings publication most recently published before the start of the financial year.

Clause 120 Amendment of s 100A (Indexation of particular amounts)

Section 100A(2) and (3), '4 quarters'—

omit, insert—

12 months

Part 3 Amendment of Personal Injuries Proceedings Act 2002

Clause 121 Act amended

This part amends the *Personal Injuries Proceedings Act 2002*.

Clause 122 Amendment of s 75A (Indexation of particular amounts)

(1) Section 75A(2) and (3), '4 quarters'—

omit, insert—

12 months

[s 122]

- (2) Section 75A(9), definition *average weekly earnings*—
omit, insert—

average weekly earnings, for a financial year, means the amount of Queensland full-time adult persons ordinary time earnings declared by the Australian Statistician in the original series of the statistician's average weekly earnings publication most recently published before the start of the financial year.

Schedule 1 Minor and consequential amendments relating to chapter 2

section 56

Workers' Compensation and Rehabilitation Act 2003

1 Particular references to WRI

Each of the following provisions is amended by omitting 'WRI' and inserting 'DPI'—

- section 150(1)(c)(i)
- section 151(1)(c)(i)
- section 152(1)(c)(i)
- section 157(5)(c)(i)
- section 159(1)(c)(i)
- section 188, heading
- section 188(1)(a)(i) and (ii)
- section 192(1) and (3)
- section 193(1)(a), (3) and (6)(a)
- section 512(8)

2 Section 140(1), note and sections 205(1), 206(3) and 240(2), 'division 5'—

omit, insert—

division 4

Schedule 1

3 Sections 178(1) and (2) and 186(1)(b), (2) and (3), 'degree of permanent impairment'—

omit, insert—

DPI

4 Section 191, 'WRI has been calculated'—

omit, insert—

DPI has been decided

5 Section 276(8), 'section 302(1)(a)(ii)'—

omit, insert—

section 302(2)(a)(ii)

6 Section 540(1)(a)(xiii) and (b)(vii)—

omit.

7 Section 540(1)(c)—

omit, insert—

(c) a failure by WorkCover or a self-insurer to make a decision on an application for compensation within the time stated in section 134.

8 Section 546(2), 'to (xiii)'—

omit, insert—

to (xii)

Workers' Compensation and Rehabilitation Regulation 2003

1 Schedule 9—

Schedule 9 is amended by omitting 'whole person impairment' or 'Whole person impairment' and inserting 'a DPI' or 'A DPI'.

2 Schedule 9, item 38, 'degree of permanent impairment'— *omit, insert—*

DPI

Schedule 2 Minor and consequential amendments relating to chapter 3

section 114

Industrial Relations Act 1999

- 1 Section 350(4A), 'of the Workers' Compensation
Regulatory Authority'—**

omit.

Integrity Act 2009

- 1 Schedule 1, entry for *Workers' Compensation and
Rehabilitation Act 2003*—**

omit.

Public Service Act 2008

- 1 Schedule 1, entry for Worker's Compensation Regulatory
Authority under the *Workers' Compensation and
Rehabilitation Act 2003*—**

omit.

Right to Information Act 2009

1 Schedule 1, section 10(a), 'Workers' Compensation Regulatory Authority'—

omit, insert—

Workers' Compensation Regulator

Workers' Compensation and Rehabilitation Act 2003

1 Particular references to Authority

Each of the following provisions is amended by omitting 'Authority' or 'Authority's' and inserting 'Regulator' or 'Regulator's'—

- section 32(5)(c)
- section 43
- section 44
- section 49(2)(b)
- section 68(4)
- section 68A(3)
- section 69(4)
- section 70(a)
- section 71(1) to (4)
- section 72(1) to (4)
- section 73(1)(a)
- section 75(1) and (2)
- section 76(1) and (2)
- section 77(1), (2) and (4) to (6)
- section 79(1) to (4)

Schedule 2

- section 80(1), (2), (4), (5) and (7)
- section 82(1) and (2)
- section 83(1)(b) and (2)
- section 84(1), (3)(a) and (4)
- section 85(1) and (3)
- section 86(1)(a) and (b), (4)(b) and (5)
- section 89(1), (2) and (4)
- section 90(2), (4), (6), (8) and (9)(a)
- section 91
- section 93(2)
- section 94
- section 95
- section 96(1), (2), (3) and (6)
- section 97(2) and (3)(b)
- section 100(2), (3) and (4)
- section 102(6)
- section 103(2), (3) and (4)
- section 104(1)
- section 105A
- section 105D
- section 105G(2), (3) and (4)
- section 105I(5)
- section 105J(2), (3) and (4)
- section 105L
- section 105O(3)(a)
- section 183(1), (3) and (5)
- section 205(3)
- section 226(3)(b)

-
- section 269(5)(b)
 - section 496(a)
 - section 534(1)(a), (2) to (4)
 - chapter 13, part 2, heading
 - section 540(5)
 - section 542(2), (3), (5)(a) and (6)
 - section 543(1) and (2)
 - section 544, heading and subsection (1)
 - section 545(1), (1A), (2), (4) and (5)
 - section 546(1), (2), (3)(b), (3A) and (4)
 - section 546A(1) and (2)
 - section 547(1) and (2)
 - section 548A(2)(b)
 - section 549(1), (2) and (3)(b)
 - section 550(6)(a)
 - section 567
 - section 569(5)(b)
 - section 570(3)(c)
 - section 571
 - section 576(1), (2), (3)(a)(ii) and (3)(b)(ii)
 - section 576D(2)
 - section 577(1)

2 Particular references to Authority's board

Each of the following provisions is amended by omitting 'Authority's board' or 'board' and inserting 'Regulator'—

- section 86(6), definition *set limit*
- section 107B(1)(a)

Schedule 2

- section 107D(4)
- section 107E
- section 548A(2)(a)

3 Sections 428(2) and 445(3)—

omit.

4 Section 577(3), '520(1)'—

omit, insert—

532D(1)

Workers' Compensation and Rehabilitation Regulation 2003

1 Particular references to Authority

Each of the following provisions is amended by omitting 'Authority' or 'Authority's' and inserting 'Regulator' or 'Regulator's'—

- section 20(2), definition *ECL*
- section 20A
- section 22(a) and (b)(iii)
- section 24(2)
- section 36
- section 38(2)
- section 40
- section 48
- section 50(2)
- section 52

- section 57(2)
- section 58
- section 59(3)
- section 60(2)
- section 62
- section 64(4)
- section 69
- section 71(2)
- section 73
- section 75B, definition *approved actuary*
- section 75D(2)
- section 75E
- section 75G
- section 75H
- section 75I
- section 75J
- section 75K
- section 75L
- section 75Q
- section 75S(2)
- section 75U
- section 75ZC(2)
- section 75ZE
- section 75ZK
- section 75ZM(2)
- section 75ZO
- section 75ZQ(4)
- section 77(1)(a), (3) and (4)

Schedule 2

- section 110(3)
- section 113(3)(a) and (4)
- section 119(2) and (3)(a)
- schedule 13, definition *actuary*

Work Health and Safety Act 2011

**1 Schedule 2, section 24(1), 'Workers' Compensation
Regulatory Authority'—**

omit, insert—

Workers' Compensation Regulator

2 Schedule 2, section 24(3)(b), 'Authority'—

omit, insert—

Workers' Compensation Regulator

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