

WORKERS COMPENSATION (AMENDMENT) ACT 1988
No. 132

NEW SOUTH WALES



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WORKERS COMPENSATION (AMENDMENT) ACT 1988 No. 132

NEW SOUTH WALES



Act No. 132, 1988

An Act to amend the Workers Compensation Act 1987 to abolish the State Compensation Board and to establish a Workers Compensation and Rehabilitation Authority; to amend certain other Acts consequentially; and for other purposes. [Assented to 30 December 1988]

Workers Compensation (Amendment) 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Workers Compensation (Amendment) Act 1988.

Commencement

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

(2) The following provisions (and sections 3 and 4, in their application to them) commence on the date of assent to this Act:

(a) Schedule 1 (17) and (18) (b);

(b) Item (2) of the amendments to the Statutory and Other Offices Remuneration Act 1975 set out in Schedule 2.

Amendment of Workers Compensation Act 1987 No. 70

3. The Workers Compensation Act 1987 is amended as set out in Schedule 1.

Consequential amendment of other Acts

4. Each Act specified in Schedule 2 is amended as set out in that Schedule.

**SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
ACT 1987**

(Sec. 3)

(1) The whole Act (other than section 217, Schedule 1 and any matter omitted or inserted by this Schedule)—

Omit “Board” and “Board’s” wherever occurring, insert instead “Authority” and “Authority’s” respectively.

(2) Section 3 (**Definitions**)—

(a) Section 3 (1)—

Omit the definition of “Board” or “State Compensation Board”, insert instead:

“Authority” means the Workers Compensation and Rehabilitation Authority of New South Wales constituted by this Act;

“Board” means the Board of Directors of the Authority;

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- (b) Section 3 (1)—
Omit the definition of “State Compensation Board Fund”.
- (c) Section 3 (1)—
After the definition of “worker”, insert:
“Workers Compensation and Rehabilitation Authority Fund”
means the fund established by section 259.
- (3) Section 8 (**Workers Compensation Review Committee**)—
Section 8 (3) (d)—
Omit “Chief Executive Officer”, insert instead “General Manager”.
- (4) Sections 87, 127, 142–145, 153, 156, 175, 206, 228, 258, 259, Part 13 of Schedule 6—
Omit “State Compensation Board Fund” wherever occurring, insert instead “Workers Compensation and Rehabilitation Authority Fund”.
- (5) Section 165 (**Insurance Premiums Committee**)—
 - (a) Section 165 (3)–(6)—
Omit the subsections, insert instead:
 - (3) The Committee shall consist of 8 members of whom—
 - (a) 7 shall be the directors of the Board; and
 - (b) 1 shall be a public servant appointed by the Governor on the recommendation of the Minister.
 - (4) The Chairperson and Deputy Chairperson of the Board shall be the Chairperson and Deputy Chairperson, respectively, of the Committee.
 - (5) Part 1 of Schedule 3 (Provisions Relating to the Directors of the Board) applies to and in respect of the member of the Committee appointed under subsection (3) (b) in the same way as it applies to and in respect of a part-time director of the Board.
 - (6) Part 2 of Schedule 3 (Provisions Relating to the Procedure of the Board) applies to and in respect of the Committee and members of the Committee in the same way as it applies to and in respect of the Board and the directors of the Board.
 - (b) Section 165 (9)—
Omit the subsection, insert instead:
 - (9) The Committee may, with the approval of the Minister, arrange for the use of the services of any staff or facilities of a government department, administrative office or public or local authority.

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(6) Part 9, heading—

Omit the heading, insert instead:

**PART 9—WORKERS COMPENSATION
AND REHABILITATION AUTHORITY**

(7) Part 9—

Omit Division 1, insert instead:

Division 1—Constitution of Authority and Board of Directors

Constitution of Authority

248. (1) There is constituted by this Act a corporation with the corporate name of the Workers Compensation and Rehabilitation Authority of New South Wales.

(2) The Authority is, for the purposes of any Act, a statutory body representing the Crown.

Constitution of Board of Directors

249. (1) There shall be a Board of Directors of the Authority.

(2) The Board shall consist of—

(a) the General Manager of the Authority; and

(b) 6 part-time directors, being persons appointed by the Governor on the recommendation of the Minister.

(3) The persons recommended by the Minister must have such managerial, commercial or other qualifications or experience as the Minister considers necessary to enable the Board to exercise its functions.

(4) Schedule 3 has effect with respect to the directors and procedure of the Board.

Board to determine policies of Authority

250. (1) The Board has the function of determining the policies of the Authority.

(2) In exercising that function, the Board shall ensure that the activities of the Authority are carried out properly and efficiently.

(3) The Board has such other functions as are conferred or imposed on it by or under this or any other Act.

Executive officers of Authority

251. (1) The Governor may appoint a General Manager, and 2 Deputy General Managers, of the Authority.

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(2) Schedule 4 has effect with respect to the General Manager and Deputy General Managers.

Functions of executive officers

252. (1) The affairs of the Authority shall be managed and controlled by the General Manager of the Authority in accordance with the policies of the Board.

(2) Any act, matter or thing done in the name of, or on behalf of, the Authority by the General Manager shall be taken to have been done by the Authority.

(3) A Deputy General Manager of the Authority has, subject to any relevant directions given by the Board, such responsibilities in connection with the affairs of the Authority as the General Manager from time to time determines.

(4) The General Manager and Deputy General Managers have such other functions as are conferred or imposed on them by or under this or any other Act.

Ministerial control

253. The General Manager of the Authority and the Board are, in the exercise of their respective functions, subject to the control and direction of the Minister.

Staff of Authority

253A. (1) Such staff as may be necessary to enable the Authority to exercise its functions shall be employed under the Public Sector Management Act 1988.

(2) The Authority may, with the approval of the Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public or local authority.

(3) The Authority may—

(a) for any purpose approved by the Minister; and

(b) on such terms and conditions as may be approved by the Public Employment Industrial Relations Authority,

employ such casual staff as it requires to exercise its functions.

(4) The Public Sector Management Act 1988 does not apply to the employment of casual staff under subsection (3) and a person is not, as a member of that casual staff, subject to that Act.

(5) The Authority may engage persons having suitable qualifications and experience as consultants to the Authority.

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- (6) For the purposes of this Act, a person who is employed under subsection (1) or (3) or whose services are made use of under subsection (2) is an officer of the Authority.
- (8) Part 9, Division 2, heading—
Omit the heading, insert instead:
Division 2—Functions of Authority
- (9) Section 255 (**Co-ordination of functions of Board and Department of Industrial Relations and Employment**)—
Omit the section.
- (10) Part 9, Division 3, heading—
Omit the heading, insert instead:
Division 3—Workers Compensation and Rehabilitation Authority Fund
- (11) Section 259 (**Establishment of Workers Compensation and Rehabilitation Authority Fund**)—
Section 259 (3) (a)—
Omit “members, Secretary and other officers of the Board”, insert instead “directors of the Board and to officers of the Authority”.
- (12) Section 262—
Omit the section, insert instead:
Delegation of functions
262. (1) The Authority may delegate any of its functions (other than this power of delegation) to any person.
(2) A function so delegated may be sub-delegated by the delegate, but only if the sub-delegation is authorised in writing by the Authority.
- (13) Section 264 (**References to Board**)—
Omit the section.
- (14) Section 266 (**Authentication of certain documents**)—
Omit “Chief Executive Officer” wherever occurring, insert instead “General Manager of the Authority”.
- (15) Section 268—
Omit the section, insert instead:
Proof of certain matters not required
268. In any legal proceedings, proof is not required (until evidence is given to the contrary) of—
(a) the constitution of the Board; or

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- (b) any resolution of the Board; or
- (c) the appointment of, or the holding of office by, any director of the Board; or
- (d) the presence of a quorum at any meeting of the Board.

(16) Schedules 3, 4—

Omit the Schedules, insert instead:

**SCHEDULE 3—PROVISIONS RELATING TO THE DIRECTORS AND
PROCEDURE OF THE BOARD**

(Sec. 249 (4))

**PART 1—PROVISIONS RELATING TO THE DIRECTORS OF THE
BOARD**

Definitions

1. In this Schedule—

“director” means the General Manager of the Authority or a part-time director of the Board;

“part-time director” means a director of the Board other than the General Manager.

Age of part-time directors

2. A person of or above the age of 70 years is not eligible to be appointed as a part-time director or to act as a deputy of a part-time director.

Chairperson and Deputy Chairperson of Board

3. (1) Of the part-time directors of the Board, two shall (in and by their respective instruments of appointment or in and by other instruments executed by the Governor) be appointed as Chairperson and Deputy Chairperson of the Board respectively.

(2) The Governor may at any time remove a part-time director from the office of Chairperson or Deputy Chairperson.

(3) A person holding office as Chairperson or Deputy Chairperson vacates that office if the person—

- (a) is removed from that office by the Governor; or
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to hold office as a director.

Deputies

4. (1) The Minister may, from time to time, appoint a person to be the deputy of a part-time director.

(2) In the absence of a part-time director, the director’s deputy—

- (a) shall, if available, act in the place of the absent director; and
- (b) while so acting, has all the functions of the director (other than any functions the director has as Chairperson or Deputy Chairperson of the Board) and shall be taken to be a part-time director.

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(3) The Minister may remove a person from any deputy's position to which the person was appointed under this clause.

(4) A person while acting in the place of a part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(5) For the purposes of this clause, a reference to a director's absence includes a reference to a vacancy in the director's office.

Terms of office of part-time directors

5. Subject to this Schedule, a part-time director shall hold office for such period (not exceeding 3 years) as may be specified in his or her instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

6. A part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the part-time director.

Vacancy in office of part-time director

7. (1) The office of a part-time director becomes vacant if the director—
- (a) dies; or
 - (b) completes a term of office and is not re-appointed; or
 - (c) resigns the office by instrument in writing addressed to the Minister; or
 - (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the director personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the director is excused by the Board for having been absent from those meetings; or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (g) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
 - (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or
 - (i) reaches the age of 70 years.
- (2) The Governor may remove a part-time director from office at any time.

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**SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
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Disclosure of pecuniary interests

8. (1) If—
- (a) a director has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
 - (b) the interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter,
- the director shall, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) A disclosure by a director at a meeting of the Board that the director—
- (a) is a member, or is in the employment, of a specified company or other body; or
 - (b) is a partner, or is in the employment, of a specified person; or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.
- (3) The Board shall cause particulars of any disclosure made under this clause to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to inspection by any person on payment of such fee as may be determined by the Board from time to time.
- (4) After a director has disclosed the nature of an interest in any matter, the director shall not, unless the Minister or the Board otherwise determines—
- (a) be present during any deliberation of the Board with respect to the matter; or
 - (b) take part in any decision of the Board with respect to the matter.
- (5) For the purposes of the making of a determination by the Board under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates shall not—
- (a) be present during any deliberation of the Board for the purpose of making the determination; or
 - (b) take part in the making of the determination by the Board.
- (6) A contravention of this clause does not invalidate any decision of the Board or the exercise of any function under this or any other Act.

Filling of vacancy in office of part-time director

9. If the office of any part-time director becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Effect of certain other Acts

10. (1) The Public Sector Management Act 1988 does not apply to the appointment of a part-time director and a part-time director is not, as a part-time director, subject to that Act (except Part 8).

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(2) If by or under any Act provision is made—

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a part-time director or from accepting and retaining any remuneration payable to the person under this Act as such a director.

(3) The office of a part-time director is not, for the purposes of any Act, an office or place of profit under the Crown.

Liability of members etc.

11. No matter or thing done by the Board, any director or any person acting under the direction of the Board or of a director shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a director or a person so acting personally to any action, liability, claim or demand.

**PART 2—PROVISIONS RELATING TO THE PROCEDURE OF THE
BOARD**

General procedure

12. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

Quorum

13. The quorum for a meeting of the Board is 4 directors.

Presiding member

14. (1) The Chairperson of the Board or, in the absence of the Chairperson, the Deputy Chairperson (or, in the absence of both, another part-time director elected to chair the meeting by the directors present) shall preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

15. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

Minutes

16. The Board must cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

Transaction of business outside meetings or by telephone etc.

17. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the directors for the time being, and a resolution in writing approved in writing by a majority of those directors shall be taken to be a decision of the Board.

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**SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
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(2) The Board may, if it thinks fit, transact any of its business at a meeting at which the directors (or some of them) participate by telephone, closed-circuit television or other means, but only if any director who speaks on a matter before the meeting can be heard by the other directors.

(3) For the purposes of—

(a) the approval of a resolution under subclause (1); or

(b) a meeting held in accordance with subclause (2),
the Chairperson and each director have the same voting rights as they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) shall, subject to the regulations, be recorded in the minutes of the Board.

(5) Papers may be circulated among the directors for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

Committees

18. (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a committee are not directors of the Board.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the committee.

First meeting

19. The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.

**SCHEDULE 4—PROVISIONS RELATING TO THE EXECUTIVE
OFFICERS**

(Sec. 251 (2))

Definition

1. In this Schedule—

“executive officer” means the General Manager or a Deputy General Manager of the Authority.

Age of executive officers

2. A person of or above the age of 65 years is not eligible to be appointed as an executive officer or to act in the office of an executive officer.

Acting executive officers

3. (1) The Minister may, from time to time, appoint one of the Deputy General Managers to act in the office of the General Manager in the absence of the General Manager and the one so appointed, while acting as General Manager, has all the functions of the General Manager and shall be taken to be the General Manager.

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(2) The Minister may, from time to time, appoint a person to act in the office of Deputy General Manager in the absence of a Deputy General Manager and the person, while so acting, has all the functions of the Deputy General Manager and shall be taken to be a Deputy General Manager.

(3) A person while acting in the office of a Deputy General Manager is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) For the purposes of this clause—

- (a) a vacancy in the office of an executive officer shall be regarded as an absence from office of the executive officer; and
- (b) a Deputy General Manager shall be regarded as absent from office as a Deputy General Manager during any period when he or she acts in the office of General Manager pursuant to an appointment under subclause (1).

Term of office

4. Subject to this Schedule, an executive officer shall hold office for such period, not exceeding 5 years, as may be specified in the instrument of his or her appointment, but is eligible (if otherwise qualified) for re-appointment.

Executive officer to be full-time

5. An executive officer shall devote the whole of his or her time to the duties of the office concerned, except to the extent permitted by this Act or by the Minister.

Remuneration

6. An executive officer is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the executive officer.

Casual vacancies

7. (1) The office of an executive officer becomes vacant if the executive officer—

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister;
or
- (d) is retired or removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (f) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or

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- (g) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or
- (h) engages in any paid employment outside the duties of his or her office, except with the consent of the Minister; or
- (i) reaches the age of 65 years.

(2) An executive officer may, after reaching the age of 60 years and before reaching the age of 65 years, be retired from office by the Governor.

(3) The Governor may remove an executive officer from office for incapacity, incompetence or misbehaviour.

Filling of vacancy in office of executive officer

8. If the office of an executive officer becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Public Sector Management Act 1988 not to apply

9. The Public Sector Management Act 1988 does not apply to or in respect of the appointment of an executive officer and an executive officer is not, as an executive officer, subject to that Act (except Part 8).

Preservation of rights of executive officer previously public servant etc.

10. (1) This clause applies to an executive officer who, immediately before being appointed as an executive officer, was—

- (a) an officer of the Public Service or a Teaching Service; or
- (b) a contributor to a superannuation scheme; or
- (c) an officer employed by a proclaimed statutory body; or
- (d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee.

(2) Subject to the terms of the executive officer's appointment, an executive officer—

- (a) shall retain any rights accrued or accruing to him or her as an officer, contributor or person referred to in subclause (1); and
- (b) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as an executive officer; and
- (c) is entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if the executive officer had continued to be such an officer, contributor or person during his or her service as an executive officer.

(3) Service as an executive officer shall be regarded as service as an officer or employee for the purposes of any law under which any such rights accrued or were accruing, under which he or she continues to contribute to any such superannuation scheme or by which any such entitlement is conferred.

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(4) An executive officer shall be regarded as an officer or employee, and the Authority shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

(5) If an executive officer would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme—

- (a) he or she shall not be so entitled upon becoming (whether upon appointment as an executive officer or at any later time while holding office as an executive officer) a contributor to any other superannuation scheme; and
- (b) the provisions of subclause (4) cease to apply to or in respect of him or her and the Authority in any case where he or she becomes a contributor to any such other superannuation scheme.

(6) Subclause (5) does not prevent the payment to an executive officer (on his or her ceasing to be a contributor to a superannuation scheme) of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

(7) An executive officer is not, in respect of the same period of service, entitled to dual benefits of the same kind through the operation of this clause.

(8) In this clause—

“proclaimed statutory body” means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

Executive officer entitled to re-employment in certain cases

11. A person who—

- (a) ceases to be an executive officer because of the expiration of the period for which the person was appointed or because of resignation; and
- (b) was, immediately before being appointed as an executive officer—
 - (i) an officer of the Public Service or a Teaching Service; or
 - (ii) an officer or employee of a proclaimed statutory body; and
- (c) has not reached the age at which the person would have been entitled to retire had the person continued to be such an officer or employee,

is entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that proclaimed statutory body, as the case may be, not lower in classification and salary than the classification and current salary for the position which the person held immediately before being appointed as an executive officer (or for a similar position).

(2) If subclause (1) does not apply to a person who—

- (a) was, immediately before being appointed to a full-time office constituted by an Act, an officer or employee referred to in subclause (1) (b); and

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(b) is after that appointment appointed as an executive officer, the person has, in the event of ceasing to be an executive officer, such rights (if any) to appointment as such an officer or employee as are specified in his or her instrument of appointment as an executive officer or as are agreed on by the person and by or on behalf of the Government.

(3) In this clause—

“proclaimed statutory body” means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause.

(17) Schedule 6—

At the end of Part 17, insert:

Transitional operation of the Board

3. (1) If, on or after the date of assent to the Workers Compensation (Amendment) Act 1988, the number of persons for the time being holding office as members of the State Compensation Board is insufficient to form a quorum at meetings, the person holding office as Chief Executive Officer of the Board has all the functions of the Board and of the Insurance Premiums Committee.

(2) If, on or after the date of assent to the Workers Compensation (Amendment) Act 1988, no person for the time being holds office as Secretary of the State Compensation Board, the Minister may appoint a person to act in the office of the Chief Executive Officer of the Board.

(3) A person appointed under subclause (2), while acting in the office of the Chief Executive Officer—

(a) has all the functions of the Chief Executive Officer (including functions of the Board exercisable by the operation of subclause (1)) and shall be taken, for the purposes of this clause and for all other purposes, to be the Chief Executive Officer; and

(b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

(4) Without affecting the operation of section 266, while the functions of the State Compensation Board are being exercised by the Chief Executive Officer in accordance with this clause, a document is sufficiently executed by the Board if the seal of the Board is affixed to the document by the Chief Executive Officer.

(5) If a document purports to bear an attestation, by the Chief Executive Officer of the Board, of the fact that the seal of the State Compensation Board was affixed to the document by the Chief Executive Officer, the seal shall be presumed in any proceedings, until the contrary is proved, to have been so affixed.

(6) Anything done, before the date of assent to the Workers Compensation (Amendment) Act 1988, by the Chief Executive Officer of the State Compensation Board—

(a) by which the Chief Executive Officer—

(i) purported (otherwise than in accordance with a delegation by the Board) to execute any function of the Board; or

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- (ii) purported to cause a document to be executed by the Board; and
- (b) which would have been validly done if this clause had been in force at the material time,

is validated.

(7) Clause 6 of Schedule 3 (as in force before the commencement of Schedule 1 (16) to the Workers Compensation (Amendment) Act 1988) applies so as to enable, but not so as to require, the filling of a vacancy in the office of any member of the State Compensation Board.

(18) Schedule 6—

(a) Part 17—

Omit the Part, insert instead:

**PART 17—PROVISIONS CONSEQUENTIAL ON THE ENACTMENT OF
THE WORKERS COMPENSATION (AMENDMENT) ACT 1988**

Continuity between the State Compensation Board and the Authority

1. The Workers Compensation and Rehabilitation Authority constituted by this Act is a continuation of, and shall be taken to be the same legal entity as, the State Compensation Board constituted by this Act (as in force before the commencement of Schedule 1 (7) to the Workers Compensation (Amendment) Act 1988).

Chief Executive Officer and members of the State Compensation Board

2. (1) A person who, immediately before the commencement of Schedule 1 (7) to the Workers Compensation (Amendment) Act 1988, held office as the Chief Executive Officer, or as a member, of the State Compensation Board—

- (a) ceases to hold office on that commencement; and
- (b) is not entitled to any remuneration or compensation because of the loss of that office.

Preservation of rights of Chief Executive Officer of the State Compensation Board

3. Clause 11 of Schedule 3 (as in force immediately before the commencement of Schedule 1 (16) to the Workers Compensation (Amendment) Act 1988) applies to a person who, as provided by clause 2, ceases to hold office as Chief Executive Officer of the State Compensation Board, as if the period for which the person was appointed to that office expired on the commencement of Schedule 1 (7) to that Act.

Staff

4. Every person who, immediately before the commencement of Schedule 1 (7) to the Workers Compensation (Amendment) Act 1988, was an officer of the State Compensation Board holds office, subject to this and any other Act, as an officer of the Authority on and from that commencement.

Workers Compensation and Rehabilitation Authority Fund

5. (1) The Workers Compensation and Rehabilitation Authority Fund is a continuation of, and shall be taken to be the same fund as, the State Compensation Board Fund established by this Act (as in force before the commencement of Schedule 1 (4) to the Workers Compensation (Amendment) Act 1988).

Workers Compensation (Amendment) 1988

**SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
ACT 1987—continued**

(2) Nothing in this Act or the cognate Acts affects any contribution required to be made to the fund established under section 41 of the former Act immediately before the commencement of Division 3 of Part 9 of this Act, and that section continues to apply in respect of any such contribution.

Construction of certain references

6. In any other Act or statutory instrument or other document—
- (a) a reference to the State Compensation Board shall be read as a reference to the Workers Compensation and Rehabilitation Authority; and
 - (b) a reference to the Chief Executive Officer of the State Compensation Board shall be read as a reference to the General Manager of the Authority; and
 - (c) a reference to the State Compensation Board Fund shall be read as a reference to the Workers Compensation and Rehabilitation Authority Fund.

(b) Part 20 (Savings and Transitional Regulations)—

Omit clause 1 (1), insert instead:

(1) The regulations may contain provisions of a saving or transitional nature consequent on the enactment of the following Acts:

- this Act and the cognate Acts;
- the Workers Compensation (Amendment) Act 1988.

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER
ACTS**

(Sec. 4)

Compensation Court Act 1984 No. 89—**(1) Section 3 (Definitions)—**

Section 3 (1), definition of “State Compensation Board”—
Omit the definition.

(2) Section 39 (Costs of operation of the Court)—

Omit “State Compensation Board”, insert instead “Workers Compensation and Rehabilitation Authority”.

(3) Section 41 (Liaison with Board of Directors of W.C.R.A.)—**(a) Section 41 (1)—**

Omit “Chairperson and members of the State Compensation Board”, insert instead “Board of Directors of the Workers Compensation and Rehabilitation Authority”.

(b) Section 41 (1)—

Omit “the Board”, insert instead “the Authority”.

Workers Compensation (Amendment) 1988

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS—*continued*
(c) Section 41 (3)—

Omit “State Compensation Board”, insert instead “Board of Directors of the Workers Compensation and Rehabilitation Authority”.

(d) Section 41 (4)–(6)—

Omit “State Compensation Board” wherever occurring, insert instead “Workers Compensation and Rehabilitation Authority”.

(e) Section 41 (4)—

Omit “Board’s”, insert instead “Authority’s”.

(f) Section 41 (5), (6)—

Omit “the Board” wherever occurring, insert instead “the Authority”.

Police Regulation (Superannuation) Act 1906 No. 28—**Section 2H (Constitution of Committee)—**

Omit section 2H (3) (d), insert instead:

- (d) 1 shall be a person nominated by the Workers Compensation and Rehabilitation Authority; and

Public Finance and Audit Act 1983 No. 152—**Schedule 2 (Statutory Bodies)—**

- (1) Omit “State Compensation Board.”.
 (2) Insert (in alphabetical order) “Workers Compensation and Rehabilitation Authority.”.

Public Sector Management Act 1988 No. 33—**Schedule 2 (Administrative Offices)—**

- (1) Omit the matter relating to the State Compensation Board.
 (2) Insert (in alphabetical order):
 Workers Compensation and
 Rehabilitation Authority General Manager of the
 Authority.

Workers Compensation (Amendment) 1988

 SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS—*continued*
Sporting Injuries Insurance Act 1978 No. 141—**Schedule 2 (Constitution and Procedure of Sporting Injuries Committee)—**

(1) Schedule 2, clause 1—

Omit the definition of “Board”, insert instead:

“Authority” means the Workers Compensation and Rehabilitation Authority;

(2) Schedule 2, clauses 2, 5—

Omit “Chairperson of the Board” wherever occurring, insert instead “General Manager of the Authority”.

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)—**Schedule 2 (Public Offices)—**

(1) Schedule 2, Part 1—

Omit:

Chief Executive Officer of the State Compensation Board.

Full-time member of the State Compensation Board, other than the Chief Executive Officer.

(2) Schedule 2, Part 1—

At the end of the Part, insert:

General Manager of the Workers Compensation and Rehabilitation Authority.

Deputy General Manager of the Workers Compensation and Rehabilitation Authority.

Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987 No. 83—

(1) Section 3 (Definitions)—

Section 3 (1), definition of “Board”—

Omit the definition, insert instead:

“Authority” means the Workers Compensation and Rehabilitation Authority;

(2) Sections 5, 6, 8, 11, 13–16, 19–21, 23, 27, 29–32—

Omit “Board” wherever occurring, insert instead “Authority”.

Workers Compensation (Amendment) 1988

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER
ACTS—*continued*

Workers Compensation (Dust Diseases) Act 1942 No. 14—

Section 8H (Inspectors)—

Section 8H (4) (e)—

Omit “State Compensation Board”, insert instead “Workers
Compensation and Rehabilitation Authority”.

[*Minister's second reading speech made in—
Legislative Assembly on 17 November 1988
Legislative Council on 13 December 1988*]





WORKERS COMPENSATION (AMENDMENT) BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

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

The objects of this Bill are—

- (a) to amend the Workers Compensation Act 1987 to abolish the State Compensation Board, to establish a Workers Compensation and Rehabilitation Authority and to invest that Authority with the functions of that Board; and
- (b) to make consequential amendments to that Act and to other Acts.

The State Compensation Board is a corporation consisting of 5 members which has a broad area of administrative and other responsibilities relating to work accidents and rehabilitation of injured workers. These responsibilities are now proposed to be vested in an Authority managed by a General Manager under the general supervision of a Board of Directors.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act (with the exception of certain transitional provisions) on a day or days to be appointed by proclamation.

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

Clause 4 is a formal provision that gives effect to the Schedule of consequential amendments to other Acts.

SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION ACT 1987.

Abolition of the State Compensation Board and establishment of the Workers Compensation and Rehabilitation Authority

Schedule 1 (7) repeals and substitutes Division 1 of Part 9 of the Principal Act, under which the State Compensation Board was established.

The new Division contains the following provisions:

Workers Compensation (Amendment) 1988

Proposed section 248 constitutes the Authority. It is a corporate statutory body representing the Crown.

Proposed section 249 constitutes a Board of Directors of the Authority, consisting of the General Manager of the Authority and 6 part-time directors appointed by the Governor on the recommendation of the Minister.

Proposed section 250 describes the function of the Board as being that of determining the policies of the Authority.

Proposed section 251 provides for the appointment of a General Manager and 2 Deputy General Managers of the Authority, all of whom are to be statutory officers.

Proposed section 252 describes the functions of the executive officers appointed under proposed section 251. The General Manager is to manage and control the affairs of the Authority in accordance with policies determined by the Board. The Deputy General Managers are to share in this responsibility to an extent determined by the General Manager in accordance with any relevant directions of the Board.

Proposed section 253 provides that the General Manager of the Authority and the Board are, in the exercise of their respective functions, subject to the control and direction of the Minister.

Proposed section 253A provides for the appointment of permanent and other staff of the Authority and for other contracted assistants.

Transfer of functions of Board to Authority

Schedule 1 (1) omits the word "Board" wherever occurring in the Principal Act at present and substitutes the word "Authority". The effect of this is to transfer to the new Authority the functions of the State Compensation Board.

Insurance Premiums Committee

The Insurance Premiums Committee established by section 165 of the Principal Act consists of the members of the State Compensation Board and a nominee of the Minister. Schedule 1 (5) amends the section to reconstitute the Committee, which will consist of the members of the new Board of Directors and a Ministerial nominee.

Independence of the Authority

Schedule 1 (9) repeals section 255 of the Principal Act. The section, which currently provides for certain arrangements (enforceable at the direction of the Minister) to be made for the integration of the functions of the State Compensation Board and the Department of Industrial Relations and Employment, is not to apply to the new Authority.

Delegation of functions

Schedule 1 (12) repeals and substitutes section 262 of the Principal Act, which currently provides for the delegation, by the State Compensation Board and its Chief Executive Officer, of their respective functions. The new section provides for delegation (and in some circumstances sub-delegation) of the functions of the Authority.

Provisions relating to the members and procedure of the Board of Directors and the executive officers of the Authority

Schedule 1 (16) repeals and substitutes Schedules 3 and 4 to the Principal Act, which currently relate to the members and procedure of the State Compensation Board. The new Schedules 3 and 4 deal with the directors and procedure of the Board of Directors and the executive officers of the Authority.

Workers Compensation (Amendment) 1988

Transitional operation of the State Compensation Board

Schedule 1 (17) amends Part 17 of Schedule 6 to the Principal Act by inserting a provision relating to the exercise of the functions of the State Compensation Board after assent is given to the proposed Act. If, on the date of that assent, not enough members of the Board are holding office for there to be a quorum at Board meetings, the functions of the Board may be exercised by the person holding office or acting as the Chief Executive Officer of the Board.

Savings, transitional and other provisions

Schedule 1 (18) inserts appropriate savings and transitional provisions into Part 17 of Schedule 6 to the Principal Act.

Other provisions of Schedule 1 not specifically mentioned in this note make minor consequential amendments to the Principal Act.

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS

Schedule 2 to the proposed Act amends certain other Acts as a consequence of the amendments made to the Principal Act by Schedule 1.



WORKERS COMPENSATION (AMENDMENT) BILL 1988

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Workers Compensation Act 1987 No. 70
4. Consequential amendment of other Acts

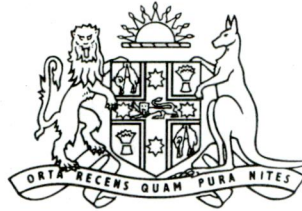
SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION ACT 1987

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS



WORKERS COMPENSATION (AMENDMENT) BILL 1988

NEW SOUTH WALES



No. , 1988

A BILL FOR

An Act to amend the Workers Compensation Act 1987 to abolish the State Compensation Board and to establish a Workers Compensation and Rehabilitation Authority; to amend certain other Acts consequentially; and for other purposes.

Workers Compensation (Amendment) 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Workers Compensation (Amendment) Act 1988.

5 Commencement

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

(2) The following provisions (and sections 3 and 4, in their application to them) commence on the date of assent to this Act:

10 (a) Schedule 1 (17) and (18) (b);

(b) Item (2) of the amendments to the Statutory and Other Offices Remuneration Act 1975 set out in Schedule 2.

Amendment of Workers Compensation Act 1987 No. 70

3. The Workers Compensation Act 1987 is amended as set out in 15 Schedule 1.

Consequential amendment of other Acts

4. Each Act specified in Schedule 2 is amended as set out in that Schedule.

**SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
ACT 1987**

20

(Sec. 3)

(1) The whole Act (other than section 217, Schedule 1 and any matter omitted or inserted by this Schedule)—

25

Omit “Board” and “Board’s” wherever occurring, insert instead “Authority” and “Authority’s” respectively.

(2) Section 3 (**Definitions**)—

(a) Section 3 (1)—

Omit the definition of “Board” or “State Compensation Board”, insert instead:

30

“Authority” means the Workers Compensation and Rehabilitation Authority of New South Wales constituted by this Act;

“Board” means the Board of Directors of the Authority;

Workers Compensation (Amendment) 1988

 SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
 ACT 1987—*continued*

- (b) Section 3 (1)—
 Omit the definition of “State Compensation Board Fund”.
- (c) Section 3 (1)—
 After the definition of “worker”, insert:
 5 “Workers Compensation and Rehabilitation Authority Fund”
 means the fund established by section 259.
- (3) Section 8 (**Workers Compensation Review Committee**)—
 Section 8 (3) (d)—
 10 Omit “Chief Executive Officer”, insert instead “General
 Manager”.
- (4) Sections 87, 127, 142–145, 153, 156, 175, 206, 228, 258, 259, Part
 13 of Schedule 6—
 15 Omit “State Compensation Board Fund” wherever occurring,
 insert instead “Workers Compensation and Rehabilitation
 Authority Fund”.
- (5) Section 165 (**Insurance Premiums Committee**)—
- (a) Section 165 (3)–(6)—
 Omit the subsections, insert instead:
- 20 (3) The Committee shall consist of 8 members of whom—
 (a) 7 shall be the directors of the Board; and
 (b) 1 shall be a public servant appointed by the Governor on
 the recommendation of the Minister.
- 25 (4) The Chairperson and Deputy Chairperson of the Board
 shall be the Chairperson and Deputy Chairperson, respectively, of
 the Committee.
- (5) Part 1 of Schedule 3 (Provisions Relating to the Directors
 of the Board) applies to and in respect of the member of the
 Committee appointed under subsection (3) (b) in the same way as
 it applies to and in respect of a part-time director of the Board.
- 30 (6) Part 2 of Schedule 3 (Provisions Relating to the Procedure
 of the Board) applies to and in respect of the Committee and
 members of the Committee in the same way as it applies to and
 in respect of the Board and the directors of the Board.
- (b) Section 165 (9)—
 35 Omit the subsection, insert instead:
 (9) The Committee may, with the approval of the Minister,
 arrange for the use of the services of any staff or facilities of a
 government department, administrative office or public or local
 authority.

Workers Compensation (Amendment) 1988

 SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
 ACT 1987—*continued*

(6) Part 9, heading—

Omit the heading, insert instead:

**PART 9—WORKERS COMPENSATION
AND REHABILITATION AUTHORITY**

5 (7) Part 9—

Omit Division 1, insert instead:

Division 1—Constitution of Authority and Board of Directors

Constitution of Authority

10 248. (1) There is constituted by this Act a corporation with the corporate name of the Workers Compensation and Rehabilitation Authority of New South Wales.

(2) The Authority is, for the purposes of any Act, a statutory body representing the Crown.

Constitution of Board of Directors

15 249. (1) There shall be a Board of Directors of the Authority.

(2) The Board shall consist of—

(a) the General Manager of the Authority; and

(b) 6 part-time directors, being persons appointed by the Governor on the recommendation of the Minister.

20 (3) The persons recommended by the Minister must have such managerial, commercial or other qualifications or experience as the Minister considers necessary to enable the Board to exercise its functions.

25 (4) Schedule 3 has effect with respect to the directors and procedure of the Board.

Board to determine policies of Authority

250. (1) The Board has the function of determining the policies of the Authority.

30 (2) In exercising that function, the Board shall ensure that the activities of the Authority are carried out properly and efficiently.

(3) The Board has such other functions as are conferred or imposed on it by or under this or any other Act.

Executive officers of Authority

35 251. (1) The Governor may appoint a General Manager, and 2 Deputy General Managers, of the Authority.

Workers Compensation (Amendment) 1988

SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
ACT 1987—*continued*

(2) Schedule 4 has effect with respect to the General Manager and Deputy General Managers.

Functions of executive officers

5 252. (1) The affairs of the Authority shall be managed and controlled by the General Manager of the Authority in accordance with the policies of the Board.

(2) Any act, matter or thing done in the name of, or on behalf of, the Authority by the General Manager shall be taken to have been done by the Authority.

10 (3) A Deputy General Manager of the Authority has, subject to any relevant directions given by the Board, such responsibilities in connection with the affairs of the Authority as the General Manager from time to time determines.

15 (4) The General Manager and Deputy General Managers have such other functions as are conferred or imposed on them by or under this or any other Act.

Ministerial control

20 253. The General Manager of the Authority and the Board are, in the exercise of their respective functions, subject to the control and direction of the Minister.

Staff of Authority

25 253A. (1) Such staff as may be necessary to enable the Authority to exercise its functions shall be employed under the Public Sector Management Act 1988.

(2) The Authority may, with the approval of the Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public or local authority.

30 (3) The Authority may—

(a) for any purpose approved by the Minister; and

(b) on such terms and conditions as may be approved by the Public Employment Industrial Relations Authority,

employ such casual staff as it requires to exercise its functions.

35 (4) The Public Sector Management Act 1988 does not apply to the employment of casual staff under subsection (3) and a person is not, as a member of that casual staff, subject to that Act.

(5) The Authority may engage persons having suitable qualifications and experience as consultants to the Authority.

Workers Compensation (Amendment) 1988

 SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
 ACT 1987—*continued*

(6) For the purposes of this Act, a person who is employed under subsection (1) or (3) or whose services are made use of under subsection (2) is an officer of the Authority.

(8) Part 9, Division 2, heading—

5 Omit the heading, insert instead:

Division 2—Functions of Authority

(9) Section 255 (**Co-ordination of functions of Board and Department of Industrial Relations and Employment**)—

Omit the section.

10 (10) Part 9, Division 3, heading—

Omit the heading, insert instead:

Division 3—Workers Compensation and Rehabilitation Authority Fund

15 (11) Section 259 (**Establishment of Workers Compensation and Rehabilitation Authority Fund**)—

Section 259 (3) (a)—

Omit “members, Secretary and other officers of the Board”, insert instead “directors of the Board and to officers of the Authority”.

(12) Section 262—

20 Omit the section, insert instead:

Delegation of functions

262. (1) The Authority may delegate any of its functions (other than this power of delegation) to any person.

25 (2) A function so delegated may be sub-delegated by the delegate, but only if the sub-delegation is authorised in writing by the Authority.

(13) Section 264 (**References to Board**)—

Omit the section.

(14) Section 266 (**Authentication of certain documents**)—

30 Omit “Chief Executive Officer” wherever occurring, insert instead “General Manager of the Authority”.

(15) Section 268—

Omit the section, insert instead:

Proof of certain matters not required

35 268. In any legal proceedings, proof is not required (until evidence is given to the contrary) of—

(a) the constitution of the Board; or

Workers Compensation (Amendment) 1988

**SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
ACT 1987—continued**

- (b) any resolution of the Board; or
- (c) the appointment of, or the holding of office by, any director of the Board; or
- (d) the presence of a quorum at any meeting of the Board.

5 (16) Schedules 3, 4—

Omit the Schedules, insert instead:

**SCHEDULE 3—PROVISIONS RELATING TO THE DIRECTORS AND
PROCEDURE OF THE BOARD**

(Sec. 249 (4))

10 **PART 1—PROVISIONS RELATING TO THE DIRECTORS OF THE
BOARD**

Definitions

1. In this Schedule—

15 “director” means the General Manager of the Authority or a part-time director of the Board;

“part-time director” means a director of the Board other than the General Manager.

Age of part-time directors

20 2. A person of or above the age of 70 years is not eligible to be appointed as a part-time director or to act as a deputy of a part-time director.

Chairperson and Deputy Chairperson of Board

25 3. (1) Of the part-time directors of the Board, two shall (in and by their respective instruments of appointment or in and by other instruments executed by the Governor) be appointed as Chairperson and Deputy Chairperson of the Board respectively.

(2) The Governor may at any time remove a part-time director from the office of Chairperson or Deputy Chairperson.

(3) A person holding office as Chairperson or Deputy Chairperson vacates that office if the person—

- 30 (a) is removed from that office by the Governor; or
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to hold office as a director.

Deputies

35 4. (1) The Minister may, from time to time, appoint a person to be the deputy of a part-time director.

(2) In the absence of a part-time director, the director's deputy—

- 40 (a) shall, if available, act in the place of the absent director; and
- (b) while so acting, has all the functions of the director (other than any functions the director has as Chairperson or Deputy Chairperson of the Board) and shall be taken to be a part-time director.

Workers Compensation (Amendment) 1988

SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
ACT 1987—*continued*

(3) The Minister may remove a person from any deputy's position to which the person was appointed under this clause.

(4) A person while acting in the place of a part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(5) For the purposes of this clause, a reference to a director's absence includes a reference to a vacancy in the director's office.

Terms of office of part-time directors

5. Subject to this Schedule, a part-time director shall hold office for such period (not exceeding 3 years) as may be specified in his or her instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

6. A part-time director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the part-time director.

Vacancy in office of part-time director

7. (1) The office of a part-time director becomes vacant if the director—

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the director personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the director is excused by the Board for having been absent from those meetings; or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (g) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or
- (i) reaches the age of 70 years.

(2) The Governor may remove a part-time director from office at any time.

Workers Compensation (Amendment) 1988

**SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
ACT 1987—continued**
Disclosure of pecuniary interests

8. (1) If—

(a) a director has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and

(b) the interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter, the director shall, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a director at a meeting of the Board that the director—

(a) is a member, or is in the employment, of a specified company or other body; or

(b) is a partner, or is in the employment, of a specified person; or

(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

(3) The Board shall cause particulars of any disclosure made under this clause to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to inspection by any person on payment of such fee as may be determined by the Board from time to time.

(4) After a director has disclosed the nature of an interest in any matter, the director shall not, unless the Minister or the Board otherwise determines—

(a) be present during any deliberation of the Board with respect to the matter; or

(b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the Board under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates shall not—

(a) be present during any deliberation of the Board for the purpose of making the determination; or

(b) take part in the making by the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board or the exercise of any function under this or any other Act.

Filling of vacancy in office of part-time director

9. If the office of any part-time director becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Effect of certain other Acts

10. (1) The Public Sector Management Act 1988 does not apply to the appointment of a part-time director and a part-time director is not, as a part-time director, subject to that Act (except Part 8).

Workers Compensation (Amendment) 1988

**SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
ACT 1987—*continued***

(2) If by or under any Act provision is made—

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a part-time director or from accepting and retaining any remuneration payable to the person under this Act as such a director.

(3) The office of a part-time director is not, for the purposes of any Act, an office or place of profit under the Crown.

Liability of members etc.

11. No matter or thing done by the Board, any director or any person acting under the direction of the Board or of a director shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a director or a person so acting personally to any action, liability, claim or demand.

**PART 2—PROVISIONS RELATING TO THE PROCEDURE OF THE
BOARD**

General procedure

12. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

Quorum

13. The quorum for a meeting of the Board is 4 directors.

Presiding member

14. (1) The Chairperson of the Board or, in the absence of the Chairperson, the Deputy Chairperson (or, in the absence of both, another part-time director elected to chair the meeting by the directors present) shall preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

15. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

Minutes

16. The Board must cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

Transaction of business outside meetings or by telephone etc.

17. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the directors for the time being, and a resolution in writing approved in writing by a majority of those directors shall be taken to be a decision of the Board.

Workers Compensation (Amendment) 1988

**SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
ACT 1987—*continued***

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which the directors (or some of them) participate by telephone, closed-circuit television or other means, but only if any director who speaks on a matter before the meeting can be heard by the other directors.

5

(3) For the purposes of—

(a) the approval of a resolution under subclause (1); or

(b) a meeting held in accordance with subclause (2),

the Chairperson and each director have the same voting rights as they have at an ordinary meeting of the Board.

10

(4) A resolution approved under subclause (1) shall, subject to the regulations, be recorded in the minutes of the Board.

(5) Papers may be circulated among the directors for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

15

Committees

18. (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a committee are not directors of the Board.

20

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the committee.

First meeting

25

19. The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.

**SCHEDULE 4—PROVISIONS RELATING TO THE EXECUTIVE
OFFICERS**

(Sec. 251 (2))

Definition

30

1. In this Schedule—

“executive officer” means the General Manager or a Deputy General Manager of the Authority.

Age of executive officers

35

2. A person of or above the age of 65 years is not eligible to be appointed as an executive officer or to act in the office of an executive officer.

Acting executive officers

40

3. (1) The Minister may, from time to time, appoint one of the Deputy General Managers to act in the office of the General Manager in the absence of the General Manager and the one so appointed, while acting as General Manager, has all the functions of the General Manager and shall be taken to be the General Manager.

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(2) The Minister may, from time to time, appoint a person to act in the office of Deputy General Manager in the absence of a Deputy General Manager and the person, while so acting, has all the functions of the Deputy General Manager and shall be taken to be a Deputy General Manager.

5 (3) A person while acting in the office of a Deputy General Manager is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) For the purposes of this clause—

10 (a) a vacancy in the office of an executive officer shall be regarded as an absence from office of the executive officer; and

(b) a Deputy General Manager shall be regarded as absent from office as a Deputy General Manager during any period when he or she acts in the office of General Manager pursuant to an appointment under subclause (1).

Term of office

4. Subject to this Schedule, an executive officer shall hold office for such period, not exceeding 5 years, as may be specified in the instrument of his or her appointment, but is eligible (if otherwise qualified) for re-appointment.

Executive officer to be full-time

5. An executive officer shall devote the whole of his or her time to the duties of the office concerned, except to the extent permitted by this Act or by the Minister.

Remuneration

6. An executive officer is entitled to be paid—

(a) remuneration in accordance with the Statutory and Other Offices Remuneration Act 1975; and

(b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the executive officer.

Casual vacancies

7. (1) The office of an executive officer becomes vacant if the executive officer—

(a) dies; or

(b) completes a term of office and is not re-appointed; or

35 (c) resigns the office by instrument in writing addressed to the Minister; or

(d) is retired or removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or

40 (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or

45 (f) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or

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(g) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or

5 (h) engages in any paid employment outside the duties of his or her office, except with the consent of the Minister; or

(i) reaches the age of 65 years.

(2) An executive officer may, after reaching the age of 60 years and before reaching the age of 65 years, be retired from office by the Governor.

10 (3) The Governor may remove an executive officer from office for incapacity, incompetence or misbehaviour.

Filling of vacancy in office of executive officer

8. If the office of an executive officer becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Public Sector Management Act 1988 not to apply

9. The Public Sector Management Act 1988 does not apply to or in respect of the appointment of an executive officer and an executive officer is not, as an executive officer, subject to that Act (except Part 8).

Preservation of rights of executive officer previously public servant etc.

20 10. (1) This clause applies to an executive officer who, immediately before being appointed as an executive officer, was—

(a) an officer of the Public Service or a Teaching Service; or

(b) a contributor to a superannuation scheme; or

(c) an officer employed by a proclaimed statutory body; or

25 (d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee.

(2) Subject to the terms of the executive officer's appointment, an executive officer—

30 (a) shall retain any rights accrued or accruing to him or her as an officer, contributor or person referred to in subclause (1); and

(b) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as an executive officer; and

35 (c) is entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if the executive officer had continued to be such an officer, contributor or person during his or her service as an executive officer.

40 (3) Service as an executive officer shall be regarded as service as an officer or employee for the purposes of any law under which any such rights accrued or were accruing, under which he or she continues to contribute to any such superannuation scheme or by which any such entitlement is conferred.

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(4) An executive officer shall be regarded as an officer or employee, and the Authority shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

5 (5) If an executive officer would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme—

10 (a) he or she shall not be so entitled upon becoming (whether upon appointment as an executive officer or at any later time while holding office as an executive officer) a contributor to any other superannuation scheme; and

(b) the provisions of subclause (4) cease to apply to or in respect of him or her and the Authority in any case where he or she becomes a contributor to any such other superannuation scheme.

15 (6) Subclause (5) does not prevent the payment to an executive officer (on his or her ceasing to be a contributor to a superannuation scheme) of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

20 (7) An executive officer is not, in respect of the same period of service, entitled to dual benefits of the same kind through the operation of this clause.

(8) In this clause—

25 “proclaimed statutory body” means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

Executive officer entitled to re-employment in certain cases

30 11. A person who—

(a) ceases to be an executive officer because of the expiration of the period for which the person was appointed or because of resignation; and

(b) was, immediately before being appointed as an executive officer—

35 (i) an officer of the Public Service or a Teaching Service; or

(ii) an officer or employee of a proclaimed statutory body; and

(c) has not reached the age at which the person would have been entitled to retire had the person continued to be such an officer or employee,

40 is entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that proclaimed statutory body, as the case may be, not lower in classification and salary than the classification and current salary for the position which the person held immediately before being appointed as an executive officer (or for a similar position).

(2) If subclause (1) does not apply to a person who—

45 (a) was, immediately before being appointed to a full-time office constituted by an Act, an officer or employee referred to in subclause (1) (b); and

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(b) is after that appointment appointed as an executive officer, the person has, in the event of ceasing to be an executive officer, such rights (if any) to appointment as such an officer or employee as are specified in his or her instrument of appointment as an executive officer or as are agreed on

5

(3) In this clause—

“proclaimed statutory body” means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause.

10 (17) Schedule 6—

At the end of Part 17, insert:

Transitional operation of the Board

15

3. (1) If, on or after the date of assent to the Workers Compensation (Amendment) Act 1988, the number of persons for the time being holding office as members of the State Compensation Board is insufficient to form a quorum at meetings, the person holding office as Chief Executive Officer of the Board has all the functions of the Board and of the Insurance Premiums Committee.

20

(2) If, on or after the date of assent to the Workers Compensation (Amendment) Act 1988, no person for the time being holds office as Secretary of the State Compensation Board, the Minister may appoint a person to act in the office of the Chief Executive Officer of the Board.

(3) A person appointed under subclause (2), while acting in the office of the Chief Executive Officer—

25

(a) has all the functions of the Chief Executive Officer (including functions of the Board exercisable by the operation of subclause (1)) and shall be taken, for the purposes of this clause and for all other purposes, to be the Chief Executive Officer; and

30

(b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

35

(4) Without affecting the operation of section 266, while the functions of the State Compensation Board are being exercised by the Chief Executive Officer in accordance with this clause, a document is sufficiently executed by the Board if the seal of the Board is affixed to the document by the Chief Executive Officer.

40

(5) If a document purports to bear an attestation, by the Chief Executive Officer of the Board, of the fact that the seal of the State Compensation Board was affixed to the document by the Chief Executive Officer, the seal shall be presumed in any proceedings, until the contrary is proved, to have been so affixed.

(6) Anything done, before the date of assent to the Workers Compensation (Amendment) Act 1988, by the Chief Executive Officer of the State Compensation Board—

45

(a) by which the Chief Executive Officer—

(i) purported (otherwise than in accordance with a delegation by the Board) to execute any function of the Board; or

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- (ii) purported to cause a document to be executed by the Board; and
(b) which would have been validly done if this clause had been in force at the material time,

is validated.

- 5 (7) Clause 6 of Schedule 3 (as in force before the commencement of Schedule 1 (16) to the Workers Compensation (Amendment) Act 1988) applies so as to enable, but not so as to require, the filling of a vacancy in the office of any member of the State Compensation Board.

(18) Schedule 6—

- 10 (a) Part 17—

Omit the Part, insert instead:

**PART 17—PROVISIONS CONSEQUENT ON THE ENACTMENT OF
THE WORKERS COMPENSATION (AMENDMENT) ACT 1988**

Continuity between the State Compensation Board and the Authority

- 15 1. The Workers Compensation and Rehabilitation Authority constituted by this Act is a continuation of, and shall be taken to be the same legal entity as, the State Compensation Board constituted by this Act (as in force before the commencement of Schedule 1 (7) to the Workers Compensation (Amendment) Act 1988).

20 **Chief Executive Officer and members of the State Compensation Board**

2. (1) A person who, immediately before the commencement of Schedule 1 (7) to the Workers Compensation (Amendment) Act 1988, held office as the Chief Executive Officer, or as a member, of the State Compensation Board—

- 25 (a) ceases to hold office on that commencement; and
(b) is not entitled to any remuneration or compensation because of the loss of that office.

Preservation of rights of Chief Executive Officer of the State Compensation Board

- 30 3. Clause 11 of Schedule 3 (as in force immediately before the commencement of Schedule 1 (16) to the Workers Compensation (Amendment) Act 1988) applies to a person who, as provided by clause 2, ceases to hold office as Chief Executive Officer of the State Compensation Board, as if the period for which the person was appointed to that office expired on the commencement of Schedule 1 (7) to that Act.

35 **Staff**

4. Every person who, immediately before the commencement of Schedule 1 (7) to the Workers Compensation (Amendment) Act 1988, was an officer of the State Compensation Board holds office, subject to this and any other Act, as an officer of the Authority on and from that commencement.

40 **Workers Compensation and Rehabilitation Authority Fund**

- 45 5. (1) The Workers Compensation and Rehabilitation Authority Fund is a continuation of, and shall be taken to be the same fund as, the State Compensation Board Fund established by this Act (as in force before the commencement of Schedule 1 (4) to the Workers Compensation (Amendment) Act 1988).

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**SCHEDULE 1—AMENDMENT OF WORKERS COMPENSATION
ACT 1987—continued**

(2) Nothing in this Act or the cognate Acts affects any contribution required to be made to the fund established under section 41 of the former Act immediately before the commencement of Division 3 of Part 9 of this Act, and that section continues to apply in respect of any such contribution.

5 **Construction of certain references**

6. In any other Act or statutory instrument or other document—

- (a) a reference to the State Compensation Board shall be read as a reference to the Workers Compensation and Rehabilitation Authority; and
- 10 (b) a reference to the Chief Executive Officer of the State Compensation Board shall be read as a reference to the General Manager of the Authority; and
- (c) a reference to the State Compensation Board Fund shall be read as a reference to the Workers Compensation and Rehabilitation Authority Fund.

15 (b) **Part 20 (Savings and Transitional Regulations)—**

Omit clause 1 (1), insert instead:

(1) The regulations may contain provisions of a saving or transitional nature consequent on the enactment of the following Acts:

- 20 this Act and the cognate Acts;
the Workers Compensation (Amendment) Act 1988.

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER
ACTS**

(Sec. 4)

Compensation Court Act 1984 No. 89—

25 (1) **Section 3 (Definitions)—**

Section 3 (1), definition of “State Compensation Board”—

Omit the definition.

(2) **Section 39 (Costs of operation of the Court)—**

30 Omit “State Compensation Board”, insert instead “Workers Compensation and Rehabilitation Authority”.

(3) **Section 41 (Liaison with Board of Directors of W.C.R.A.)—**

(a) **Section 41 (1)—**

35 Omit “Chairperson and members of the State Compensation Board”, insert instead “Board of Directors of the Workers Compensation and Rehabilitation Authority”.

(b) **Section 41 (1)—**

Omit “the Board”, insert instead “the Authority”.

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SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS—*continued*

(c) Section 41 (3)—

Omit “State Compensation Board”, insert instead “Board of Directors of the Workers Compensation and Rehabilitation Authority”.

5 (d) Section 41 (4)–(6)—

Omit “State Compensation Board” wherever occurring, insert instead “Workers Compensation and Rehabilitation Authority”.

(e) Section 41 (4)—

Omit “Board’s”, insert instead “Authority’s”.

10 (f) Section 41 (5), (6)—

Omit “the Board” wherever occurring, insert instead “the Authority”.

Police Regulation (Superannuation) Act 1906 No. 28—

Section 2H (**Constitution of Committee**)—

15 Omit section 2H (3) (d), insert instead:

(d) I shall be a person nominated by the Workers Compensation and Rehabilitation Authority; and

Public Finance and Audit Act 1983 No. 152—

Schedule 2 (**Statutory Bodies**)—

20 (1) Omit “State Compensation Board.”.

(2) Insert (in alphabetical order) “Workers Compensation and Rehabilitation Authority.”.

Public Sector Management Act 1988 No. 33—

Schedule 2 (**Administrative Offices**)—

25 (1) Omit the matter relating to the State Compensation Board.

(2) Insert (in alphabetical order):

Workers Compensation and
Rehabilitation Authority General Manager of the
Authority.

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SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS—*continued*
Sporting Injuries Insurance Act 1978 No. 141—**Schedule 2 (Constitution and Procedure of Sporting Injuries Committee)—**

(1) Schedule 2, clause 1—

5 Omit the definition of “Board”, insert instead:

“Authority” means the Workers Compensation and Rehabilitation Authority;

(2) Schedule 2, clauses 2, 5—

10 Omit “Chairperson of the Board” wherever occurring, insert instead “General Manager of the Authority”.

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)—**Schedule 2 (Public Offices)—**

(1) Schedule 2, Part 1—

Omit:

15 Chief Executive Officer of the State Compensation Board.

Full-time member of the State Compensation Board, other than the Chief Executive Officer.

(2) Schedule 2, Part 1—

At the end of the Part, insert:

20 General Manager of the Workers Compensation and Rehabilitation Authority.

Deputy General Manager of the Workers Compensation and Rehabilitation Authority.

25 **Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987 No. 83—**

(1) Section 3 (Definitions)—

Section 3 (1), definition of “Board”—

Omit the definition, insert instead:

30 “Authority” means the Workers Compensation and Rehabilitation Authority;

(2) Sections 5, 6, 8, 11, 13–16, 19–21, 23, 27, 29–32—

Omit “Board” wherever occurring, insert instead “Authority”.

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SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER
ACTS—*continued*

Workers Compensation (Dust Diseases) Act 1942 No. 14—

Section 8H (Inspectors)—

Section 8H (4) (e)—

5 Omit “State Compensation Board”, insert instead “Workers
Compensation and Rehabilitation Authority”.

