

New South Wales

NSW Self Insurance Corporation Bill 2004

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.

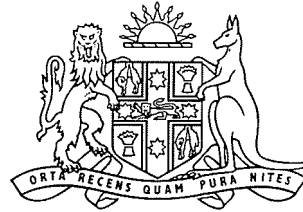
Schedule 1 Savings, transitional and other provisions

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.



New South Wales

NSW Self Insurance Corporation Bill 2004

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New South Wales

NSW Self Insurance Corporation Bill 2004

No. , 2004

A Bill for

An Act to reconstitute the NSW Insurance Ministerial Corporation as the NSW Self Insurance Corporation and to clarify its functions; and for related purposes.

The Legislature of New South Wales enacts:	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>NSW Self Insurance Corporation Act 2004</i> .	4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
3 Definitions	7
In this Act:	8
<i>exercise</i> a function includes perform a duty.	9
<i>function</i> includes a power, authority or duty.	10
<i>Government managed fund scheme</i> means an arrangement under which workers compensation, motor vehicle accident, public and other liabilities of the State or an authority of the State:	11
(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	14
(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.	17
<i>Self Insurance Corporation</i> means the corporation constituted under section 4.	19
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Part 2	Establishment of Self Insurance Corporation	1
4	Constitution of NSW Self Insurance Corporation	2
(1)	There is constituted by this Act a corporation with the corporate name of NSW Self Insurance Corporation.	3 4
(2)	The Self Insurance Corporation is, for the purposes of any Act, a statutory body representing the Crown.	5 6
5	Management of Self Insurance Corporation	7
(1)	The affairs of the Self Insurance Corporation are to be managed by the Minister.	8 9
(2)	Any act, matter or thing done in the name of, or on behalf of, the Self Insurance Corporation by the Minister, or with the authority of the Minister, is taken to have been done by the Self Insurance Corporation.	10 11 12
6	Staff of Self Insurance Corporation	13
(1)	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.	14 15 16
(2)	For the purpose of this Act, any such staff are taken to be staff of the Self Insurance Corporation.	17 18

Part 3	Functions of Self Insurance Corporation	1
7	General functions	2
(1)	The Self Insurance Corporation has the functions conferred or imposed on it by or under this or any other Act or law.	3 4
(2)	Without limiting subsection (1), the Self Insurance Corporation has the functions imposed on it under section 211B of the <i>Workers Compensation Act 1987</i> and sections 26 and 27 of the <i>Government Insurance Office (Privatisation) Act 1991</i> .	5 6 7 8
8	Specific functions in relation to Government managed fund schemes	9
	The Self Insurance Corporation has the following functions with respect to Government managed fund schemes:	10 11
(a)	to operate one or more Government managed fund schemes (including the function of establishing, reorganising, amalgamating, dividing or winding up such schemes),	12 13 14
(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,	15 16 17
(c)	to enter into insurance or other agreements or arrangements to cover the liabilities to which a Government managed fund scheme applies,	18 19 20
(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).	21 22 23 24
9	Delegation of functions	25
	The Self Insurance Corporation may delegate to any person the exercise of any of its functions, other than this power of delegation.	26 27
10	Ownership and control of records	28
(1)	Subject to the regulations, all records (within the meaning of the <i>State Records Act 1998</i>) made and kept, or received and kept, by an agent or other person in the exercise of functions on behalf of the Self Insurance Corporation are the property of the Self Insurance Corporation.	29 30 31 32
(2)	The Self Insurance Corporation may give directions to such an agent or other person with respect to the possession, custody and control of, and the granting of access to, those records.	33 34 35

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- (3) A person must not, without reasonable excuse, fail to comply with any such direction given by the Self Insurance Corporation to the agent or person.
Maximum penalty: 100 penalty units.

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Part 4 Finance

11 Self Insurance Fund

- (1) There is to be established in the Special Deposits Account a Self Insurance Fund (the *Fund*) into which is to be paid:
- (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, and
 - (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, and
 - (c) all money advanced to the Self Insurance Corporation by the Minister or appropriated by Parliament for the purposes of the Self Insurance Corporation, and
 - (d) all money directed or authorised to be paid into the Fund by or under this or any other Act, and
 - (e) the proceeds of the investment of money in the Fund, and
 - (f) all money received by the Self Insurance Corporation from any other source.
- (2) 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*.
- (3) All expenditure incurred by the Self Insurance Corporation is to be paid from the Fund.

12 Investment of money in Fund

The Self Insurance Corporation may invest money in the Self Insurance Fund:

- (a) in the manner authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Self Insurance Corporation to invest the money, in any other manner approved by the Minister.

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Part 5	Miscellaneous	1
13	Regulations	2
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	3 4 5 6
(2)	A regulation may create offences with a maximum penalty not exceeding 50 penalty units.	7 8
14	Nature of proceedings for offences	9
	Proceedings for an offence under this Act or the regulations may be dealt with summarily before a Local Court.	10 11
15	Seal of Corporation	12
	The seal of the Self Insurance Corporation is to be kept by the Minister and may be affixed to a document only:	13 14
(a)	in the presence of the Minister or a member of the staff of the Corporation authorised in that behalf by the Minister, and	15 16
(b)	with an attestation by the signature of the Minister or that member of staff of the fact of the affixing of the seal.	17 18
16	Savings, transitional and other provisions	19
	Schedule 1 has effect.	20
17	Amendment of Acts and Regulations	21
	The Acts and Regulations specified in Schedule 2 are amended as set out in that Schedule.	22 23
18	Review of Act	24
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	25 26 27
(2)	The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	28 29
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	30 31

Schedule 1	Savings, transitional and other provisions	1
		2
	(Section 16)	3
Part 1	General	4
1	Regulations	5
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: this Act	6 7 8
(2)	Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	9 10
(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	11 12 13
(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	14 15 16
(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	17 18 19
Part 2	Provisions consequent on enactment of this Act	20 21
2	Continuation of NSW Insurance Ministerial Corporation	22
	The NSW Self Insurance Corporation is a continuation of, and the same legal entity as, the NSW Insurance Ministerial Corporation that was constituted by the <i>Government Insurance Office (Privatisation) Act 1991</i> .	23 24 25 26
3	Continuation of NSW Treasury Managed Fund	27
	Nothing in this 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 this Act.	28 29 30

Schedule 2	Amendment of Acts and Regulations	1
	(Section 17)	2
2.1	Government Insurance Office (Privatisation) Act 1991 No 38	3
[1]	Section 4 Definitions	4
	Omit the definition of <i>Ministerial Corporation</i> from section 4 (1).	5
[2]	Section 4 (1)	6
	Insert in alphabetical order:	7
	<i>Self Insurance Corporation</i> means the NSW Self Insurance Corporation constituted by the <i>NSW Self Insurance Corporation Act 2004</i> .	8 9 10
[3]	Sections 16 (2) (b), 24 (1), 27 and 38 (1) (b) and (c)	11
	Omit “Ministerial Corporation” wherever occurring.	12
	Insert instead “Self Insurance Corporation”.	13
[4]	Section 26 Self Insurance Corporation etc may sell excluded undertaking or retain it	14 15
	Omit “Ministerial Corporation” from section 26 (1).	16
	Insert instead “Self Insurance Corporation”.	17
[5]	Section 28 Constitution, management and functions of NSW Insurance Ministerial Corporation	18 19
	Omit the section.	20
2.2	Motor Accidents Act 1988 No 102	21
[1]	Section 3 Definitions	22
	Omit the definition of <i>Ministerial Corporation</i> from section 3 (1).	23
[2]	Section 3 (1)	24
	Insert in alphabetical order:	25
	<i>Self Insurance Corporation</i> means the NSW Self Insurance Corporation constituted by the <i>NSW Self Insurance Corporation Act 2004</i> .	26 27 28

[3]	Sections 66A (7) (a), 139 (2), 140 (1) (a) and (b1), 141 (1) (a1) and (b), 142, 144 (1), 145B (1), 146A (1), 147A and 147B (1) and the Table to section 145A (2)	1 2 3
	Omit “Ministerial Corporation” wherever occurring.	4
	Insert instead “Self Insurance Corporation”.	5
[4]	Section 149 Payment of short-fall levies to Self Insurance Corporation	6
	Omit “Ministerial Corporation” wherever occurring.	7
	Insert instead “Self Insurance Corporation”.	8
2.3	Motor Accidents Compensation Act 1999 No 41	9
	Section 120 Claims register	10
	Omit “NSW Insurance Ministerial Corporation constituted under Part 5 of the <i>Government Insurance Office (Privatisation) Act 1991</i> ” from section 120 (4).	11 12
	Insert instead “NSW Self Insurance Corporation constituted under the <i>NSW Self Insurance Corporation Act 2004</i> ”.	13 14
2.4	Public Authorities (Financial Arrangements) Regulation 2000	15 16
[1]	Schedule 3 Authorities having Part 4 investment powers	17
	Omit “NSW Insurance Ministerial Corporation”.	18
	Insert instead “NSW Self Insurance Corporation”.	19
[2]	Schedule 4 Authorities specifically included	20
	Omit “NSW Insurance Ministerial Corporation”.	21
	Insert instead “NSW Self Insurance Corporation”.	22
2.5	Public Finance and Audit Act 1983 No 152	23
	Schedule 2 Statutory bodies	24
	Insert in alphabetical order:	25
	NSW Self Insurance Corporation	26

2.6 Public Finance and Audit Regulation 2000	1
[1] Clause 20 Prescribed statutory bodies under Division 4 of Part 3 of the Act	2 3
Omit clause 20 (1) (l).	4
[2] Clause 21 Particular audit of the NSW Treasury Managed Fund	5
Omit the clause.	6
2.7 Workers Compensation Act 1987 No 70	7
Sections 151Y (9), 176 (3A), 211B (2) and (3) and 221 (10) (b)	8
Omit “Insurance Ministerial Corporation” wherever occurring.	9
Insert instead “Self Insurance Corporation”.	10
2.8 Workplace Injury Management and Workers Compensation Act 1998 No 86	11 12
[1] Section 4 Definitions	13
Omit the definition of <i>Insurance Ministerial Corporation</i> from section 4 (1).	14
[2] Section 4 (1)	15
Insert in alphabetical order:	16
<i>Self Insurance Corporation</i> means the NSW Self Insurance Corporation constituted by the <i>NSW Self Insurance Corporation Act 2004</i> .	17 18 19
[3] Section 72 Inspection of relevant claims information	20
Omit “Insurance Ministerial Corporation” from the definition of <i>insurer</i> in section 72 (3).	21 22
Insert instead “Self Insurance Corporation”.	23

2.9 Workplace Injury Management and Workers Compensation Regulation 2002	1
	2
Clauses 5 and 7	3
Omit “Insurance Ministerial Corporation” wherever occurring.	4
Insert instead “Self Insurance Corporation”.	5