

FIRST PRINT

**WORKERS COMPENSATION LEGISLATION (AMENDMENT)  
BILL 1991**

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The objects of this Bill are:

- (a) to transfer responsibility for medical referees and medical panels from the WorkCover Authority to the Compensation Court; and
- (b) to ensure that the total amount to be contributed to the WorkCover Authority Fund by insurers and self-insurers each year is contributed despite any change in the estimate of the relevant premium income on which contributions are based; and
- (c) to make provision for an interim distribution of surplus money held for the payment of claims involving certain insolvent insurers and to make other miscellaneous changes to the legislation dealing with those insurers; and
- (d) to make a minor amendment relating to criminal proceedings for false workers compensation claims.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a proclaimed day or days.

Clause 3 is a formal provision which gives effect to the Schedule of amendments to the Compensation Court Act 1984.

Clause 4 is a formal provision which gives effect to the Schedule of amendments to the Workers Compensation Act 1987.

Clause 5 is a formal provision which gives effect to the Schedule of amendments to the Bishopsgate Insurance Australia Limited Act 1983.

Clause 6 is a formal provision which gives effect to the Schedule of amendments to the Associated General Contractors Insurance Company Limited Act 1980.

*Workers Compensation Legislation (Amendment) 1991*

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**SCHEDULE 1—AMENDMENT OF COMPENSATION COURT ACT 1984**

Schedule 1 provides for the appointment of medical referees (including a chief medical officer) and the constitution of medical panels. The provisions are similar to the existing provisions except that:

- (a) the chief medical officer is to be an officer of the Compensation Court and not an officer of the WorkCover Authority; and
- (b) other medical referees are to be appointed by the Chief Judge; and
- (c) medical panels will continue to be constituted by medical referees nominated by the chief medical officer, but on behalf of the Court and not the WorkCover Authority.

**SCHEDULE 2—AMENDMENT OF WORKERS COMPENSATION ACT 1987**

**Medical referees and panels**

Schedule 2 (1), (3)–(5) and (7) make amendments as a consequence of the amendments made by Schedule 1.

**False compensation claims**

Schedule 2 (2) removes the restriction in section 92B of the Act that provides that the summary offence of making false workers compensation claims is not applicable if the claim form is verified by statutory declaration.

**Contributions to WorkCover Authority Fund**

Schedule 2 (6) provides for the redetermination of contributions by insurers and self-insurers to the WorkCover Authority Fund to ensure that the appropriate total amount to be contributed to the Fund by insurers and self-insurers each year is contributed despite any change in the estimate of the relevant premium income on which the contributions are based. Under the Act, contributions are based on a common percentage of each insurer's premium income for the financial year concerned—the percentage being determined prior to that financial year on the basis of the estimated total amount of premium income that will be received by all insurers during the year and on the basis of the total amount required to be contributed to the Fund to meet the estimated amount of expenditure from the Fund. The WorkCover Authority's original estimate of premium income may need to be revised because of unexpected changes in economic circumstances.

**SCHEDULE 3—AMENDMENT OF BISHOPSGATE INSURANCE  
AUSTRALIA LIMITED ACT 1983**

The Act establishes a fund under the management of the Government Insurance Office (GIO) to meet the workers compensation liabilities of the insolvent Bishopsgate Insurance Australia Limited ("the Company"). The Act requires certain licensed insurers to pay contributions to the fund to meet those liabilities. After dissolution of the Company the Act provides for remaining entitlements to be paid out of the Insurers' Contribution Fund.

*Workers Compensation Legislation (Amendment) 1991*

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**Scheme of arrangement**

Schedule 3 (1) and (2) make the necessary consequential changes to take account of the possibility that the Bishopsgate liquidation will be changed to a scheme of arrangement.

**Distribution of surplus to contributors**

The Act presently provides that if any surplus money remains in the fund once the GIO has paid out or made provision for paying out money authorised or required to be paid out by the Act, the GIO is to repay that money attributable to contributors to the contributors (with any remaining amounts being paid to either the liquidator or the Insurers' Contribution Fund).

Schedule 3 (3) amends the Act to enable the GIO to make interim distribution of the surplus to the contributors instead of the contributors having to wait until the money has been dealt with as presently required. The interim distribution and the final distribution is to be made on the basis that all surplus money is to be paid to the insurance companies which contributed to the fund (after deduction of any amount required to meet liabilities and contingencies in respect of future claims).

Schedule 3 (4) makes a consequential amendment to the regulation-making power.

**SCHEDULE 4—AMENDMENT OF ASSOCIATED GENERAL  
CONTRACTORS INSURANCE COMPANY LIMITED ACT 1980**

**Direct payment of claims**

Schedule 4 (1) amends the Act to allow GIO to pay workers compensation claims directly to claimants instead of through the liquidator. A similar procedure applies in the case of the Bishopsgate liquidation.

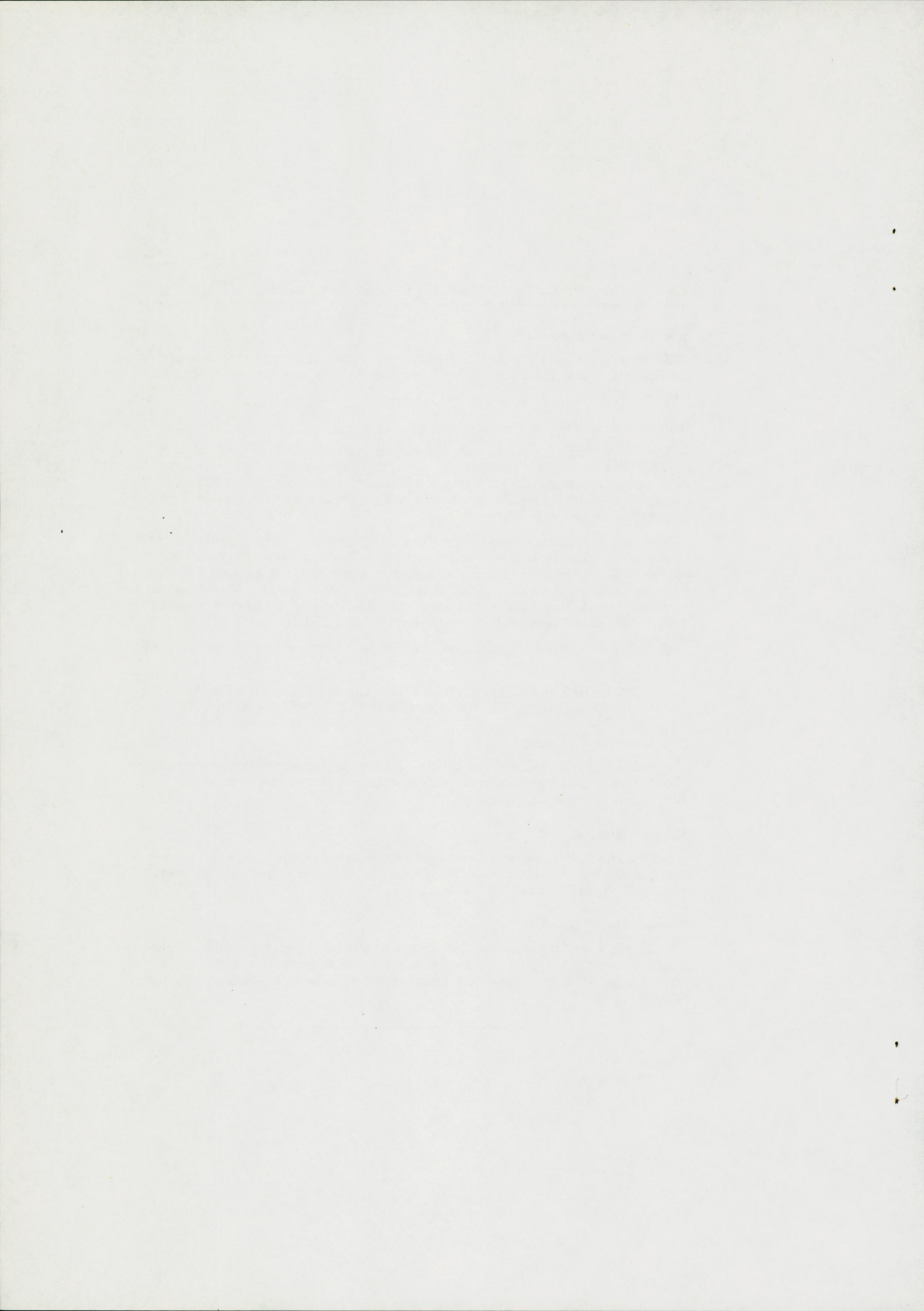
**Management fees**

Schedule 4 (2) removes any doubt as to whether or not the GIO is entitled to be paid management fees from the fund established by the Act as part of the costs of administration of the fund.

**Distribution of surplus**

Schedule 4 (3)–(5) amend the Act to enable an interim or final distribution of surplus contributions to the original contributors to the insolvent insurer under the Act in the same manner as is proposed under Schedule 3 for Bishopsgate Insurance Australia Limited.

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**WORKERS COMPENSATION LEGISLATION (AMENDMENT)  
BILL 1991**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Compensation Court Act 1984 No. 89
4. Amendment of Workers Compensation Act 1987 No. 70
5. Amendment of Bishopsgate Insurance Australia Limited Act 1983 No. 81
6. Amendment of Associated General Contractors Insurance Company Limited Act 1980 No. 38

SCHEDULE 1—AMENDMENT OF COMPENSATION COURT ACT 1984

SCHEDULE 2—AMENDMENT OF WORKERS COMPENSATION ACT 1987

SCHEDULE 3—AMENDMENT OF BISHOPSGATE INSURANCE AUSTRALIA  
LIMITED ACT 1983

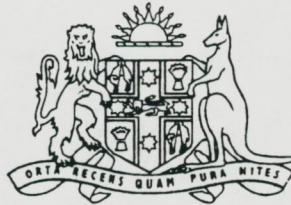
SCHEDULE 4—AMENDMENT OF ASSOCIATED GENERAL CONTRACTORS  
INSURANCE COMPANY LIMITED ACT 1980

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**WORKERS COMPENSATION LEGISLATION (AMENDMENT)  
BILL 1991**

NEW SOUTH WALES



No. , 1991

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**A BILL FOR**

An Act to amend the Compensation Court Act 1984 and the Workers Compensation Act 1987 and certain other Acts with respect to medical referees and panels and certain insolvent workers compensation insurers; and for other purposes.

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*Workers Compensation Legislation (Amendment) 1991*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Workers Compensation Legislation (Amendment) Act 1991.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Compensation Court Act 1984 No. 89**

3. The Compensation Court Act 1984 is amended as set out in Schedule 1.

**Amendment of Workers Compensation Act 1987 No. 70**

4. The Workers Compensation Act 1987 is amended as set out in Schedule 2.

**Amendment of Bishopsgate Insurance Australia Limited Act 1983 No. 81**

5. The Bishopsgate Insurance Australia Limited Act 1983 is amended as set out in Schedule 3.

**Amendment of Associated General Contractors Insurance Company Limited Act 1980 No. 38**

6. The Associated General Contractors Insurance Company Limited Act 1980 is amended as set out in Schedule 4.

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**SCHEDULE 1—AMENDMENT OF COMPENSATION COURT  
ACT 1984**

(Sec. 3)

(1) Section 14 (**Appointment of officers**):

- (a) In section 14 (1), after “assistant registrars”, insert “, a chief medical officer”.
- (b) In section 14 (2), after “assistant registrars”, insert “, chief medical officer”.



*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 1—AMENDMENT OF COMPENSATION COURT  
ACT 1984—*continued*

(2) Part 2, Division 5:

After Division 4, insert:

**Division 5—Medical referees and panels**

**Medical referees**

14A. (1) The Chief Judge may appoint medical practitioners to be medical referees (in addition to the chief medical officer) for the purposes of this Act and the Workers Compensation Act 1987.

(2) The Chief Judge is to obtain the advice of the chief medical officer or other suitable persons on the appointment of medical referees.

(3) A medical practitioner may be appointed as a medical referee whether or not the practitioner is an officer of the Court and whether or not the practitioner resides in New South Wales.

(4) If a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or worker, or by an insurer interested in that case, the medical referee is not qualified to act as medical referee in that case.

**Medical panels**

14B. (1) Medical panels are to be constituted in accordance with this section for the purposes of this Act and the Workers Compensation Act 1987.

(2) A medical panel is to be constituted, in respect of any particular matter or class of matters, by 2 or more medical referees nominated by (or in accordance with arrangements made by) the chief medical officer.

(3) Any such nomination or arrangement made by the chief medical officer is subject to any direction of the Court.

(4) The chief medical officer may nominate himself or herself as a member of a medical panel.

(3) Schedule 4 (**Savings and transitional provisions**):

(a) At the end of clause 1 (1), insert:

Workers Compensation Legislation (Amendment) Act  
1991.

*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 1—AMENDMENT OF COMPENSATION COURT  
ACT 1984—*continued*

(b) After Part 2, insert:

**Part 3—Workers Compensation Legislation  
(Amendment) Act 1991**

**Existing medical referees and panels**

6. (1) A medical referee appointed under section 127 of the Workers Compensation Act 1987 and holding office immediately before the repeal of that section is taken to have been appointed under section 14A of this Act.

(2) A medical panel constituted under section 128 of the Workers Compensation Act 1987 and which has not completed its work immediately before the repeal of that section is taken to have been constituted under section 14B of this Act.

(3) Any matter pending before a medical referee or medical panel under section 130 or 131 of the Workers Compensation Act 1987 on the commencement of this clause is not affected by the amendments made to that section by the Workers Compensation Legislation (Amendment) Act 1991.

(4) In any other Act, an instrument made under any Act or any other document, a reference to a medical referee appointed under, or a medical panel constituted under, the Workers Compensation Act 1987 is to be read as a reference to a medical referee appointed under, or a medical panel constituted under, this Act.

**SCHEDULE 2—AMENDMENT OF WORKERS  
COMPENSATION ACT 1987**

(Sec. 4)

(1) Section 3 (**Definitions**):

From section 3 (1), omit the definitions of “medical panel” and “medical referee”, insert instead:

“**medical panel**” means a medical panel constituted under section 14B of the Compensation Court Act 1984;

“**medical referee**” means a medical referee appointed under section 14A of the Compensation Court Act 1984, and includes the chief medical officer appointed under that Act;

*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 2—AMENDMENT OF WORKERS COMPENSATION  
ACT 1987—*continued*

- (2) Section 92B (**False claims etc.**):
- (a) Omit section 92B (2) (a).
  - (b) After section 92B (2), insert:
    - (3) This section applies to a statement even though it has been verified by statutory declaration.
- (3) Section 127 (**Medical referees**), section 128 (**Medical panels**):  
Omit the sections.
- (4) Section 130 (**Medical examination of worker at direction of Court etc.**):  
From section 130 (1), omit “by the Authority”, insert instead “by the registrar of the Compensation Court”.
- (5) Section 131 (**Reference of medical disputes to referee or panel on application of worker or employer**):
- (a) From section 131 (2) and (3), omit “Authority” wherever occurring, insert instead “registrar of the Compensation Court”.
  - (b) From section 131 (4) and (8), omit “regulations” wherever occurring, insert instead “rules of the Compensation Court”.
- (6) Section 261 (**Contributions to Fund by insurers and self-insurers**):  
After section 261 (6), insert:
- (6A) The Authority may, at any time during or after a financial year, re-determine the percentages determined pursuant to subsections (2) and (3) in respect of the financial year if the estimated total amount of premium income and deemed premium income for the financial year is less than the previous estimated amount on which the original determination of the percentage was based.
  - (6B) If the percentage is re-determined, the Authority is to make the necessary adjustments to the contributions payable by insurers and self-insurers.
- (7) Schedule 6 (**Savings, transitional and other provisions**), Part 12 (**Provisions relating to medical examinations and disputes**):  
Omit clause 1.

**SCHEDULE 3—AMENDMENT OF BISHOPSGATE  
INSURANCE AUSTRALIA LIMITED ACT 1983**

(Sec. 5)

(1) Section 6A:

After section 6, insert:

**Scheme of arrangement**

6A. (1) The Government Insurance Office may, for the purposes of this Act, participate in any scheme of arrangement in relation to the Company.

(2) The regulations may make provision for or with respect to any matter under this Act which is affected by any such arrangement.

(2) Section 7 (**Appointment of Government Insurance Office as agent and attorney of employer**):

(a) In section 7 (1) (c), after “winding-up of the Company” wherever occurring, insert “or under any scheme of arrangement in relation to the Company”.

(b) After section 7 (1), insert:

(1A) A reference in subsection (1) (c) to a claim, judgment or award satisfied by the Government Insurance Office includes (in the case of payments under a scheme of arrangement in relation to the Company) a reference to any contingent liability in respect of any such future claim, judgment or award.

(3) Sections 16 and 17:

Omit the sections, insert instead:

**Application of surplus money in fund**

16. (1) Money that remains in the fund after the Government Insurance Office has paid out (or made provision for paying out) all money authorised or required to be paid out of the fund by this Act is to be repaid in accordance with this section to the persons who have made contributions to the fund.

(2) The Government Insurance Office is required to make provision for all liabilities (including contingent liabilities) of the fund after its closure, including by making an appropriate payment to the Contribution Fund.

*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 3—AMENDMENT OF BISHOPSGATE INSURANCE  
AUSTRALIA LIMITED ACT 1983—*continued*

(3) If the Government Insurance Office is satisfied that contributors will become entitled to a repayment from the fund, it may make periodic interim repayments of money in the fund to contributors in accordance with this section.

(4) The Government Insurance Office is entitled to rely on the advice of an actuary as to the amount available for repayments under this section.

(5) Money is to be repaid to contributors under this section in the same proportions as the contributions were made.

(6) The Government Insurance Office may require each contributor who is repaid money by way of an interim repayment under this section to make a payment (not exceeding the amount repaid) to the fund if the amount standing to the credit of the fund before its closure is insufficient to meet the estimated liabilities (including contingent liabilities) of the fund.

(7) The Government Insurance Office may recover any amount overpaid or required to be paid under subsection (6) as a debt due to the Office.

(8) Repayments are not to be made under this section to the following contributors:

- (a) contributors who no longer exist or who cannot be located by the Government Insurance Office after due inquiry;
- (b) defaulting insurers within the meaning of Division 6A of Part 7 of the Workers Compensation Act 1987 or insolvent insurers within the meaning of Division 7 of Part 7 of that Act;
- (c) companies in liquidation.

Money otherwise payable to any such contributor may be paid into a suspense account by the Government Insurance Office and may, at any time, be paid into the Contribution Fund.

**Application of money received after closure of fund**

17. (1) Any money received, after the fund is closed, by the Government Insurance Office from the liquidator of the Company by way of dividend (or under any scheme of arrangement in relation to the Company) as agent and

*Workers Compensation Legislation (Amendment) 1991*

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**SCHEDULE 3—AMENDMENT OF BISHOPSGATE INSURANCE AUSTRALIA LIMITED ACT 1983—*continued***

attorney of an employer is to be paid into an account in a bank in New South Wales.

(2) The money so paid is to be distributed to the contributors to the fund in the manner provided under section 16 for the distribution of the surplus remaining on the closure of the fund.

(4) Section 20 (**Regulations**):

- (a) From section 20 (c), omit “and”.
- (b) At the end of section 20 (d), insert:  
; and
- (e) the repayment of money to contributors.

**SCHEDULE 4—AMENDMENT OF ASSOCIATED GENERAL CONTRACTORS INSURANCE COMPANY LIMITED ACT 1980**

(Sec. 6)

(1) Section 8 (**Claims may be finalized etc. by Government Insurance Office as agent**):

In section 8 (2) after “Office”, insert “(except to the extent that the liquidator of the Company otherwise agrees)”.

(2) Section 10 (**Application of fund**):

After “fund” where secondly occurring in section 10 (b) (i), insert “(including such management fee, not exceeding the maximum amount (if any) prescribed, as is reasonable having regard to the work involving the fund)”.

(3) Sections 16 and 16A:

Omit section 16, insert instead:

**Application of surplus money in fund**

16. (1) Money that remains in the fund after the Government Insurance Office has paid out (or made provision for paying out) all money authorised or required to be paid out of the fund by this Act is to be repaid in accordance with this section to the persons who have made contributions to the fund.

*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 4—AMENDMENT OF ASSOCIATED GENERAL  
CONTRACTORS INSURANCE COMPANY LIMITED ACT 1980—  
*continued*

(2) The Government Insurance Office is required to make provision for all liabilities (including contingent liabilities) of the fund after its closure, including by making an appropriate payment to the Contribution Fund.

(3) If the Government Insurance Office is satisfied that contributors will become entitled to a repayment from the fund, it may make periodic interim repayments of money in the fund to contributors in accordance with this section.

(4) The Government Insurance Office is entitled to rely on the advice of an actuary as to the amount available for repayments under this section.

(5) Money is to be repaid to contributors under this section in the same proportions as the contributions were made.

(6) The Government Insurance Office may require each contributor who is repaid money by way of an interim repayment under this section to make a payment (not exceeding the amount repaid) to the fund if the amount standing to the credit of the fund before its closure is insufficient to meet the estimated liabilities (including contingent liabilities) of the fund.

(7) The Government Insurance Office may recover any amount overpaid or required to be paid under subsection (6) as a debt due to the Office.

(8) Repayments are not to be made under this section to the following contributors:

- (a) contributors who no longer exist or who cannot be located by the Government Insurance Office after due inquiry;
- (b) defaulting insurers within the meaning of Division 6A of Part 7 of the Workers Compensation Act 1987 or insolvent insurers within the meaning of Division 7 of Part 7 of that Act;
- (c) companies in liquidation.

Money otherwise payable to any such contributor may be paid into a suspense account by the Government Insurance Office and may, at any time, be paid into the Contribution Fund.

*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 4—AMENDMENT OF ASSOCIATED GENERAL  
CONTRACTORS INSURANCE COMPANY LIMITED ACT 1980—  
*continued*

**Application of money received after closure of fund**

16A. (1) Any money received, after the fund is closed, by the Government Insurance Office from the liquidator of the Company by way of dividend as agent and attorney of an employer is to be paid into an account in a bank in New South Wales.

(2) The money so paid is to be distributed to the contributors to the fund in the manner provided under section 16 for the distribution of the surplus remaining on the closure of the fund.

(4) Section 17 (**Recovery of money paid from fund**):

Omit section 17 (4).

(5) Section 20 (**Regulations**):

At the end of section 20 (c), insert:

; and

(d) the repayment of money to contributors.

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NEW SOUTH WALES



**EXPLANATORY NOTE**

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The objects of this Bill are:

- (a) to transfer responsibility for medical referees and medical panels from the WorkCover Authority to the Compensation Court; and
- (b) to ensure that the total amount to be contributed to the WorkCover Authority Fund by insurers and self-insurers each year is contributed despite any change in the estimate of the relevant premium income on which contributions are based; and
- (c) to make provision for an interim distribution of surplus money held for the payment of claims involving certain insolvent insurers and to make other miscellaneous changes to the legislation dealing with those insurers; and
- (d) to make a minor amendment relating to criminal proceedings for false workers compensation claims.

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Clause 1 specifies the short title of the proposed Act.

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Clause 3 is a formal provision which gives effect to the Schedule of amendments to the Compensation Court Act 1984.

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*Workers Compensation Legislation (Amendment) 1991*

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**SCHEDULE 1—AMENDMENT OF COMPENSATION COURT ACT 1984**

Schedule 1 provides for the appointment of medical referees (including a chief medical officer) and the constitution of medical panels. The provisions are similar to the existing provisions except that:

- (a) the chief medical officer is to be an officer of the Compensation Court and not an officer of the WorkCover Authority; and
- (b) other medical referees are to be appointed by the Chief Judge; and
- (c) medical panels will continue to be constituted by medical referees nominated by the chief medical officer, but on behalf of the Court and not the WorkCover Authority.

**SCHEDULE 2—AMENDMENT OF WORKERS COMPENSATION ACT 1987**

**Medical referees and panels**

Schedule 2 (1), (3)–(5) and (7) make amendments as a consequence of the amendments made by Schedule 1.

**False compensation claims**

Schedule 2 (2) removes the restriction in section 92B of the Act that provides that the summary offence of making false workers compensation claims is not applicable if the claim form is verified by statutory declaration.

**Contributions to WorkCover Authority Fund**

Schedule 2 (6) provides for the redetermination of contributions by insurers and self-insurers to the WorkCover Authority Fund to ensure that the appropriate total amount to be contributed to the Fund by insurers and self-insurers each year is contributed despite any change in the estimate of the relevant premium income on which the contributions are based. Under the Act, contributions are based on a common percentage of each insurer's premium income for the financial year concerned—the percentage being determined prior to that financial year on the basis of the estimated total amount of premium income that will be received by all insurers during the year and on the basis of the total amount required to be contributed to the Fund to meet the estimated amount of expenditure from the Fund. The WorkCover Authority's original estimate of premium income may need to be revised because of unexpected changes in economic circumstances.

**SCHEDULE 3—AMENDMENT OF BISHOPSGATE INSURANCE  
AUSTRALIA LIMITED ACT 1983**

The Act establishes a fund under the management of the Government Insurance Office (GIO) to meet the workers compensation liabilities of the insolvent Bishopsgate Insurance Australia Limited ("the Company"). The Act requires certain licensed insurers to pay contributions to the fund to meet those liabilities. After dissolution of the Company the Act provides for remaining entitlements to be paid out of the Insurers' Contribution Fund.

*Workers Compensation Legislation (Amendment) 1991*

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**Scheme of arrangement**

Schedule 3 (1) and (2) make the necessary consequential changes to take account of the possibility that the Bishopsgate liquidation will be changed to a scheme of arrangement.

**Distribution of surplus to contributors**

The Act presently provides that if any surplus money remains in the fund once the GIO has paid out or made provision for paying out money authorised or required to be paid out by the Act, the GIO is to repay that money attributable to contributors to the contributors (with any remaining amounts being paid to either the liquidator or the Insurers' Contribution Fund).

Schedule 3 (3) amends the Act to enable the GIO to make interim distribution of the surplus to the contributors instead of the contributors having to wait until the money has been dealt with as presently required. The interim distribution and the final distribution is to be made on the basis that all surplus money is to be paid to the insurance companies which contributed to the fund (after deduction of any amount required to meet liabilities and contingencies in respect of future claims).

Schedule 3 (4) makes a consequential amendment to the regulation-making power.

**SCHEDULE 4—AMENDMENT OF ASSOCIATED GENERAL  
CONTRACTORS INSURANCE COMPANY LIMITED ACT 1980**

**Direct payment of claims**

Schedule 4 (1) amends the Act to allow GIO to pay workers compensation claims directly to claimants instead of through the liquidator. A similar procedure applies in the case of the Bishopsgate liquidation.

**Management fees**

Schedule 4 (2) removes any doubt as to whether or not the GIO is entitled to be paid management fees from the fund established by the Act as part of the costs of administration of the fund.

**Distribution of surplus**

Schedule 4 (3)–(5) amend the Act to enable an interim or final distribution of surplus contributions to the original contributors to the insolvent insurer under the Act in the same manner as is proposed under Schedule 3 for Bishopsgate Insurance Australia Limited.

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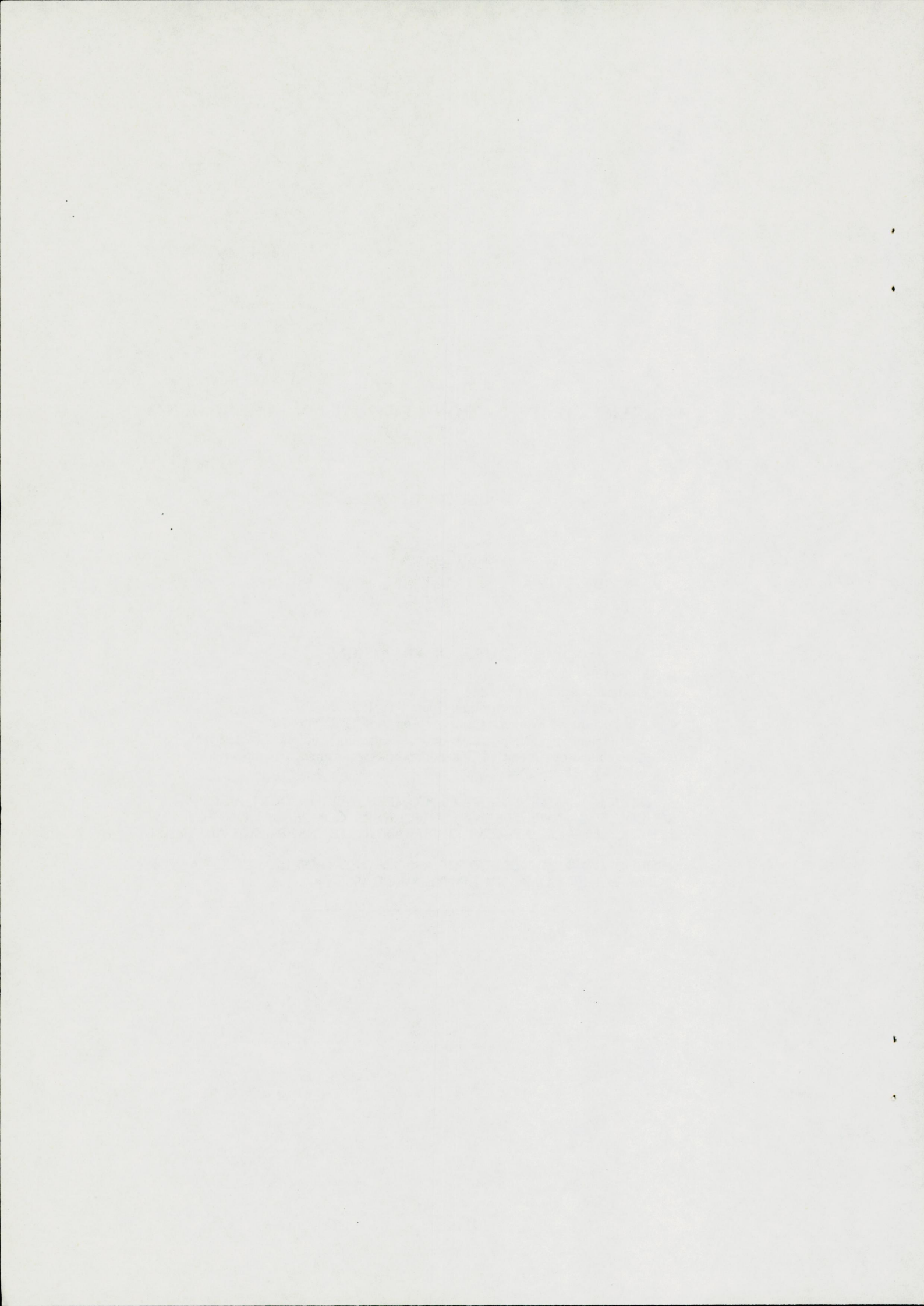
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SCHEDULE 3—AMENDMENT OF BISHOPSGATE INSURANCE AUSTRALIA  
LIMITED ACT 1983

SCHEDULE 4—AMENDMENT OF ASSOCIATED GENERAL CONTRACTORS  
INSURANCE COMPANY LIMITED ACT 1980

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**WORKERS COMPENSATION LEGISLATION (AMENDMENT)  
BILL 1991**

NEW SOUTH WALES



No.           , 1991

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**A BILL FOR**

An Act to amend the Compensation Court Act 1984 and the Workers Compensation Act 1987 and certain other Acts with respect to medical referees and panels and certain insolvent workers compensation insurers; and for other purposes.

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*Workers Compensation Legislation (Amendment) 1991*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Workers Compensation Legislation (Amendment) Act 1991.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Compensation Court Act 1984 No. 89**

3. The Compensation Court Act 1984 is amended as set out in Schedule 1.

**Amendment of Workers Compensation Act 1987 No. 70**

4. The Workers Compensation Act 1987 is amended as set out in Schedule 2.

**Amendment of Bishopsgate Insurance Australia Limited Act 1983 No. 81**

5. The Bishopsgate Insurance Australia Limited Act 1983 is amended as set out in Schedule 3.

**Amendment of Associated General Contractors Insurance Company Limited Act 1980 No. 38**

6. The Associated General Contractors Insurance Company Limited Act 1980 is amended as set out in Schedule 4.

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**SCHEDULE 1—AMENDMENT OF COMPENSATION COURT ACT 1984**

(Sec. 3)

(1) Section 14 (**Appointment of officers**):

- (a) In section 14 (1), after “assistant registrars”, insert “, a chief medical officer”.
- (b) In section 14 (2), after “assistant registrars”, insert “, chief medical officer”.



*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 1—AMENDMENT OF COMPENSATION COURT  
ACT 1984—*continued*

(2) Part 2, Division 5:

After Division 4, insert:

**Division 5—Medical referees and panels**

**Medical referees**

14A. (1) The Chief Judge may appoint medical practitioners to be medical referees (in addition to the chief medical officer) for the purposes of this Act and the Workers Compensation Act 1987.

(2) The Chief Judge is to obtain the advice of the chief medical officer or other suitable persons on the appointment of medical referees.

(3) A medical practitioner may be appointed as a medical referee whether or not the practitioner is an officer of the Court and whether or not the practitioner resides in New South Wales.

(4) If a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or worker, or by an insurer interested in that case, the medical referee is not qualified to act as medical referee in that case.

**Medical panels**

14B. (1) Medical panels are to be constituted in accordance with this section for the purposes of this Act and the Workers Compensation Act 1987.

(2) A medical panel is to be constituted, in respect of any particular matter or class of matters, by 2 or more medical referees nominated by (or in accordance with arrangements made by) the chief medical officer.

(3) Any such nomination or arrangement made by the chief medical officer is subject to any direction of the Court.

(4) The chief medical officer may nominate himself or herself as a member of a medical panel.

(3) Schedule 4 (**Savings and transitional provisions**):

(a) At the end of clause 1 (1), insert:

Workers Compensation Legislation (Amendment) Act  
1991.

*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 1—AMENDMENT OF COMPENSATION COURT  
ACT 1984—*continued*

(b) After Part 2, insert:

**Part 3—Workers Compensation Legislation  
(Amendment) Act 1991**

**Existing medical referees and panels**

6. (1) A medical referee appointed under section 127 of the Workers Compensation Act 1987 and holding office immediately before the repeal of that section is taken to have been appointed under section 14A of this Act.

(2) A medical panel constituted under section 128 of the Workers Compensation Act 1987 and which has not completed its work immediately before the repeal of that section is taken to have been constituted under section 14B of this Act.

(3) Any matter pending before a medical referee or medical panel under section 130 or 131 of the Workers Compensation Act 1987 on the commencement of this clause is not affected by the amendments made to that section by the Workers Compensation Legislation (Amendment) Act 1991.

(4) In any other Act, an instrument made under any Act or any other document, a reference to a medical referee appointed under, or a medical panel constituted under, the Workers Compensation Act 1987 is to be read as a reference to a medical referee appointed under, or a medical panel constituted under, this Act.

SCHEDULE 2—AMENDMENT OF WORKERS  
COMPENSATION ACT 1987

(Sec. 4)

(1) Section 3 (**Definitions**):

From section 3 (1), omit the definitions of “medical panel” and “medical referee”, insert instead:

“**medical panel**” means a medical panel constituted under section 14B of the Compensation Court Act 1984;

“**medical referee**” means a medical referee appointed under section 14A of the Compensation Court Act 1984, and includes the chief medical officer appointed under that Act;

*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 2—AMENDMENT OF WORKERS COMPENSATION  
ACT 1987—*continued*

- (2) Section 92B (**False claims etc.**):
- (a) Omit section 92B (2) (a).
  - (b) After section 92B (2), insert:
    - (3) This section applies to a statement even though it has been verified by statutory declaration.
- (3) Section 127 (**Medical referees**), section 128 (**Medical panels**):  
Omit the sections.
- (4) Section 130 (**Medical examination of worker at direction of Court etc.**):  
From section 130 (1), omit “by the Authority”, insert instead “by the registrar of the Compensation Court”.
- (5) Section 131 (**Reference of medical disputes to referee or panel on application of worker or employer**):
- (a) From section 131 (2) and (3), omit “Authority” wherever occurring, insert instead “registrar of the Compensation Court”.
  - (b) From section 131 (4) and (8), omit “regulations” wherever occurring, insert instead “rules of the Compensation Court”.
- (6) Section 261 (**Contributions to Fund by insurers and self-insurers**):  
After section 261 (6), insert:
- (6A) The Authority may, at any time during or after a financial year, re-determine the percentages determined pursuant to subsections (2) and (3) in respect of the financial year if the estimated total amount of premium income and deemed premium income for the financial year is less than the previous estimated amount on which the original determination of the percentage was based.
  - (6B) If the percentage is re-determined, the Authority is to make the necessary adjustments to the contributions payable by insurers and self-insurers.
- (7) Schedule 6 (**Savings, transitional and other provisions**), Part 12 (**Provisions relating to medical examinations and disputes**):  
Omit clause 1.

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**SCHEDULE 3—AMENDMENT OF BISHOPSGATE  
INSURANCE AUSTRALIA LIMITED ACT 1983**

(Sec. 5)

(1) Section 6A:

After section 6, insert:

**Scheme of arrangement**

6A. (1) The Government Insurance Office may, for the purposes of this Act, participate in any scheme of arrangement in relation to the Company.

(2) The regulations may make provision for or with respect to any matter under this Act which is affected by any such arrangement.

(2) Section 7 (**Appointment of Government Insurance Office as agent and attorney of employer**):

(a) In section 7 (1) (c), after “winding-up of the Company” wherever occurring, insert “or under any scheme of arrangement in relation to the Company”.

(b) After section 7 (1), insert:

(1A) A reference in subsection (1) (c) to a claim, judgment or award satisfied by the Government Insurance Office includes (in the case of payments under a scheme of arrangement in relation to the Company) a reference to any contingent liability in respect of any such future claim, judgment or award.

(3) Sections 16 and 17:

Omit the sections, insert instead:

**Application of surplus money in fund**

16. (1) Money that remains in the fund after the Government Insurance Office has paid out (or made provision for paying out) all money authorised or required to be paid out of the fund by this Act is to be repaid in accordance with this section to the persons who have made contributions to the fund.

(2) The Government Insurance Office is required to make provision for all liabilities (including contingent liabilities) of the fund after its closure, including by making an appropriate payment to the Contribution Fund.

*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 3—AMENDMENT OF BISHOPSGATE INSURANCE  
AUSTRALIA LIMITED ACT 1983—*continued*

(3) If the Government Insurance Office is satisfied that contributors will become entitled to a repayment from the fund, it may make periodic interim repayments of money in the fund to contributors in accordance with this section.

(4) The Government Insurance Office is entitled to rely on the advice of an actuary as to the amount available for repayments under this section.

(5) Money is to be repaid to contributors under this section in the same proportions as the contributions were made.

(6) The Government Insurance Office may require each contributor who is repaid money by way of an interim repayment under this section to make a payment (not exceeding the amount repaid) to the fund if the amount standing to the credit of the fund before its closure is insufficient to meet the estimated liabilities (including contingent liabilities) of the fund.

(7) The Government Insurance Office may recover any amount overpaid or required to be paid under subsection (6) as a debt due to the Office.

(8) Repayments are not to be made under this section to the following contributors:

- (a) contributors who no longer exist or who cannot be located by the Government Insurance Office after due inquiry;
- (b) defaulting insurers within the meaning of Division 6A of Part 7 of the Workers Compensation Act 1987 or insolvent insurers within the meaning of Division 7 of Part 7 of that Act;
- (c) companies in liquidation.

Money otherwise payable to any such contributor may be paid into a suspense account by the Government Insurance Office and may, at any time, be paid into the Contribution Fund.

**Application of money received after closure of fund**

17. (1) Any money received, after the fund is closed, by the Government Insurance Office from the liquidator of the Company by way of dividend (or under any scheme of arrangement in relation to the Company) as agent and

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**SCHEDULE 3—AMENDMENT OF BISHOPSGATE INSURANCE AUSTRALIA LIMITED ACT 1983—*continued***

attorney of an employer is to be paid into an account in a bank in New South Wales.

(2) The money so paid is to be distributed to the contributors to the fund in the manner provided under section 16 for the distribution of the surplus remaining on the closure of the fund.

(4) Section 20 (**Regulations**):

(a) From section 20 (c), omit “and”.

(b) At the end of section 20 (d), insert:

; and

(e) the repayment of money to contributors.

**SCHEDULE 4—AMENDMENT OF ASSOCIATED GENERAL CONTRACTORS INSURANCE COMPANY LIMITED ACT 1980**

(Sec. 6)

(1) Section 8 (**Claims may be finalized etc. by Government Insurance Office as agent**):

In section 8 (2) after “Office”, insert “(except to the extent that the liquidator of the Company otherwise agrees)”.

(2) Section 10 (**Application of fund**):

After “fund” where secondly occurring in section 10 (b) (i), insert “(including such management fee, not exceeding the maximum amount (if any) prescribed, as is reasonable having regard to the work involving the fund)”.

(3) Sections 16 and 16A:

Omit section 16, insert instead:

**Application of surplus money in fund**

16. (1) Money that remains in the fund after the Government Insurance Office has paid out (or made provision for paying out) all money authorised or required to be paid out of the fund by this Act is to be repaid in accordance with this section to the persons who have made contributions to the fund.

*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 4—AMENDMENT OF ASSOCIATED GENERAL  
CONTRACTORS INSURANCE COMPANY LIMITED ACT 1980—  
*continued*

(2) The Government Insurance Office is required to make provision for all liabilities (including contingent liabilities) of the fund after its closure, including by making an appropriate payment to the Contribution Fund.

(3) If the Government Insurance Office is satisfied that contributors will become entitled to a repayment from the fund, it may make periodic interim repayments of money in the fund to contributors in accordance with this section.

(4) The Government Insurance Office is entitled to rely on the advice of an actuary as to the amount available for repayments under this section.

(5) Money is to be repaid to contributors under this section in the same proportions as the contributions were made.

(6) The Government Insurance Office may require each contributor who is repaid money by way of an interim repayment under this section to make a payment (not exceeding the amount repaid) to the fund if the amount standing to the credit of the fund before its closure is insufficient to meet the estimated liabilities (including contingent liabilities) of the fund.

(7) The Government Insurance Office may recover any amount overpaid or required to be paid under subsection (6) as a debt due to the Office.

(8) Repayments are not to be made under this section to the following contributors:

- (a) contributors who no longer exist or who cannot be located by the Government Insurance Office after due inquiry;
- (b) defaulting insurers within the meaning of Division 6A of Part 7 of the Workers Compensation Act 1987 or insolvent insurers within the meaning of Division 7 of Part 7 of that Act;
- (c) companies in liquidation.

Money otherwise payable to any such contributor may be paid into a suspense account by the Government Insurance Office and may, at any time, be paid into the Contribution Fund.

*Workers Compensation Legislation (Amendment) 1991*

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SCHEDULE 4—AMENDMENT OF ASSOCIATED GENERAL  
CONTRACTORS INSURANCE COMPANY LIMITED ACT 1980—  
*continued*

**Application of money received after closure of fund**

16A. (1) Any money received, after the fund is closed, by the Government Insurance Office from the liquidator of the Company by way of dividend as agent and attorney of an employer is to be paid into an account in a bank in New South Wales.

(2) The money so paid is to be distributed to the contributors to the fund in the manner provided under section 16 for the distribution of the surplus remaining on the closure of the fund.

(4) Section 17 (**Recovery of money paid from fund**):

Omit section 17 (4).

(5) Section 20 (**Regulations**):

At the end of section 20 (c), insert:

; and

(d) the repayment of money to contributors.

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