

## **NSW Self Insurance Corporation Bill 2004**

New South Wales

### **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The NSW Insurance Ministerial Corporation (**NSW IMC**) is a body corporate constituted under the *Government Insurance Office (Privatisation) Act 1991*.

At the time of the privatisation of the Government Insurance Office (**GIO**), a number of funds, schemes and accounts relating to the self insurance of certain liabilities of the State and authorities of the State were transferred from the GIO to the newly constituted NSW IMC. These funds, schemes and accounts are broadly known as Government managed fund schemes.

Other functions relating to the management of liabilities of the State and authorities of the State have also been given to the NSW IMC, including functions relating to workers compensation self insurance under the *Workers Compensation Act 1987*.

The object of this Bill is to reconstitute the NSW IMC as the NSW Self Insurance Corporation and to clarify its functions.

#### Outline of provisions

##### **Part 1 Preliminary**

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** defines certain words and expressions used in the proposed Act. In particular, it defines **Government managed fund scheme** as an arrangement under which workers compensation, motor vehicle accident, public and other liabilities of the State or an authority of the State:

(a) are managed as a self insurance scheme (including the collection of contributions from the State or an authority of the State towards the cost of claims), and

(b) are paid, or otherwise settled, by the State or by the Self Insurance Corporation on behalf of the State or an authority of the State.

##### **Part 2 Establishment of Self Insurance Corporation**

**Clause 4** constitutes the NSW Self Insurance Corporation (**Self Insurance Corporation**) and provides that it is a statutory body representing the Crown.

**Clause 5** provides for the management of the Self Insurance Corporation. The affairs of the Self Insurance Corporation are to be managed by the Minister who is to administer the proposed Act.

**Clause 6** provides that the Self Insurance Corporation may arrange for the use of the services of any staff or facilities of any government department or public or local authority.

##### **Part 3 Functions of Self Insurance Corporation**

**Clause 7** provides that the Self Insurance Corporation has the functions conferred or imposed on it by or under the proposed Act or any other Act or law, including without limitation, the functions imposed on it under the *Workers Compensation Act 1987* and the *Government Insurance Office (Privatisation) Act 1991*.

**Clause 8** provides that the Self Insurance Corporation has the following functions with respect to Government managed fund schemes:

(a) to operate one or more Government managed fund schemes,

(b) to enter into agreements or arrangements with other persons to provide services (as agents or otherwise) in relation to the operation of any Government managed fund scheme,

(c) to enter into insurance or other agreements or arrangements to cover the liabilities to which a Government managed fund scheme applies,  
(d) to act for the State or an authority of the State in dealing with claims under a Government managed fund scheme (including the recovery of amounts payable to the State or an authority of the State in connection with such claims).

**Clause 9** provides that the Self Insurance Corporation may delegate to any person the exercise of any of its functions, other than this proposed power of delegation.

**Clause 10** deals with the ownership and control of records made and kept, or received and kept, by agents or other persons on behalf of the Self Insurance Corporation.

#### **Part 4 Finance**

**Clause 11** establishes a Self Insurance Fund in the Special Deposits Account in the Treasury (the **Fund**) and provides that the following money is to be paid into the Fund:

- (a) all money received by the Self Insurance Corporation as contributions from the State or an authority of the State towards the cost of claims,
- (b) all money recovered by the Self Insurance Corporation from insurers, third parties or other persons in connection with claims to which a Government managed fund scheme applies,
- (c) all money advanced to the Self Insurance Corporation by the Minister or appropriated by Parliament for the purposes of the Self Insurance Corporation,
- (d) all money directed or authorised to be paid into the Fund by or under the proposed Act or any other Act,
- (e) the proceeds of the investment of money in the Fund,
- (f) all money received by the Self Insurance Corporation from any other source.

The proposed section also provides that the Fund is to be applied for the purpose of enabling the Self Insurance Corporation to exercise its functions, including but not limited to the following:

- (a) payment of claims to which a Government managed fund scheme applies,
- (b) payment of Government managed fund scheme administration expenses,
- (c) payment of the costs (including disbursements) of risk management, actuarial and legal services provided in connection with Government managed fund schemes,
- (d) payments to provide incentives to authorities of the State to enhance the management of liabilities,
- (e) payment of contributions by the Self Insurance Corporation made in accordance with an arrangement entered into under section 211B (3) of the *Workers Compensation Act 1987*.

All expenditure incurred by the Self Insurance Corporation is to be paid from the Fund.

**Clause 12** provides for the investment of moneys in the Self Insurance Fund.

#### **Part 5 Miscellaneous**

**Clause 13** provides a general regulation-making power.

**Clause 14** provides that proceedings for offences under the proposed Act or the regulations under it may be dealt with summarily before a Local Court.

**Clause 15** deals with the seal of the Self Insurance Corporation.

**Clause 16** is a formal provision giving effect to Schedule 1 (Savings, transitional and other provisions).

**Clause 17** is a formal provision giving effect to Schedule 2 (Amendment of Acts and Regulations).

**Clause 18** requires the Minister to review, and report on, the proposed Act after 5 years to determine whether its policy objectives are being achieved.

#### **Schedule 1 Savings, transitional and other**

## **provisions**

**Schedule 1** contains savings, transitional and other provisions consequent on the enactment of the proposed Act. The Schedule includes provisions that provide:

- (a) for the making of regulations of a savings or transitional nature, and
- (b) that the Self Insurance Corporation is a continuation of, and the same legal entity as, the NSW IMC, and
- (c) that nothing in the proposed Act affects the continuation of the NSW Treasury Managed Fund, except that the NSW Treasury Managed Fund is taken to be a Government managed fund scheme subject to the proposed Act.

## **Schedule 2 Amendment of Acts and Regulations**

**Schedule 2** makes consequential amendments to a number of Acts and Regulations.

In particular, **Schedule 2.1 [5]** repeals section 28 of the *Government Insurance Office (Privatisation) Act 1991* (being the section that constituted the NSW IMC) and

**Schedule 2.5** amends the *Public Finance and Audit Act 1983* to provide that the Self Insurance Corporation is a statutory body subject to the accounting and audit provisions of Division 3 of Part 3 of that Act.