

THIS PUBLIC BILL has this day been read a Third time and passed

*The Clerk of the Parliament.*

*Legislative Assembly Chamber,  
Brisbane, August 2017*



Queensland

**No.  
A BILL for**

**An Act to amend the Electrical Safety Act 2002, the Industrial Relations Act 2016, the Workers' Compensation and Rehabilitation Act 2003, the Workers' Compensation and Rehabilitation Regulation 2014, the Work Health and Safety Act 2011 and the legislation mentioned in schedule 1 for particular purposes**





Queensland

# Workers' Compensation and Rehabilitation (Coal Workers' Pneumoconiosis) and Other Legislation Amendment Bill 2017

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# 2017

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## A Bill

for

**An Act to amend the *Electrical Safety Act 2002*, the *Industrial Relations Act 2016*, the *Workers' Compensation and Rehabilitation Act 2003*, the *Workers' Compensation and Rehabilitation Regulation 2014*, the *Work Health and Safety Act 2011* and the legislation mentioned in schedule 1 for particular purposes**

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## The Parliament of Queensland enacts—

### **Part 1 Preliminary**

#### **1 Short title**

This Act may be cited as the *Workers' Compensation and Rehabilitation (Coal Workers' Pneumoconiosis) and Other Legislation Amendment Act 2017*.

### **Part 2 Amendment of Electrical Safety Act 2002**

#### **2 Act amended**

This part amends the *Electrical Safety Act 2002*.

*Note—*

See also the amendments in schedule 1.

#### **3 Insertion of new pt 4, div 2A, sdiv 1, hdg**

Before section 64A—

*insert—*

##### **Subdivision 1 Requests for further information and documents**

#### **4 Insertion of new pt 4, div 2A, sdiv 2**

Part 4, division 2A—

*insert—*

## **Subdivision 2 Competency assessments**

### **64B Notice of proposed direction under s 64C**

- (1) This section applies in relation to a person who is the holder of an electrical work licence if—
  - (a) the person performs electrical work; and
  - (b) the licensing committee reasonably believes the person may not be competent to perform electrical work, or an aspect of electrical work, that the person is authorised to perform under the licence.
- (2) Before giving the person a direction under section 64C, the licensing committee must give the person a written notice—
  - (a) stating the following—
    - (i) that the licensing committee proposes to direct the person to undergo an assessment of the person's competency to perform the electrical work or aspect;
    - (ii) the grounds for the proposed direction;
    - (iii) the competencies that are proposed to be assessed; and
  - (b) inviting the person to show, within a stated period of at least 10 business days, why the proposed direction should not be given.
- (3) The licensing committee must consider any representations made by the person within the stated period.

### **64C Direction to licensed electrical worker to undergo competency assessment**

- (1) This section applies in relation to a person who is
-

the holder of an electrical work licence if—

- (a) the person performs electrical work; and
  - (b) the licensing committee reasonably believes the person may not be competent to perform electrical work, or an aspect of electrical work, that the person is authorised to perform under the licence.
- (2) The licensing committee may, by written notice to the person, direct the person to undergo an assessment of the person's competency to perform the electrical work or aspect.
- (3) The notice must—
- (a) state the following—
    - (i) the period, of at least 1 month, within which the person must undergo the assessment;
    - (ii) the competencies that must be assessed;
    - (iii) that the assessment must be carried out by a registered training organisation;
    - (iv) the matters a registered training organisation must consider in carrying out the assessment; and
  - (b) include an information notice for the decision.

#### **64D Requirements for registered training organisations**

- (1) This section applies if—
- (a) a person is given a direction under section 64C; and
  - (b) a registered training organisation carries out the assessment required under the direction.

- (2) The registered training organisation must, as soon as practicable after completing the assessment—
- (a) prepare a report about the assessment; and
  - (b) give a copy of the report to the person and the licensing committee.

**5 Amendment of s 88 (Functions of licensing committee)**

Section 88(1)—

*insert—*

- (d) any other function given to the committee under this Act.

**6 Amendment of pt 9, hdg (Disciplinary action)**

Part 9, heading, after 'action'—

*insert—*

**and immediate suspension notices**

**7 Amendment of pt 9, div 3, hdg (Procedures for taking disciplinary action)**

Part 9, division 3, heading, after 'action'—

*insert—*

**generally**

**8 Amendment of s 113 (Application of div 3)**

Section 113—

*insert—*

- (2) However, this division does not apply for taking disciplinary action against a person in relation to the performance of electrical work if—

- (a) the person has been given an immediate suspension notice in relation to the work;  
and
- (b) the immediate suspension notice is in effect.

## 9 Insertion of new pt 9, div 4

Part 9—

*insert—*

### **Division 4 Immediate suspension of electrical work licences**

#### **121AA Regulator may suspend electrical work licences**

- (1) This section applies in relation to the holder of an electrical work licence who performs or supervises electrical work if the regulator reasonably believes that the performance of the work—
  - (a) may have caused the death of, or grievous bodily harm to, a person; or
  - (b) may involve an imminent serious risk to the health or safety of a person.
- (2) The regulator may—
  - (a) if the electrical work licence was given by the regulator—suspend the licence; or
  - (b) if the electrical work licence is an external licence—suspend the application of the external licence recognition provision to the external licence.
- (3) The regulator must—
  - (a) give the holder written notice (an *immediate suspension notice*) of the suspension; and

- (b) give the licensing committee a copy of the notice.
- (4) The suspension takes effect on the giving of the immediate suspension notice.
- (5) This section does not apply to the holder in relation to the performance of electrical work if the licensing committee has given the holder a preliminary notice in relation to the work.
- (6) In this section—  
*grievous bodily harm* see the Criminal Code, section 1.

### **121AB Requirements for immediate suspension notices**

An immediate suspension notice must state the following—

- (a) the grounds for the suspension;
- (b) that the suspension takes effect on the giving of the notice;
- (c) that a copy of the notice has been given to the licensing committee;
- (d) that the licensing committee must, under section 121AE, hold a disciplinary hearing to decide the matters mentioned in section 115(1);
- (e) the ground mentioned in division 1 the regulator considers may exist for taking disciplinary action against the person to whom the notice is given;
- (f) that division 2 states the types of disciplinary action that may be taken by the licensing committee;
- (g) that the person may, within 10 business days of the notice being given (the *submission*

- period*), make written submissions to the regulator about the grounds mentioned in paragraphs (a) and (e);
- (h) that any submissions made under paragraph (g) will be given by the regulator to the licensing committee;
  - (i) all rights of review or appeal under this Act against a disciplinary decision of the licensing committee.

### **121AC Regulator must give submissions to licensing committee**

- (1) This section applies if the holder of an electrical work licence—
  - (a) is given an immediate suspension notice; and
  - (b) makes a written submission about the grounds mentioned in section 121AB(a) or (e) to the regulator within the submission period.
- (2) The regulator must give the submission to the licensing committee before a disciplinary hearing is held in relation to the holder.

### **121AD Licensing committee must give notice of disciplinary hearing**

- (1) This section applies if the holder of an electrical work licence is given an immediate suspension notice.
- (2) The licensing committee must, within 10 business days of the immediate suspension notice being given, give the holder written notice (a *hearing notice*) of the disciplinary hearing under section 121AE.

- (3) The hearing notice must state the following—
  - (a) the day, time and place the disciplinary hearing is to be held;
  - (b) that the holder is required to appear at the disciplinary hearing;
  - (c) that, if the holder appears at the disciplinary hearing, the holder may give information or make submissions to the licensing committee at the hearing;
  - (d) that, if the holder does not appear at the disciplinary hearing—
    - (i) the holder may give information or make submissions to the licensing committee in another way; and
    - (ii) the licensing committee may act in the holder's absence, whether or not the holder gives information or makes submissions.
- (4) The hearing notice must be accompanied by—
  - (a) a copy of the immediate suspension notice; and
  - (b) copies of all written material held by the licensing committee the committee reasonably considers to be relevant to the disciplinary hearing.
- (5) The stated day for the disciplinary hearing must be at least 5, but not more than 10, business days after the day the hearing notice is given.

### **121AE Licensing committee must hold disciplinary hearing**

- (1) This section applies if the holder of an electrical work licence is given an immediate suspension notice.

- (2) The licensing committee must hold a disciplinary hearing under section 115(1).
- (3) Sections 117 to 121, other than section 118(2)(a), apply to the disciplinary hearing as if—
  - (a) a reference in the sections to the ground for taking disciplinary action against the person were a reference to the ground stated in the immediate suspension notice under section 121AB(e); and
  - (b) a reference in section 118(4) to a disciplinary hearing notice were a reference to a hearing notice.
- (4) The licensing committee must, at the start of the disciplinary hearing, tell the holder—
  - (a) the facts and circumstances the committee considers are relevant to making a decision under section 115(1)(a); and
  - (b) the disciplinary action the licensing committee may take against the person.
- (5) At the disciplinary hearing, the licensing committee must consider—
  - (a) any written submissions made by the holder that were given to the licensing committee under section 121AC; and
  - (b) any other submissions made, or information given, to the committee by the holder before or at the hearing.

### **121AF When immediate suspension notice stops having effect**

An immediate suspension notice given to the holder of an electrical work licence stops having effect when the first of the following happens—

- (a) a preliminary notice is given to the holder;

- (b) if the licensing committee does not give the holder a hearing notice within the period mentioned in section 121AD(2)—that period ends;
- (c) if a disciplinary hearing is not held within 10 business days after the day a hearing notice is given to the holder—that period ends;
- (d) if the licensing committee makes a decision under section 121—
  - (i) to take disciplinary action against the person—the disciplinary action takes effect; or
  - (ii) to not take disciplinary action against the person—the decision is made.

**10 Amendment of s 122C (Power of regulator to obtain information)**

(1) Section 122C—

*insert—*

(1A) Also, this section applies if the regulator—

- (a) is deciding whether to issue an electrical licence; and
- (b) reasonably believes a relevant person has information or a document the regulator reasonably requires to decide whether the applicant satisfies the eligibility requirements for the issue of the electrical licence.

(2) Section 122C(4), 'subsection (2)(c)'—

*omit, insert—*

subsection (3)(c)

(3) Section 122C(4), 'subsections (2)(a) and (b)'—

*omit, insert—*

subsection (3)(a) and (b)

(4) Section 122C(6), 'Subsection (5)'—

*omit, insert—*

Subsection (6)

(5) Section 122C—

*insert—*

(8) In this section—

***relevant person***, for an applicant for an electrical licence, means—

(a) a person who is conducting, or has conducted, a business or undertaking—

(i) that includes or included the performance of electrical work; and

(ii) in which the applicant is or was engaged as a worker; or

(b) a registered training organisation that delivered training to the applicant on the performance of electrical work.

(6) Section 122C(1A) to (8)—

*renumber* as section 122C(2) to (9).

## **11 Amendment of s 167 (Definitions for pt 12)**

Section 167, definition *decision*, 'part 3.'—

*omit, insert—*

part 3 or section 121AA.

## **12 Replacement of s 172 (Application for external review)**

Section 172—

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*omit, insert—*

### **172 Application for external review**

A person whose interests are affected by a following decision may apply to QCAT, as provided for under the QCAT Act, to have the decision reviewed—

- (a) a disciplinary decision;
- (b) an original regulator decision;
- (c) an original decision;
- (d) a review decision;
- (e) a decision made by the licensing committee to give a person a direction under section 64C.

*Note—*

See the QCAT Act, chapter 2, part 1, division 3.

## **13 Amendment of sch 2 (Dictionary)**

Schedule 2—

*insert—*

***hearing notice*** see section 121AD(2).

***immediate suspension notice*** see section 121AA(3)(a).

***registered training organisation*** means a registered training organisation under the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

***submission period*** see section 121AB(g).



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*Workers' Compensation and Rehabilitation Act 2003*, chapter 13, part 3 but not decided before the commencement, if the appeal is against a decision to allow an application for compensation under that Act.

- (2) Section 566 applies to the appeal.
- (3) However, this section does not affect an order that the decision be wholly or partly stayed made before the commencement.

## Part 4 **Amendment of Workers' Compensation and Rehabilitation Act 2003**

### 17 **Act amended**

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

*Note—*

See also the amendments in schedule 1.

### 18 **Insertion of new ch 1, pt 4, div 6, sdiv 3C**

Chapter 1, part 4, division 6—

*insert—*

#### **Subdivision 3C Pneumoconiosis**

##### **36F Meaning of *pneumoconiosis score***

A *pneumoconiosis score* is a score that—

- (a) grades an injury that is pneumoconiosis; and
- (b) is worked out using a chest x-ray in the way prescribed by regulation.

## **19 Insertion of new s 63A**

After section 63—

*insert—*

### **63A Additional premium for ch 6A**

- (1) This section applies in relation to an employer who, before 1 January 2017, engaged a former coal worker to work in an industry that involved mining, loading, transporting or otherwise dealing with coal.
- (2) WorkCover may charge an additional premium on a policy issued to the employer in an amount WorkCover considers necessary towards covering the cost of administering chapter 6A in relation to the former coal worker.

## **20 Insertion of new ch 3, pt 3, div 5**

Chapter 3, part 3—

*insert—*

### **Division 5 Workers with pneumoconiosis**

*Note—*

Under section 128B, if a worker sustains a latent onset injury that is a terminal condition, the worker is entitled to compensation for the injury only under division 4.

### **Subdivision 1 Entitlement to lump sum compensation**

#### **128F Application of subdivision**

This subdivision applies to a worker—

- (a) who has sustained an injury that is pneumoconiosis; and
- (b) if section 119 applies for the worker's injury—whose entitlement to compensation for the injury has not ended under section 119(2).

### **128G Lump sum compensation**

- (1) The worker is entitled to lump sum compensation under this subdivision of up to \$120,000 for the injury.
- (2) The amount of the lump sum compensation is payable according to a graduated scale prescribed by regulation, calculated on the basis of—
  - (a) the worker's pneumoconiosis score; and
  - (b) the worker's lodgement age.
- (3) For subsection (2), a regulation may prescribe bands (each a *pneumoconiosis band*) that comprise particular pneumoconiosis scores.
- (4) Subject to section 140, the worker's entitlement to lump sum compensation under this subdivision is in addition to any entitlement to lump sum compensation under part 10.
- (5) This section applies despite section 176.

### **128H When lump sum compensation is payable**

- (1) The lump sum compensation is payable only after the worker's injury has been assessed under section 179.
- (2) However, it does not matter whether the notice of assessment in relation to the injury states that the worker has sustained permanent impairment from the injury.

## **Subdivision 2 Entitlement to further lump sum compensation**

### **128I Application of subdivision**

- (1) This subdivision applies to a worker who has sustained an injury that is pneumoconiosis if—
  - (a) the worker has received either of the following for the injury—
    - (i) lump sum compensation under subdivision 1;
    - (ii) further lump sum compensation under this subdivision; and
  - (b) at any time after receiving the lump sum compensation, or further lump sum compensation, the worker's pneumoconiosis score for the injury increases (the ***increased pneumoconiosis score***) and falls within a higher pneumoconiosis band.
- (2) This subdivision also applies to a worker who has sustained an injury that is pneumoconiosis if—
  - (a) a settlement for damages has been agreed, or judgment for damages has been given, for the injury; and
  - (b) the settlement or judgment does not include damages to compensate the worker for the future progression of the injury; and
  - (c) at any time after the settlement is agreed, or the judgment is given, the worker's pneumoconiosis score for the injury increases (also the ***increased pneumoconiosis score***) and falls within a higher pneumoconiosis band.
- (3) For subsection (2)(b), if the settlement or judgment does not expressly state that it includes

damages to compensate the worker for the future progression of the injury, the settlement or judgment is taken not to include damages for that purpose.

### **128J Further lump sum compensation**

- (1) The worker is entitled to further lump sum compensation under this subdivision for the injury.
- (2) The amount of the further lump sum compensation is the difference between—
  - (a) the amount that would be payable according to the graduated scale mentioned in section 128G(2), calculated on the basis of—
    - (i) the worker's increased pneumoconiosis score; and
    - (ii) the worker's lodgement age; and
  - (b) the amount that would be payable according to the graduated scale mentioned in section 128G(2), calculated on the basis of—
    - (i) the worker's relevant previous pneumoconiosis score; and
    - (ii) the worker's lodgement age.
- (3) For subsection (2)(b)(i), the worker's *relevant previous pneumoconiosis score* is—
  - (a) if the worker has received lump sum compensation under subdivision 1, but not further lump sum compensation under this subdivision—the pneumoconiosis score that was used to calculate the compensation under subdivision 1; or
  - (b) if the worker has received further lump sum compensation under this subdivision—the pneumoconiosis score that was used, or that

has most recently been used, to calculate the further compensation under this subdivision; or

- (c) if the worker is a worker mentioned in section 128I(2) and has not received further lump sum compensation under this subdivision—the pneumoconiosis score worked out using the last chest x-ray of the worker taken before the settlement for damages was agreed or the judgment for damages was given.
- (4) Subject to section 140, the worker's entitlement to further lump sum compensation under this subdivision is in addition to any entitlement to lump sum compensation under part 10.
- (5) This section applies despite sections 119, 176 and 239.

### **128K When further lump sum compensation is payable**

- (1) The further lump sum compensation is payable only after the worker's injury has been further assessed under section 179.
- (2) However, it does not matter whether the notice of assessment in relation to the injury states that the worker has sustained permanent impairment from the injury.

## **Subdivision 3 Miscellaneous**

### **128L Advances on account**

- (1) This section applies if an insurer is satisfied a worker—

- (a) is entitled to lump sum compensation under subdivision 1 or 2 for an injury; and
  - (b) is experiencing financial hardship.
- (2) The insurer may, from time to time, advance to the worker amounts on account of any lump sum compensation as it considers appropriate in the circumstances.
  - (3) Subsection (2) applies despite sections 128H and 128K.
  - (4) Acceptance of the amount on account of lump sum compensation by the worker does not constitute an election by the worker not to seek damages for the injury.

*Note—*

See also section 178A.

### **128M Reduction of compensation for particular workers with more than 1 pneumoconiosis injury**

- (1) This section applies if a worker who has sustained an injury that is pneumoconiosis (the *current injury*)—
  - (a) is entitled to compensation under subdivision 1 or 2 for the current injury; and
  - (b) has previously received compensation under subdivision 1 or 2 for another injury that was pneumoconiosis (a *previous injury*).
- (2) The compensation to which the worker would otherwise be entitled under subdivision 1 or 2 for the current injury must be reduced by an amount equal to the total of all amounts previously paid to the worker under subdivision 1 or 2 for the previous injury.

**21 Amendment of s 140 (Maximum entitlement)**

Section 140(1)(b), 'for lump sum compensation payable under'—

*omit, insert—*

for the total of all lump sum compensation payable under part 3, division 5 and

**22 Amendment of s 179 (Assessment of permanent impairment)**

Section 179(1)—

*insert—*

*Note—*

See also section 193C for when an insurer may decide, or the worker may ask the insurer, to have the worker's injury further assessed under this section.

**23 Amendment of s 189 (Worker's decision about lump sum compensation—DPI less than 20% or no DPI)**

Section 189(2)—

*insert—*

- (c) without limiting paragraphs (a) and (b), if the injury is pneumoconiosis—
  - (i) give the worker a copy of part 3, division 5 and division 5 of this part; and
  - (ii) advise the worker that, if the worker seeks damages for the injury, the worker may, despite section 239, be entitled to further lump sum compensation under those provisions for the injury.

---

**24 Amendment of s 190 (No further compensation after fixed time)**

(1) Section 190(3), before paragraph (a)—

*insert—*

(aa) lump sum compensation, if any, under part 3, division 5; or

(2) Section 190(3)(aa) to (c)—

*renumber* as section 190(3)(a) to (d).

**25 Insertion of new ch 3, pt 10, div 5**

Chapter 3, part 10—

*insert—*

**Division 5 Particular workers with pneumoconiosis**

*Note—*

Under section 128B, if a worker sustains a latent onset injury that is a terminal condition, the worker is entitled to compensation for the injury only under part 3, division 4.

**193B Application of division**

(1) This division applies to a worker who has sustained an injury that is pneumoconiosis if—

(a) the worker has previously been given a notice of assessment in relation to the injury, whether or not the notice states that the worker has sustained permanent impairment from the injury; and

(b) at any time after the notice is given, the worker's pneumoconiosis score for the

injury increases and falls within a higher pneumoconiosis band; and

- (c) if a settlement for damages has been agreed, or judgment for damages has been given, for the injury—the settlement or judgment does not include damages to compensate the worker for the future progression of the injury.
- (2) For subsection (1)(c), if the settlement or judgment does not expressly state that it includes damages to compensate the worker for the future progression of the injury, the settlement or judgment is taken not to include damages for that purpose.

### **193C Further assessment under s 179**

The insurer may decide, or the worker may ask the insurer, to have the worker's injury further assessed under section 179 to decide—

- (a) if a previous notice of assessment in relation to the injury stated that the worker had sustained permanent impairment from the injury—whether the degree of permanent impairment resulting from the injury has increased; or
- (b) otherwise—whether the injury has resulted in a degree of permanent impairment.

### **193D Entitlement of worker to lump sum compensation under s 180 and div 4**

- (1) This section applies if the worker is assessed under section 179 as having sustained a DPI or an increased DPI from the injury (the *current DPI*).
- (2) The worker is entitled to lump sum compensation for the injury under the following provisions,

calculated on the basis of the worker's current  
DPI—

- (a) section 180;
  - (b) division 4.
- (3) However, the amount of compensation payable under section 180 and division 4 must be reduced by the total of—
- (a) the amount of any compensation previously paid under those provisions for the injury; and
  - (b) the amount of any compensation paid under a law of Queensland (other than this Act), another State or the Commonwealth for the injury; and
  - (c) if a settlement for damages has been agreed, or judgment for damages has been given, for the injury—an amount equal to the compensation to which the worker would have been entitled under section 180 and division 4, calculated on the basis of the DPI stated in the first notice of assessment given to the worker in relation to the injury.
- (4) This section applies—
- (a) despite sections 119, 176, 190 and 239; and
  - (b) whether or not the worker has previously received compensation, or further compensation, under section 180 or division 4 because of this section.

## **26 Amendment of s 205 (Variation of payments for injuries)**

Section 205(1), after 'division 4'—

*insert—*

or 5

**27 Amendment of s 206 (Construing entitlements in light of variation)**

Section 206(3), after 'division 4'—

*insert—*

or 5

**28 Insertion of new ch 6A**

After section 325—

*insert—*

**Chapter 6A Medical examinations for former coal workers**

**325A Application of chapter**

This chapter applies to a person (a *former coal worker*) who—

- (a) was a worker employed in an industry that involved mining, loading, transporting or otherwise dealing with coal; and
- (b) permanently stopped working in the industry before 1 January 2017.

**325B Applications for lung disease examinations**

- (1) The former coal worker may apply (an *examination application*) to the insurer for approval to undergo a lung disease examination.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) include information that shows the former coal worker was exposed to coal dust at the

worker's place of employment for a period, whether or not continuous, of at least 6 months; and

- (c) be accompanied by a medical certificate signed by a doctor stating that the former coal worker suspects that the worker may have sustained an injury that is a coal mine dust lung disease.
- (3) However, an application may not be made under this section—
- (a) on or after 1 January 2022; or
  - (b) if the former coal worker has previously made an application under this section that was approved.

### **325C Deciding examination applications**

- (1) Within 20 business days after receiving an examination application, the insurer must—
  - (a) approve or refuse the application; and
  - (b) give the applicant written notice of the decision.
- (2) The insurer must approve the examination application unless satisfied—
  - (a) the applicant was not exposed to coal dust at the applicant's place of employment for a period, whether or not continuous, of at least 6 months; or
  - (b) the applicant was exposed to coal dust at the applicant's place of employment for a period, whether or not continuous, of at least 6 months, but the exposure did not happen in Queensland.
- (3) If the insurer refuses the examination application, the notice mentioned in subsection (1)(b) must—

- (a) state the reasons for the decision; and
- (b) include or be accompanied by information about the rights of review under this Act for the decision.

### **325D Insurer must arrange and pay for lung disease examinations**

- (1) If an examination application is approved, the insurer must—
  - (a) arrange for a lung disease examination of the applicant to be carried out by a doctor who is qualified and competent to carry out the examination; and
  - (b) within 10 business days after the approval is given, give the applicant a written notice stating—
    - (i) the day, time and place the lung disease examination will be carried out; and
    - (ii) the name of the doctor; and
  - (c) pay for—
    - (i) the lung disease examination; and
    - (ii) the preparation of an examination report by the doctor; and
    - (iii) the giving of a copy and explanation of the examination report to the applicant; and
    - (iv) any travel costs, that the insurer considers are necessary and reasonable, incurred by the applicant in attending the lung disease examination.
- (2) In this section—

***examination report*** means a report about a lung disease examination that states whether or not the

applicant is diagnosed as having a coal mine dust lung disease.

**29 Amendment of s 538 (Internal review by insurer)**

Section 538(1)—

*insert—*

(k) a decision under section 325C to refuse an examination application.

**30 Amendment of s 540 (Application of pt 2)**

(1) Section 540(1)(a)—

*insert—*

(xiv) to refuse an examination application under section 325C;

(2) Section 540(1)(b)—

*insert—*

(viii) to refuse an examination application under section 325C;

(3) Section 540(1)(c)—

*insert—*

(iii) under section 325C(1) within the period stated in the section.

**31 Amendment of s 586 (Approval of forms)**

(1) Section 586(3)(a), '133A'—

*omit, insert—*

133A, 325B

(2) Section 586(3)(b), editor's note—

*omit.*

**32 Insertion of new ch 34**

After chapter 33—

*insert—*

**Chapter 34 Transitional provisions for Workers' Compensation and Rehabilitation (Coal Workers' Pneumoconiosis) and Other Legislation Amendment Act 2017**

**727 Application of ch 3, pt 3, div 5**

- (1) Chapter 3, part 3, division 5 applies to a worker—
  - (a) whether the worker's injury was sustained before or after the commencement; and
  - (b) whether the application for compensation for the injury was lodged before or after the commencement.
- (2) However, if the worker's injury was sustained before the commencement, chapter 3, part 3, division 5 applies to the worker only if the worker's injury had not, before the commencement, been assessed under section 179.

**728 Application of ch 3, pt 10, div 5**

Chapter 3, part 10, division 5 applies to a

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worker—

- (a) whether the worker's injury was sustained before or after the commencement; and
- (b) whether the application for compensation for the injury was lodged before or after the commencement.

### **729 Working out worker's pneumoconiosis score before commencement**

- (1) This section applies for the purpose of applying chapter 3, part 3, division 5 or part 10, division 5 to a worker whose injury was sustained before the commencement.
- (2) To remove any doubt, it is declared that nothing in this Act prevents the worker's pneumoconiosis score being worked out, after the commencement, as at a day before the commencement.

## **33 Amendment of sch 6 (Dictionary)**

- (1) Schedule 6, definitions *offer* and *worker*—  
*omit.*

- (2) Schedule 6—  
*insert—*

***chest x-ray examination*** means an examination of an x-ray taken of a person's chest—

- (a) for the purpose of screening for indications of a coal mine dust lung disease; and
- (b) to the extent the examination is for the purpose of screening for indications of pneumoconiosis—performed in accordance with the ILO classification guidelines.

***coal mine dust lung disease*** means a respiratory disease caused by exposure to coal dust.

*Examples—*

- chronic obstructive pulmonary disease
- coal workers' pneumoconiosis
- dust-related diffuse fibrosis
- mixed dust pneumoconiosis

***compensation under this part***, for chapter 3, part 8, see section 143.

***examination application*** see section 325B(1).

***former coal worker*** see section 325A.

***ILO classification guidelines*** means the document called 'Guidelines for the use of the ILO International Classification of Radiographs of Pneumoconioses', revised edition 2011, published by the International Labour Office.

***increased pneumoconiosis score*** see section 128I(1)(b) and (2)(c).

***lodgement age***, in relation to an injury sustained by a worker, means the age of the worker when the worker lodges an application under section 132 for compensation for the injury.

***lung disease examination***, of a person, means an examination of the person that includes each of the following procedures, whether carried out at the same time or at different times—

- (a) a chest x-ray examination;
- (b) an examination of the person's respiratory function;
- (c) if the results of 1 or more previous respiratory function examinations of the person are available—a comparative assessment of the person's respiratory function.

***offer—***

(a) for chapter 3, part 10, division 3—see section 187; or

(b) for chapter 5—see section 233.

***pneumoconiosis band*** see section 128G(3).

***pneumoconiosis score*** see section 36F.

***previous respiratory function examination***, in relation to a lung disease examination of a person, means an examination of the person's respiratory function that was carried out—

(a) by a person qualified and competent to conduct the examination; and

(b) before the lung disease examination is carried out.

***required minimum number***, for chapter 8, part 4, division 2, see section 429.

***worker***—

(a) generally—see section 11; or

(b) for chapter 3A—see section 207AA; or

(c) for chapter 5—see section 233; or

(d) for chapter 11—see section 491.

## Part 5 **Amendment of Workers' Compensation and Rehabilitation Regulation 2014**

### 34 **Regulation amended**

This part amends the *Workers' Compensation and Rehabilitation Regulation 2014*.

**35 Insertion of new pt 4, div 3AA**

Part 4, after division 3A—

*insert—*

**Division 3AA Entitlement to  
compensation for  
pneumoconiosis**

**112V Working out pneumoconiosis score—Act, s  
36F**

For section 36F(b) of the Act, the way set out in schedule 4B is prescribed.

**112W Lump sum compensation for workers with  
pneumoconiosis—Act, s 128G**

- (1) For section 128G(2) of the Act, the lump sum compensation, and graduated scale, set out in schedule 4C are prescribed.
- (2) For section 128G(3) of the Act, the pneumoconiosis bands set out in schedule 4C are prescribed.

**36 Insertion of new schs 4B and 4C**

After schedule 4A—

*insert—*

**Schedule 4B Pneumoconiosis score**

section 112V

**1 Definitions for schedule**

In this schedule—

*category* see section 2(1)(b).

*consecutive categories* see section 3.

*corresponding score*, for a category, means the score in section 2(1), table 1, column 2 that corresponds to the category.

*reading*, of a chest x-ray, see section 2.

## 2 Meaning of *reading* of chest x-ray

- (1) A *reading*, of a chest x-ray, is a process in which a qualified reader—
  - (a) assesses the x-ray for the appearance of opacities; and
  - (b) decides, in accordance with the ILO classification guidelines, the category in table 1, column 1 (the *category*) that applies to the appearance of opacities in the x-ray; and
  - (c) records the category decided under paragraph (b).

Table 1

Column 1 Category	Column 2 Score
0/-	0
0/0	0
0/1	0
1/0	15
1/1	20
1/2	25
2/1	50

Column 1 Category	Column 2 Score
2/2	55
2/3	60
3/2	75
3/3	80
3/+	85
Category A	90
Category B	95
Category C	100

(2) In this section—

*opacity* means—

- (a) a small opacity within the meaning of the ILO classification guidelines; or
- (b) a large opacity within the meaning of the ILO classification guidelines.

*qualified reader* means a doctor who is qualified and competent to categorise, in accordance with the ILO classification guidelines, the appearance of opacities in a chest x-ray.

*Example*—

a doctor approved as a B Reader by the National Institute for Occupational Safety and Health

### 3 Meaning of *consecutive categories*

Two categories are *consecutive categories* if the categories—

- (a) start with the same digit, other than 0; and
- (b) appear in consecutive rows in section 2(1), table 1.

*Examples of categories that are consecutive categories—*

- 2/1 and 2/2
- 3/3 and 3/+

*Examples of categories that are not consecutive categories—*

- 0/0 and 0/1
- 1/2 and 2/1
- category B and category C

#### **4 Requirement for 2 readings**

- (1) A worker's pneumoconiosis score is worked out by using 2 readings of the same chest x-ray of the worker in the way provided under subsection (2) or (3).
- (2) If each reading records the same category, the worker's pneumoconiosis score is the corresponding score for that category.
- (3) If each reading records a different category, the worker's pneumoconiosis score is—
  - (a) if the 2 categories are any combination of 0/-, 0/0 or 0/1—0; or
  - (b) if the 2 categories are consecutive categories—the higher of the corresponding scores for the consecutive categories; or

*Example for paragraph (b)—*

One reading records the category as 2/2, which has a corresponding score of 55. The other reading records the category as 2/3, which has a corresponding score of 60. The worker's pneumoconiosis score is 60, being the higher of the corresponding scores for the consecutive categories.

- (c) if the 2 categories are any combination of category A, category B or category C—the higher of the corresponding scores for the 2 categories.

*Example for paragraph (c)—*

One reading records the category as category A, which has a corresponding score of 90. The other reading records the category as category C, which has a corresponding score of 100. The worker's pneumoconiosis score is 100, being the higher of the corresponding scores for the 2 categories.

## **5 Requirement for third reading**

- (1) This section applies if the worker's pneumoconiosis score can not be worked out under section 4.
- (2) The worker's pneumoconiosis score is worked out by—
  - (a) obtaining a third reading of the same chest x-ray; and
  - (b) using that reading, with the first 2 readings, in the way provided under subsection (3) or (4).
- (3) If the third reading records the same category as either of the first 2 readings, the worker's pneumoconiosis score is the corresponding score for that category.
- (4) If the third reading records a different category from both of the first 2 readings, the worker's pneumoconiosis score is—
  - (a) if 2 of the 3 categories are consecutive categories—the higher of the corresponding scores for the consecutive categories; or

*Example for paragraph (a)—*

The first 2 readings record the categories as 1/2 and 2/1. The third reading records the category as 2/2. Because the categories of 2/1 and 2/2 are consecutive categories, the worker's pneumoconiosis score is 55, being the higher of the corresponding scores for the consecutive categories.

- (b) if 2 of the 3 categories are any combination of category A, category B or category C—the higher of the corresponding scores for the 2 categories.

*Example for paragraph (b)—*

The first 2 readings record the categories as 3/+ and category A. The third reading records the category as category B. The worker's pneumoconiosis score is 95, being the higher of the corresponding scores for category A and category B.

## **6 Requirement for fourth and fifth readings**

- (1) This section applies if the worker's pneumoconiosis score can not be worked out under section 4 or 5.
- (2) The worker's pneumoconiosis score is worked out by—
- (a) obtaining a fourth and fifth reading of the same chest x-ray; and
- (b) using those readings, with the other 3 readings, in the way provided under subsection (3).
- (3) The worker's pneumoconiosis score is the corresponding score for the median category of the categories recorded in each of the 5 readings.

*Example—*

The first 3 readings record the categories as 1/2, 2/1 and 2/3. The fourth and fifth readings record the categories as 1/2 and 2/1. The 5 categories, in ascending order, are 1/2, 1/2, 2/1, 2/1 and 2/3. The median category is 2/1, and the worker's pneumoconiosis score is 50.

## **Schedule 4C Lump sum compensation for workers with pneumoconiosis**

section 112W

### **1 Graduated scale**

- (1) This schedule contains the graduated scale for lump sum compensation for a worker to whom chapter 3, part 3, division 5 of the Act applies.
- (2) The maximum amount of lump sum compensation payable under chapter 3, part 3, division 5 of the Act is \$120,000.

### **2 How to use the graduated scale**

- (1) A pneumoconiosis band shown in column 1 comprises the pneumoconiosis scores in the corresponding entry in column 2.
- (2) A worker who has a pneumoconiosis score shown in column 2 is entitled to lump sum compensation in the amount shown for the corresponding entry in column 3.
- (3) However, the amount of the lump sum compensation under subsection (2) is subject to any reduction required under section 3.

#### **Graduated scale**

<b>Column 1 Pneumoconiosis band</b>	<b>Column 2 Pneumoconiosis scores</b>	<b>Column 3 Lump sum compensation</b>
1	0	\$ 0

---

**Graduated scale**

<b>Column 1 Pneumoconiosis band</b>	<b>Column 2 Pneumoconiosis scores</b>	<b>Column 3 Lump sum compensation</b>
		<b>\$</b>
2	15	18,000
	20	24,000
	25	30,000
3	50	60,000
	55	66,000
	60	72,000
4	75	90,000
	80	96,000
5	85	102,000
6	90	108,000
7	95	114,000
8	100	120,000

**3 Effect of worker's lodgement age**

- (1) This section applies if the worker's lodgement age is 71 years or more.
- (2) For each whole year by which the worker's lodgement age is more than 70 years, the amount (the *prescribed amount*) to which the worker would otherwise be entitled under section 2(2) must be reduced by an amount equal to 5% of the prescribed amount.

*Example—*

A worker with a pneumoconiosis score of 100 has a lodgement age of 72 years. The worker is entitled under section 2(2) to the amount of \$120,000. However, that

amount must be reduced under this subsection by \$6,000 for each of the 2 years by which the worker's lodgement age is more than 70 years. The amount of the worker's entitlement under this schedule is therefore \$108,000.

- (3) However, the maximum reduction that may be made under subsection (2) is an amount equal to 50% of the prescribed amount.

### 37 Amendment of sch 13 (Dictionary)

Schedule 13—

*insert—*

*category*, for schedule 4B, see schedule 4B, section 2(1)(b).

*consecutive categories*, for schedule 4B, see schedule 4B, section 3.

*corresponding score*, for a category, for schedule 4B, see schedule 4B, section 1.

*reading*, of a chest x-ray, for schedule 4B, see schedule 4B, section 2.

## Part 6 Amendment of Work Health and Safety Act 2011

### 38 Act amended

This part amends the *Work Health and Safety Act 2011*.

*Note—*

See also the amendments in schedule 1.

**39 Amendment of sch 2 (The regulator and local tripartite consultation arrangements and other local arrangements)**

Schedule 2—

*insert—*

**Part 2A Affected persons committee**

**Division 1 Preliminary**

**23A Definitions for part**

In this part—

*affected person* means a person who is affected, directly or indirectly, by a workplace incident that involves death or a serious injury or illness.

*affected persons committee* see section 23B.

*committee member* see section 23D(1).

*workplace incident* means an incident that happens at a workplace, including a workplace to which this Act does not apply.

**Division 2 Establishment and functions**

**23B Establishment**

The Persons Affected by Work-related Fatalities and Serious Incidents Consultative Committee (the *affected persons committee*) is established.

## 23C Functions

- (1) The primary function of the affected persons committee is to give advice and make recommendations to the Minister about the information and support needs of affected persons.
- (2) Without limiting subsection (1), the affected persons committee may discharge its primary function by—
  - (a) providing advice about, and contributing to the development and review of, policies, practices and strategies for liaising with and providing information and support to affected persons; and
  - (b) considering and making recommendations about other matters relating to the information and support needs of affected persons referred to the committee by the Minister.
- (3) The regulator must give the affected persons committee the necessary administrative and other support to enable the committee to perform its functions efficiently and effectively.

## Division 3      Membership

### 23D Membership

- (1) The affected persons committee consists of the following members (each a *committee member*) appointed by the Minister—
  - (a) the chairperson;
  - (b) the deputy chairperson;
  - (c) at least 4 other members, each of whom represents—

- (i) an affected person; or
  - (ii) a person affected, directly or indirectly, by a relevant incident.
- (2) A person may be appointed as the chairperson or deputy chairperson if—
- (a) the person has or had a serious injury or illness as a result of a workplace incident or a relevant incident; or
  - (b) a relative of the person died, or has or had a serious injury or illness, as a result of a workplace incident or a relevant incident.
- (3) In appointing a committee member, the Minister must have regard to providing for balanced gender representation in the membership of the committee.
- (4) In this section—
- relevant incident* means an incident, other than a workplace incident, involving death or serious injury or illness, if the circumstances of the incident are relevant to securing the health and safety of workers and workplaces.

### **23E Term of appointment**

- (1) A committee member holds office for the term, not longer than 3 years, decided by the Minister.
- (2) Subsection (1) does not prevent a committee member from being reappointed.

### **23F Vacancy in office**

- (1) A committee member's office becomes vacant if—
  - (a) the member completes the member's term of office and is not reappointed; or

- (b) the member resigns office by signed notice given to the Minister; or
  - (c) the member is found guilty of an indictable offence or an offence against this Act; or
  - (d) the member is absent, without the Minister's leave and without reasonable excuse, from 3 consecutive ordinary meetings of the affected persons committee; or
  - (e) the member's appointment is ended by the Minister under subsection (2).
- (2) The Minister may, at any time, end the appointment of a committee member for any reason or none.

### **23G Conditions of appointment**

- (1) A committee member is appointed on a part-time basis.
- (2) A committee member is to be paid the remuneration and allowances decided by the Minister.
- (3) A committee member holds office on the terms, not otherwise provided for by this Act, decided by the Minister.
- (4) A committee member is appointed under this Act and not the *Public Service Act 2008*.

### **23H Leave of absence**

The Minister may—

- (a) approve a leave of absence for a committee member; and
- (b) appoint someone else to act in the office of the committee member while the member is absent on leave.

---

## **Division 4      Proceedings**

### **23I Conduct of business**

Subject to this division, the affected persons committee may conduct its business, including its meetings, in the way it considers appropriate.

### **23J Quorum**

A quorum for the affected persons committee is one-half the number of its committee members, or if one-half is not a whole number, the next highest whole number.

### **23K Meetings**

- (1) Meetings of the affected persons committee are to be held at the times and places the chairperson decides.
- (2) However, the chairperson must call a meeting if asked in writing to do so by—
  - (a) the Minister; or
  - (b) at least the number of committee members forming a quorum for the committee.

### **23L Presiding at meetings**

- (1) The chairperson presides at all meetings of the affected persons committee at which the chairperson is present.
- (2) If the chairperson is absent from a meeting, the deputy chairperson is to preside.
- (3) If neither the chairperson nor the deputy chairperson is present at a meeting, the committee member chosen by the members present is to

preside.

### **23M Minutes**

The affected persons committee must keep minutes of its meetings.

## **Division 5 Other matters**

### **23N Disclosure of interests**

- (1) This section applies to a committee member if—
  - (a) the member has a direct interest in an issue being considered, or about to be considered, by the affected persons committee; and
  - (b) the interest could conflict with the proper performance of the member's duties about the consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the committee member's knowledge, the member must disclose the nature of the interest to a meeting of the affected persons committee.
- (3) Unless the affected persons committee otherwise decides, the committee member must not—
  - (a) be present when the committee considers the issue; or
  - (b) take part in a decision of the committee about the issue.
- (4) The committee member must not be present when the affected persons committee is considering its decision under subsection (3).
- (5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—

- 
- (a) be present when the affected persons committee is considering its decision under subsection (3); or
  - (b) take part in making the decision.
- (6) Subsection (7) applies if—
- (a) because of this section, a committee member is not present at a meeting for considering or deciding an issue, or making a decision under subsection (3); and
  - (b) there would be a quorum if the committee member were present.
- (7) The remaining committee members present are a quorum of the affected persons committee for considering or deciding the issue, or making a decision under subsection (3), for the meeting.

### **230 Annual report**

- (1) As soon as practicable, but within 4 months, after the end of each financial year, the affected persons committee must give the Minister a written report about the performance of its functions during the year.
- (2) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it.

## **40 Amendment of sch 5 (Dictionary)**

- (1) Schedule 5, definition *serious injury or illness*—  
*omit.*
- (2) Schedule 5—  
*insert—*

*affected person*, for schedule 2, part 2A, see schedule 2, section 23A.

*affected persons committee*, for schedule 2, part 2A, see schedule 2, section 23B.

*committee member*, for schedule 2, part 2A, see schedule 2, section 23D(1).

*serious injury or illness*, for part 3, section 176 and schedule 2, see section 36.

*workplace incident*, for schedule 2, part 2A, see schedule 2, section 23A.

## **Part 7                      Other amendments**

### **41            Legislation amended**

Schedule 1 amends the legislation it mentions.

## Schedule 1      Other amendments

section 41

### Electrical Safety Act 2002

**1      Section 35(2), note, 'division 2A'—**

*omit, insert—*

division 2B

### Electrical Safety Regulation 2013

**1      Section 44(2)(a), from 'under the'—**

*omit, insert—*

that the regulator considers to be appropriate; and

**2      Section 61(2)(c)—**

*omit, insert—*

(c) a registered training organisation.

**3      Schedule 9, definition *registered training organisation*—**

*omit.*

## **Workers' Compensation and Rehabilitation Act 2003**

**1 Section 132A(3), 'subsection (1)'—**

*omit, insert—*

subsection (2)

**2 Section 178A(1)(b), 'the worker'—**

*omit.*

**3 Section 178A—**

*insert—*

*Note—*

See also section 128L.

**4 Section 185(3)(c), 'chapter 3, part 10,'—**

*omit.*

**5 Section 318E, 'proceedings'—**

*omit, insert—*

proceeding

**6 Section 546(2), 'section 540(1)(a)(vii) to (xiih)'—**

*omit, insert—*

section 540(1)(a)(vii) to (xiv)

**7 Section 546A(2)(b), 'decision including'—**

*omit, insert—*

decision, including

**8 Section 546A(2)(c), 'section 540(1)(a)(vii) to (xiii)'—**

*omit, insert—*

section 540(1)(a)(vii) to (xiv)

## **Work Health and Safety Act 2011**

**1 Schedule 2, section 22(3), 'section 57'—**

*omit, insert—*

section 16

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