

FIRST PRINT

COMPENSATION COURT (AMENDMENT) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Workers Compensation Bill 1987.

The object of this Bill is to amend the Compensation Court Act 1984 as a consequence of the enactment of the Workers Compensation Act 1987 and, in particular, as a consequence of the appointment of workers compensation commissioners with unlimited jurisdiction (instead of commissioners of the Compensation Court with limited jurisdiction).

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on such day or days as may be appointed by the Governor-in-Council.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

Schedule 1 (1)–(3) make amendments consequential on the enactment of the Workers Compensation Act 1987.

Schedule 1 (4) deletes provisions relating to the award of costs that are to be enacted in the Workers Compensation Act 1987.

Schedule 1 (5) and (6) provide for payment of interest on awards in line with payment of interest on judgments of other courts.

Schedule 1 (7) omits provision relating to medical panels that is provided for in the Workers Compensation Act 1987.

Compensation Court (Amendment) 1987

Schedule 1 (8) and (9) make consequential amendments.

Schedule 1 (10) clarifies the power of a Judge to hold pre-hearing conferences.

Schedule 1 (11)–(15) make consequential amendments.

Schedule 1 (16) removes the Senior Workers Compensation Commissioner from the Rules Committee of the Compensation Court.

Schedule 1 (17) ensures that the Workers Compensation Act 1987 and the regulations under that Act prevail over any inconsistent rule of Court.

Schedule 1 (18) and (19) make consequential amendments.

COMPENSATION COURT (AMENDMENT) BILL 1987

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 89, 1984

SCHEDULE 1—AMENDMENTS TO THE COMPENSATION COURT ACT 1984



COMPENSATION COURT (AMENDMENT) BILL 1987

NEW SOUTH WALES



No. , 1987

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 Act 1987.

Compensation Court (Amendment) 1987

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 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 89, 1984

15 3. The Compensation Court Act 1984 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE COMPENSATION COURT ACT 1984

20 (1) Section 3 (**Interpretation**)—

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

Omit the definition, insert instead:

"commissioner" means a workers compensation commissioner
appointed under Part 8 of the Workers Compensation Act
25 1987;

*Compensation Court (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

- (b) Section 3 (1), definition of “rules” or “rules of Court”—
Omit the definition, insert instead:
“rules” or “rules of Court” means the rules of the Court made under this Act;
- 5 (c) Section 3 (1), definition of “Senior Commissioner”—
Omit the definition, insert instead:
“Senior Commissioner” means the Senior Workers Compensation Commissioner appointed under Part 8 of the Workers Compensation Act 1987;
- 10 (d) Section 3 (1), definition of “State Compensation Board”—
Omit “under Part IV of the Workers’ Compensation Act 1926”, insert instead “under the Workers Compensation Act 1987”.
- (2) Section 6 (**Single Judge to constitute the Court**)—
Section 6—
15 Omit “Workers’ Compensation Act 1926” wherever occurring, insert instead “Workers Compensation Act 1987”.
- (3) Section 17 (**Decisions of the Court**)—
(a) Section 17 (3), (6)—
20 Omit “or section 42Q of the Workers’ Compensation Act 1926” wherever occurring.
- (b) Section 17 (4A), (5)—
Omit the subsections.
- (4) Section 18 (**Costs**)—
(a) Section 18 (3)—
25 Omit the subsection.
- (b) Section 18 (4)—
Omit “or (2)”.

*Compensation Court (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

(c) Section 18 (5)—

After section 18 (4), insert:

(5) This section is subject to section 121 of the Workers Compensation Act 1987.

5 (5) Section 19 (**Interest before order for payment**)—

Section 19 (2)—

Omit the subsection.

(6) Section 19A—

After section 19, insert:

10 **Interest after order for payment**

19A. (1) Unless the Court orders in any particular case that interest be not payable, interest shall be payable on so much of the amount of any sum ordered to be paid by the Court as is from time to time unpaid.

15 (2) Interest payable under subsection (1) in respect of any sum ordered to be paid shall—

(a) be calculated as from the date when the order was made or from such later date as the Court in any particular case fixes;

20 (b) be calculated at the rate prescribed for the purposes of section 95 (1) of the Supreme Court Act 1970; and

(c) form part of the sum ordered to be paid, but not so as to require the payment of interest upon interest.

(3) Notwithstanding subsection (1) or (2), where—

25 (a) the amount of any sum ordered to be paid (excluding the amount of costs to be ascertained by taxation or otherwise) is paid in full within 21 days after the sum becomes payable; or

*Compensation Court (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

- (b) the amount of costs ascertained by taxation or otherwise is paid in full within 21 days after that amount is so ascertained,
- 5 interest shall not, unless the Court otherwise orders in any particular case, be payable on the amount so paid.
- (7) Section 20 (**Proceedings of the Court**)—
- (a) Section 20 (1) (a)—
After “fit;”, insert “and”.
- (b) Section 20 (1)—
10 Omit paragraph (c) and the word “and” from paragraph (b).
- (c) Section 20 (2)—
Omit the subsection.
- (8) Section 21 (**Sittings of the Court**)—
Section 21 (1)—
15 Omit “Subject to section 42N of the Workers’ Compensation Act 1926, the”, insert instead “The”.
- (9) Section 29 (**Registrar’s jurisdiction**)—
Section 29 (1), (2)—
Omit the subsections, insert instead:
- 20 (1) A registrar may exercise such of the functions of the Court as are conferred on a registrar by the regulations or the rules of Court.
- (10) Section 30 (**Pre-hearing conferences and arbitration**)—
- (a) Section 30 (1A)—
25 After section 30 (1), insert:
- (1A) A Judge of the Court is not disqualified from hearing a matter merely because the Judge held a pre-hearing conference with respect to the matter.

Compensation Court (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

- (b) Section 30 (4)—
Omit the subsection.
- (11) Section 31 (**Interpretation**)—
Section 31 (1)—
5 Before “order”, insert “interim award.”
- (12) Section 32 (**Appeals from Court**)—
Section 32 (1)—
Omit “commissioner or”.
- (13) Section 33 (**Stated cases**)—
10 Section 33 (1)—
Omit “commissioner or”.
- (14) Section 38 (**Stay of proceedings**)—
(a) Section 38 (1)—
15 Omit “under Part IVA of the Workers’ Compensation Act 1926”,
insert instead “under the Workers Compensation Act 1987”.
- (b) Section 38 (4) (d)—
Omit “Workers’ Compensation Act 1926”, insert instead
“Workers Compensation Act 1987”.
- (15) Section 41 (**Liaison with State Compensation Board**)—
20 (a) Section 41 (1), (3), (4)—
Omit “Chairman” wherever occurring, insert instead
“Chairperson”.
- (b) Section 41 (1)—
After “Court”, insert “, the commissioners”.
- 25 (c) Section 41 (4)—
After “Court’s”, insert “or commissioners”.

Compensation Court (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

(d) Section 41 (5)—

Omit the subsection, insert instead:

5 (5) The Chief Judge may refer to the State Compensation Board for inquiry and report or recommendation to the Chief Judge any matter relating to the functions of the Court, the commissioners or the Board.

(e) Section 41 (6)—

Omit “or a commissioner”.

(f) Section 41 (6) (b)—

10 Omit “or commissioner”.

(16) Section 42 (**Rule Committee**)—

Section 42 (1) (c)—

Omit the paragraph.

(17) Section 43 (**Rules**)—

15 (a) Section 43 (2) (h) (i)—

Omit the subparagraph, insert instead:

(i) exercise any function of the Court (not being the function of making rules); or

(b) Section 43 (4)—

20 Omit the subsection, insert instead:

(4) If a rule under this section is inconsistent with a provision of the Workers Compensation Act 1987 or of a regulation under that Act, that provision shall prevail to the extent of any inconsistency.

25 (18) Section 47 (**Regulations**)—

Section 47 (1) (a1)—

Omit the paragraph.

Compensation Court (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

- (19) Schedule 4 (**The functions of the Court which may be exercised by a registrar**)—

Omit the Schedule.

COMPENSATION COURT (AMENDMENT) ACT 1987
No. 72

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 89, 1984

SCHEDULE 1—AMENDMENTS TO THE COMPENSATION COURT ACT 1984



COMPENSATION COURT (AMENDMENT) ACT 1987 No. 72

NEW SOUTH WALES



Act No. 72, 1987

An Act to amend the Compensation Court Act 1984 as a consequence of and in connection with the enactment of the Workers Compensation Act 1987. [Assented to 10 June 1987]

Compensation Court (Amendment) 1987

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 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 89, 1984

3. The Compensation Court Act 1984 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE COMPENSATION COURT ACT 1984

(1) Section 3 (**Interpretation**)—

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

Omit the definition, insert instead:

"commissioner" means a workers compensation commissioner appointed under Part 8 of the Workers Compensation Act 1987;

Compensation Court (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

- (b) Section 3 (1), definition of “rules” or “rules of Court”—
Omit the definition, insert instead:
“rules” or “rules of Court” means the rules of the Court made under this Act;
- (c) Section 3 (1), definition of “Senior Commissioner”—
Omit the definition, insert instead:
“Senior Commissioner” means the Senior Workers Compensation Commissioner appointed under Part 8 of the Workers Compensation Act 1987;
- (d) Section 3 (1), definition of “State Compensation Board”—
Omit “under Part IV of the Workers’ Compensation Act 1926”, insert instead “under the Workers Compensation Act 1987”.
- (2) Section 6 (**Single Judge to constitute the Court**)—
Section 6—
Omit “Workers’ Compensation Act 1926” wherever occurring, insert instead “Workers Compensation Act 1987”.
- (3) Section 17 (**Decisions of the Court**)—
(a) Section 17 (3), (6)—
Omit “or section 42Q of the Workers’ Compensation Act 1926” wherever occurring.
(b) Section 17 (4A), (5)—
Omit the subsections.
- (4) Section 18 (**Costs**)—
(a) Section 18 (3)—
Omit the subsection.
(b) Section 18 (4)—
Omit “or (2)”.

Compensation Court (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

(c) Section 18 (5)—

After section 18 (4), insert:

(5) This section is subject to section 121 of the Workers Compensation Act 1987.

(5) Section 19 (**Interest before order for payment**)—

Section 19 (2)—

Omit the subsection.

(6) Section 19A—

After section 19, insert:

Interest after order for payment

19A. (1) Unless the Court orders in any particular case that interest be not payable, interest shall be payable on so much of the amount of any sum ordered to be paid by the Court as is from time to time unpaid.

(2) Interest payable under subsection (1) in respect of any sum ordered to be paid shall—

- (a) be calculated as from the date when the order was made or from such later date as the Court in any particular case fixes;
 - (b) be calculated at the rate prescribed for the purposes of section 95 (1) of the Supreme Court Act 1970; and
 - (c) form part of the sum ordered to be paid, but not so as to require the payment of interest upon interest.
- (3) Notwithstanding subsection (1) or (2), where—
- (a) the amount of any sum ordered to be paid (excluding the amount of costs to be ascertained by taxation or otherwise) is paid in full within 21 days after the sum becomes payable; or

*Compensation Court (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

- (b) the amount of costs ascertained by taxation or otherwise is paid in full within 21 days after that amount is so ascertained,

interest shall not, unless the Court otherwise orders in any particular case, be payable on the amount so paid.

(7) Section 20 (**Proceedings of the Court**)—

- (a) Section 20 (1) (a)—

After “fit;”, insert “and”.

- (b) Section 20 (1)—

Omit paragraph (c) and the word “and” from paragraph (b).

- (c) Section 20 (2)—

Omit the subsection.

(8) Section 21 (**Sittings of the Court**)—

Section 21 (1)—

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

(9) Section 29 (**Registrar’s jurisdiction**)—

Section 29 (1), (2)—

Omit the subsections, insert instead:

(1) A registrar may exercise such of the functions of the Court as are conferred on a registrar by the regulations or the rules of Court.

(10) Section 30 (**Pre-hearing conferences and arbitration**)—

- (a) Section 30 (1A)—

After section 30 (1), insert:

(1A) A Judge of the Court is not disqualified from hearing a matter merely because the Judge held a pre-hearing conference with respect to the matter.

Compensation Court (Amendment) 1987

SCHEDULE 1—*continued*AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

- (b) Section 30 (4)—
Omit the subsection.
- (11) Section 31 (**Interpretation**)—
Section 31 (1)—
Before “order”, insert “interim award.”.
- (12) Section 32 (**Appeals from Court**)—
Section 32 (1)—
Omit “commissioner or”.
- (13) Section 33 (**Stated cases**)—
Section 33 (1)—
Omit “commissioner or”.
- (14) Section 38 (**Stay of proceedings**)—
(a) Section 38 (1)—
Omit “under Part IVA of the Workers’ Compensation Act 1926”,
insert instead “under the Workers Compensation Act 1987”.
- (b) Section 38 (4) (d)—
Omit “Workers’ Compensation Act 1926”, insert instead
“Workers Compensation Act 1987”.
- (15) Section 41 (**Liaison with State Compensation Board**)—
(a) Section 41 (1), (3), (4)—
Omit “Chairman” wherever occurring, insert instead
“Chairperson”.
- (b) Section 41 (1)—
After “Court”, insert “, the commissioners”.
- (c) Section 41 (4)—
After “Court’s”, insert “or commissioners’ ”.

Compensation Court (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

(d) Section 41 (5)—

Omit the subsection, insert instead:

(5) The Chief Judge may refer to the State Compensation Board for inquiry and report or recommendation to the Chief Judge any matter relating to the functions of the Court, the commissioners or the Board.

(e) Section 41 (6)—

Omit “or a commissioner”.

(f) Section 41 (6) (b)—

Omit “or commissioner”.

(16) Section 42 (**Rule Committee**)—

Section 42 (1) (c)—

Omit the paragraph.

(17) Section 43 (**Rules**)—

(a) Section 43 (2) (h) (i)—

Omit the subparagraph, insert instead:

(i) exercise any function of the Court (not being the function of making rules); or

(b) Section 43 (4)—

Omit the subsection, insert instead:

(4) If a rule under this section is inconsistent with a provision of the Workers Compensation Act 1987 or of a regulation under that Act, that provision shall prevail to the extent of any inconsistency.

(18) Section 47 (**Regulations**)—

Section 47 (1) (a1)—

Omit the paragraph.

Compensation Court (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE COMPENSATION COURT ACT 1984—
continued

(19) Schedule 4 (**The functions of the Court which may be exercised by a registrar**)—

Omit the Schedule.



