

c2022-110B
OPP--OPPOSITION

LEGISLATIVE COUNCIL

State Insurance and Care Legislation Amendment Bill 2022

Second print

Proposed amendments

No. 1 **Workers Compensation Nominal Insurer**
Page 2. Insert after line 5—

**Schedule 1 Amendment of Public Works and
Procurement Act 1912 No 45**

[1] Section 162 Definitions

Insert after paragraph (b) of the definition of *government agency*—

- (b1) the Workers Compensation Nominal Insurer established under the *Workers Compensation Act 1987*, section 154,

[2] Ninth Schedule Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate clause numbering—

**Provision consequent on enactment of State Insurance and Care
Legislation Amendment Act 2022**

Workers Compensation Nominal Insurer

The amendment made to this Act, section 162, by the *State Insurance and Care Legislation Amendment Act 2022* does not apply to an agreement for the procurement of goods and services entered into by the Workers Compensation Nominal Insurer before the commencement of the amendment.

No. 2 **ICNSW Board**

Page 3, Schedule 1, lines 28–35. Omit all words on those lines. Insert instead—

[3] Section 5 Board of directors of ICNSW

Omit section 5(2)(b). Insert instead—

- (b) the following directors appointed by the Minister (the *appointed directors*)—
(i) one director nominated by Unions NSW,

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- (ii) one director nominated by the Australian Industry Group (NSW Branch) or Business NSW,
 - (iii) up to 8 other directors.

No. 3 **ICNSW staff remuneration**

Page 3, Schedule 1. Insert after line 38—

[5A] Section 8

Omit the section. Insert instead—

8 Chief executive of ICNSW

- (1) The Governor, on the recommendation of the Minister in consultation with the ICNSW Board, is to appoint the chief executive of ICNSW.
- (2) Schedule 2 has effect in relation to the chief executive of ICNSW.

No. 4 **ICNSW objectives**

Page 4, Schedule 1[7], proposed section 9A, line 10. Omit “operations.”. Insert instead—
operations,

- (c) to promote the restoration of workers to health and employment.

No. 5 **Reporting**

Page 4, Schedule 1. Insert after line 28—

[8A] Section 12A

Insert after section 12—

12A Reports of insurance liabilities

- (1) A report of the insurance liabilities of the Nominal Insurer required to be prepared by ICNSW for the purposes of any Act must include the results of an assessment of the insurance liabilities determined using the funding ratio in accordance with accounting standard AASB 1023, *General Insurance Contracts*.
- (2) ICNSW must not engage a person to provide actuarial services—
 - (a) for a continuous period of more than 5 years, or
 - (b) if the person has provided actuarial services to ICNSW within the last 5 years.
- (3) In this section—
actuarial services means actuarial services provided for the purpose of preparing a report, or undertaking a peer review, of the insurance liabilities of the Nominal Insurer, but does not include actuarial services provided by an employee of ICNSW.

No. 6 **ICNSW staff remuneration**

Page 4, Schedule 1. Insert after line 28—

[8B] Section 15

Omit sections 15 and 16. Insert instead—

15 Salary and conditions of staff

- (1) The regulations may make provision about the employment of staff of ICNSW, including the conditions of employment and the discipline of staff.

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- (2) ICNSW may fix the salary, wages and conditions of employment of staff employed under this Division as far as the salary, wages and conditions are not fixed—
 - (a) under this section, or
 - (b) under any other Act or law.
 - (3) Despite subsections (1) and (2), a member of staff of ICNSW is not entitled to the payment of a performance-related bonus or incentive payment.
 - (4) Regulations made under subsection (1) about the conditions of employment and the discipline of staff of ICNSW apply subject to—
 - (a) an award made by a competent industrial tribunal, and
 - (b) an industrial agreement or enterprise agreement to which ICNSW is a party.

No. 7 **ICNSW staff remuneration**

Page 5, Schedule 1. Insert after line 31—

[12] Schedule 2 Provisions relating to chief executive of ICNSW

Omit Schedule 2, clauses 2–4. Insert instead—

2 Conditions of employment

- (1) The ICNSW Board may, with the approval of the Minister, fix the conditions of employment of the chief executive of ICNSW to the extent that the conditions are not fixed by or under any other Act or law.
- (2) The chief executive of ICNSW is entitled to be paid remuneration, including travelling and subsistence allowances, as the Minister may from time to time decide on the advice of the ICNSW Board.
- (3) Despite subclauses (1) and (2), the chief executive of ICNSW is not entitled to the payment of a performance-related bonus or incentive payment.
- (4) The ICNSW Board may require the chief executive of ICNSW to enter into performance agreements.

3 Removal from office

The Governor, on the recommendation of the Minister in consultation with the ICNSW Board, may remove the chief executive of ICNSW at any time, for any or no stated reason and without notice.

[13] Schedule 2, clauses 5(1) and (3)

Omit “ICNSW Board may” wherever occurring.

Insert instead “Minister may, from time to time,”.

[14] Schedule 2, clause 5(1)

Omit “or during a vacancy in the office of chief executive of ICNSW”.

[15] Schedule 2, clause 5(2)

Omit “The ICNSW Board”. Insert instead “The Minister”.

[16] Schedule 2, clause 5(4)

Insert after clause 5(3)—

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- (4) The removal from the office of the chief executive of ICNSW is taken to have created a vacancy in that office.

[17] Schedule 4 Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering—

Part Provisions consequent on enactment of State Insurance and Care Legislation Amendment Act 2022

Definitions

In this Part—

amending Act means the *State Insurance and Care Legislation Amendment Act 2022*.

commencement date means the date of assent to the *State Insurance and Care Legislation Amendment Act 2022*.

existing chief executive means the chief executive of ICNSW, including a person appointed to act in the office of chief executive, immediately before 1 July 2022.

existing employee means a person employed by ICNSW under the Act, Part 2, Division 3 immediately before the commencement date.

Application of amendments to existing employees

- (1) Subject to this clause, the amendments made by the amending Act to sections 8 and 15 and Schedule 2 do not apply to—
 - (a) an existing employee, or
 - (b) the existing chief executive.
- (2) Despite any determination or agreement made before the commencement date—
 - (a) section 15(3), as inserted by the amending Act, extends to an existing employee, and
 - (b) Schedule 2, clause 2(3), as substituted by the amending Act, extends to the existing chief executive.
- (3) If an existing employee is a senior executive within the meaning of section 16 of the Act as in force immediately before the commencement date, section 16 continues to apply to the senior executive despite its repeal.
- (4) Subclauses (2) and (3) cease to apply to a person referred to in the subclauses if the person—
 - (a) is appointed to a different role as a member of staff of ICNSW, or
 - (b) ceases employment with ICNSW.

No. 8 Workers Compensation Nominal Insurer

Page 7, Schedule 2. Insert after line 17—

[1A] Section 154A Establishment of Nominal Insurer

Omit section 154A(4).