

**COMPENSATION COURT (AMENDMENT) BILL, 1985**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

This Bill is cognate with the Workers' Compensation (Amendment) Bill, 1985.

The objects of this Bill are—

- (a) to repeal the provisions of the Compensation Court Act, 1984, relating to the appointment and functions of commissioners of the Compensation Court ("the Court") (Schedule 1 (3) and (9));
  - (b) to enact provisions as a consequence of, and in connection with, the enactment of the Workers' Compensation (Amendment) Act, 1985, and, in particular, as a consequence of—
    - (i) the proposed appointment under the Workers' Compensation Act, 1926, of commissioners of the Court; and
    - (ii) the transfer of certain functions of the Court to the commissioners;
  - (c) to provide that a plea of issue estoppel is not available in any court in respect of a matter decided by a commissioner of the Court (Schedule 1 (6) (f));
  - (d) to provide that regulations made under the Workers' Compensation Act, 1926, in relation to proceedings under that Act prevail over any rules of the Court to the extent of any inconsistency (Schedule 1 (17) (b)); and
  - (e) to make other provisions of a minor, consequential or ancillary nature.
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**COMPENSATION COURT (AMENDMENT) BILL, 1985**

No.     , 1985.

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**A BILL FOR**

An Act to amend the Compensation Court Act, 1984, as a consequence of, and in connection with, the enactment of the Workers' Compensation (Amendment) Act, 1985, and in certain other respects.

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*Compensation Court (Amendment) 1985*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**5 Short title.**

**1.** This Act may be cited as the "Compensation Court (Amendment) Act, 1985".

**Commencement.**

**2. (1)** Except as provided by subsections (2) and (3), this Act shall  
10 commence on the date of assent to this Act.

**(2)** The several provisions of Schedule 1 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**(3)** Section 4, in its application to a provision of Schedule 1, shall  
15 commence on the day on which the provision commences.

**Principal Act.**

**3.** The Compensation Court Act, 1984, is referred to in this Act as the Principal Act.

**Amendment of Act No. 89, 1984.**

**20 4.** The Principal Act is amended in the manner set forth in Schedule 1.

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**SCHEDULE 1.**

(Sec. 4.)

**AMENDMENTS TO THE PRINCIPAL ACT.**

**(1) (a)** Section 3 (1), definition of "commissioner"—

**25** Omit the definition, insert instead:—

"commissioner" means a commissioner of the Court appointed under Part IVA of the Workers' Compensation Act, 1926;

*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 3 (1), definition of “rules” or “rules of Court”—

Omit the definition, insert instead:—

5                   “rules” or “rules of Court”, in the application of a provision  
                           in which the expression occurs to a function exercisable  
                           by a Judge or a registrar, means the rules of the Court  
                           made under this Act and, in the application of a  
 10                   provision in which the expression occurs to a function  
                           exercisable by a commissioner, means (subject to section  
                           43 (4)) the rules of the Court made under this Act and  
                           the regulations made under or for the purposes of Part  
                           IVA of the Workers’ Compensation Act, 1926;

(c) Section 3 (1), definition of “Senior Commissioner”—

15                   Before the definition of “solicitor”, insert:—

                          “Senior Commissioner” means the Senior Commissioner of  
                           the Court appointed under Part IVA of the Workers’  
                           Compensation Act, 1926;

(2) Section 6—

20                   Omit “this or any other Act” wherever occurring, insert instead “this  
                           Act, the Workers’ Compensation Act, 1926, or any other Act”.

(3) Part II, Division 3—

Omit the Division.

(4) Part II, Division 4, heading—

25                   Omit “*Other officers*”, insert instead “*Officers*”.

(5) (a) Section 16 (1)—

Omit “a commissioner”, insert instead “the Senior  
 Commissioner”.

(b) Section 16 (1) (a)—

30                   After “dealt with”, insert “by a commissioner”.

*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 16 (1) (b)—

Omit “the commissioner”, insert instead “a commissioner”.

5 (6) (a) Section 17 (3), (6)—

After “Part IV” wherever occurring, insert “of this Act or section 42Q of the Workers’ Compensation Act, 1926”.

(b) Section 17 (4)—

10

After “Court” where firstly occurring, insert “constituted by a Judge”.

(c) Section 17 (4)—

After “given”, insert “by the Court so constituted”.

(d) Section 17 (4)—

Omit “, subject to subsection (5),”.

15 (e) Section 17 (4A)—

After section 17 (4), insert:—

20

(4A) Nothing in subsection (3) shall prevent a commissioner from reconsidering any matter which has been previously dealt with by a commissioner, or from rescinding, altering or amending any decision previously made or given by a commissioner, all of which the commissioners shall have authority to do.

(f) Section 17 (5)—

Omit section 17 (5), insert instead:—

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(5) In proceedings in any court a plea of issue estoppel shall not be available in respect of an issue decided by a commissioner.

*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Section 21 (1)—

5           Omit “The Court”, insert instead “Subject to section 42N of the  
Workers’ Compensation Act, 1926, the Court”.

(8) (a) Section 22 (a)—

Omit the paragraph, insert instead:—

10                   (a) where the Court’s functions may be exercised by a  
Judge—arrangements as to the Judge who is to exercise  
those functions; and

(b) Section 22 (b)—

Omit “a commissioner or”.

(c) Section 22 (b)—

Omit “the commissioner or”, insert instead “the”.

15 (9) Part III, Division 3—

Omit the Division.

(10) Section 30 (4)—

After section 30 (3), insert:—

20                   (4) This section does not apply to proceedings before a  
commissioner.

(11) Part IV, Division 2, heading—

Omit “*commissioners or*”.

(12) Section 35—

Omit the section.

*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(13) (a) Section 37 (1)—

Omit “commissioner or a”.

5 (b) Section 37 (1) (a)—

Omit “commissioner’s or”.

(c) Section 37 (1)—

Omit “commissioner or registrar” wherever occurring”, insert instead “registrar”.

10 (d) Section 37 (2) (b)—

Omit “commissioner or”.

(14) (a) Section 38 (1)—

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After “this Part”, insert “or the subject of an appeal or a reference under Part IVA of the Workers Compensation Act, 1926”.

(b) Section 38 (2)—

After “appeal,”, insert “reference,”.

(c) Section 38 (3) (b), (4) (b)—

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After “Supreme Court” wherever occurring, insert “or the Compensation Court”.

(d) Section 38 (4)—

After “Supreme Court” where secondly occurring, insert “or the Compensation Court, as the case may be,”.

(15) Section 39 (a)—

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Omit “commissioners and other”.

(16) (a) Section 41 (1)—

After “Chief Judge”, insert “, the Senior Commissioner”.



*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) Section 41 (2)—  
Omit “commissioners and”.
- 5 (c) Section 41 (2A)—  
After “section 41 (2), insert:—  
(2A) Such other commissioners as the Senior Commissioner shall nominate may attend a meeting referred to in subsection (1).
- 10 (d) Section 41 (4)—  
After “Chief Judge”, insert “, the Senior Commissioner”.
- (e) Section 41 (5)—  
After “Chief Judge” where firstly occurring, insert “or the Senior Commissioner”.
- 15 (f) Section 41 (5)—  
After “Chief Judge” where secondly occurring, insert “or the Senior Commissioner, as the case may be,”.
- (17) (a) Section 43 (2) (h) (i)—  
After “this Act”, insert “or any provision of the Workers’  
20 Compensation Act, 1926”.
- (b) Section 43 (4)—  
After section 43 (3), insert:—  
(4) Where a rule under this section is inconsistent with a  
25 regulation made under or for the purposes of Part IVA of the Workers’ Compensation Act, 1926, the regulation shall prevail to the extent of any inconsistency.
- (18) (a) section 47 (1) (a)—  
Omit “and”.

*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 47 (1) (a1)—

After section 47 (1) (a), insert:—

5           (a1) the issue of a seal for use by commissioners and the use  
              and effect of the seal; and

(19) Schedules 2, 3—

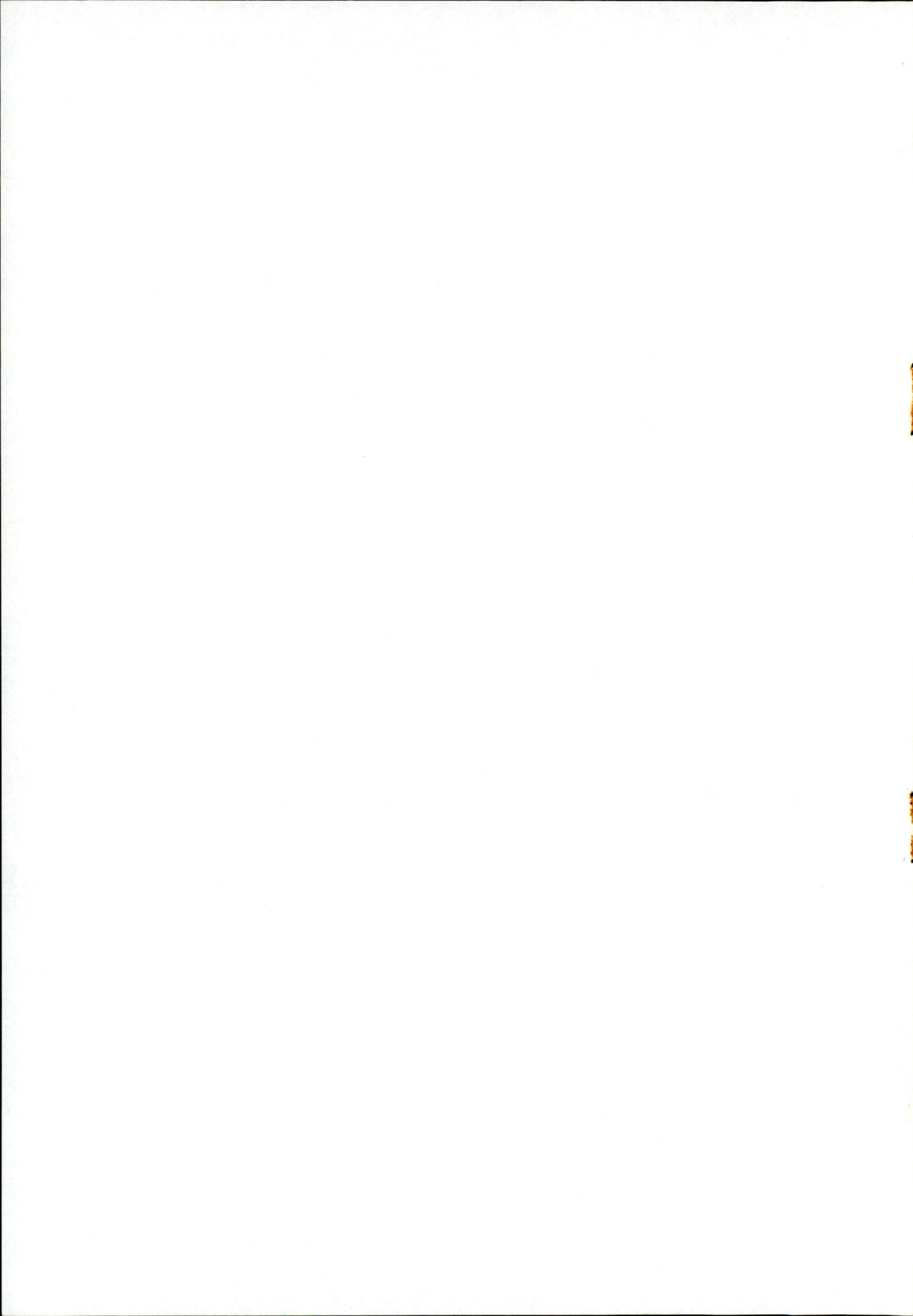
Omit the Schedules.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985





**COMPENSATION COURT (AMENDMENT) ACT, 1985, No. 92**

*New South Wales*



ANNO TRICESIMO QUARTO

**ELIZABETHÆ II REGINÆ**

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**Act No. 92, 1985.**

An Act to amend the Compensation Court Act, 1984, as a consequence of, and in connection with, the enactment of the Workers' Compensation (Amendment) Act, 1985, and in certain other respects. [Assented to, 5th June, 1985.]

*Compensation Court (Amendment) 1985*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title.**

1. This Act may be cited as the "Compensation Court (Amendment) Act, 1985".

**Commencement.**

2. (1) Except as provided by subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) The several provisions of Schedule 1 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 4, in its application to a provision of Schedule 1, shall commence on the day on which the provision commences.

**Principal Act.**

3. The Compensation Court Act, 1984, is referred to in this Act as the Principal Act.

**Amendment of Act No. 89, 1984.**

4. The Principal Act is amended in the manner set forth in Schedule 1.

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SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 3 (1), definition of "commissioner"—

Omit the definition, insert instead:—

"commissioner" means a commissioner of the Court appointed under Part IVA of the Workers' Compensation Act, 1926;

*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 3 (1), definition of “rules” or “rules of Court”—

Omit the definition, insert instead:—

“rules” or “rules of Court”, in the application of a provision in which the expression occurs to a function exercisable by a Judge or a registrar, means the rules of the Court made under this Act and, in the application of a provision in which the expression occurs to a function exercisable by a commissioner, means (subject to section 43 (4)) the rules of the Court made under this Act and the regulations made under or for the purposes of Part IVA of the Workers’ Compensation Act, 1926;

(c) Section 3 (1), definition of “Senior Commissioner”—

Before the definition of “solicitor”, insert:—

“Senior Commissioner” means the Senior Commissioner of the Court appointed under Part IVA of the Workers’ Compensation Act, 1926;

(2) Section 6—

Omit “this or any other Act” wherever occurring, insert instead “this Act, the Workers’ Compensation Act, 1926, or any other Act”.

(3) Part II, Division 3—

Omit the Division.

(4) Part II, Division 4, heading—

Omit “*Other officers*”, insert instead “*Officers*”.

(5) (a) Section 16 (1)—

Omit “a commissioner”, insert instead “the Senior Commissioner”.

(b) Section 16 (1) (a)—

After “dealt with”, insert “by a commissioner”.

*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 16 (1) (b)—

Omit “the commissioner”, insert instead “a commissioner”.

(6) (a) Section 17 (3), (6)—

After “Part IV” wherever occurring, insert “of this Act or section 42Q of the Workers’ Compensation Act, 1926”.

(b) Section 17 (4)—

After “Court” where firstly occurring, insert “constituted by a Judge”.

(c) Section 17 (4)—

After “given”, insert “by the Court so constituted”.

(d) Section 17 (4)—

Omit “, subject to subsection (5),”.

(e) Section 17 (4A)—

After section 17 (4), insert:—

(4A) Nothing in subsection (3) shall prevent a commissioner from reconsidering any matter which has been previously dealt with by a commissioner, or from rescinding, altering or amending any decision previously made or given by a commissioner, all of which the commissioners shall have authority to do.

(f) Section 17 (5)—

Omit section 17 (5), insert instead:—

(5) In proceedings in any court a plea of issue estoppel shall not be available in respect of an issue decided by a commissioner.



*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Section 21 (1)—

Omit “The Court”, insert instead “Subject to section 42N of the Workers’ Compensation Act, 1926, the Court”.

(8) (a) Section 22 (a)—

Omit the paragraph, insert instead:—

(a) where the Court’s functions may be exercised by a Judge—arrangements as to the Judge who is to exercise those functions; and

(b) Section 22 (b)—

Omit “a commissioner or”.

(c) Section 22 (b)—

Omit “the commissioner or”, insert instead “the”.

(9) Part III, Division 3—

Omit the Division.

(10) Section 30 (4)—

After section 30 (3), insert:—

(4) This section does not apply to proceedings before a commissioner.

(11) Part IV, Division 2, heading—

Omit “*commissioners or*”.

(12) Section 35—

Omit the section.

*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (13) (a) Section 37 (1)—  
Omit “commissioner or a”.
- (b) Section 37 (1) (a)—  
Omit “commissioner’s or”.
- (c) Section 37 (1)—  
Omit “commissioner or registrar” wherever occurring, insert instead “registrar”.
- (d) Section 37 (2) (b)—  
Omit “commissioner or”.
- (14) (a) Section 38 (1)—  
After “this Part”, insert “or the subject of an appeal or a reference under Part IVA of the Workers’ Compensation Act, 1926”.
- (b) Section 38 (2)—  
After “appeal,”, insert “reference,”.
- (c) Section 38 (3) (b), (4) (b)—  
After “Supreme Court” wherever occurring, insert “or the Compensation Court”.
- (d) Section 38 (4)—  
After “Supreme Court” where secondly occurring, insert “or the Compensation Court, as the case may be,”.
- (15) Section 39 (a)—  
Omit “commissioners and other”.
- (16) (a) Section 41 (1)—  
After “Chief Judge”, insert “, the Senior Commissioner”.

*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) Section 41 (2)—  
Omit “commissioners and”.
- (c) Section 41 (2A)—  
After section 41 (2), insert:—  
(2A) Such other commissioners as the Senior Commissioner shall nominate may attend a meeting referred to in subsection (1).
- (d) Section 41 (4)—  
After “Chief Judge”, insert “, the Senior Commissioner”.
- (e) Section 41 (5)—  
After “Chief Judge” where firstly occurring, insert “or the Senior Commissioner”.
- (f) Section 41 (5)—  
After “Chief Judge” where secondly occurring, insert “or the Senior Commissioner, as the case may be,”.
- (17) (a) Section 43 (2) (h) (i)—  
After “this Act”, insert “or any provision of the Workers’ Compensation Act, 1926”.
- (b) Section 43 (4)—  
After section 43 (3), insert:—  
(4) Where a rule under this section is inconsistent with a regulation made under or for the purposes of Part IVA of the Workers’ Compensation Act, 1926, the regulation shall prevail to the extent of any inconsistency.
- (18) (a) Section 47 (1) (a)—  
Omit “and”.

*Compensation Court (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 47 (1) (a1)—

After section 47 (1) (a), insert:—

- (a1) the issue of a seal for use by commissioners and the use and effect of the seal; and

(19) Schedules 2, 3—

Omit the Schedules.

*In the name and on behalf of Her Majesty I assent to this Act.*

**J. A. ROWLAND,**  
*Governor.*

**Government House,**  
*Sydney, 5th June, 1985.*