

**WORKERS' COMPENSATION (FURTHER AMENDMENT)  
ACT 1986 No. 176**

NEW SOUTH WALES



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**WORKERS' COMPENSATION (FURTHER AMENDMENT) ACT  
1986 No. 176**

NEW SOUTH WALES



**Act No. 176, 1986**

An Act to amend the Workers' Compensation Act 1926 with respect to compensation for bush fire fighters and other emergency services personnel, the provision of interpreter and related services and in other respects.  
[Assented to 17 December 1986]

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

**Short title**

1. This Act may be cited as the "Workers' Compensation (Further Amendment) Act 1986".

**Commencement**

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

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

**Principal Act**

3. The Workers' Compensation Act 1926 is referred to in this Act as the Principal Act.

**Amendment of Act No. 15, 1926**

4. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

**Savings, transitional and other provisions**

5. Schedule 3 has effect.

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## SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BUSH  
FIRE FIGHTING AND OTHER EMERGENCY SERVICES  
COMPENSATION

(1) Section 17B (**Interpretation**)—

Section 17B (1), definition of “Injury” —

- (a) Omit paragraph (i), insert instead:
- (i) arising out of or in the course of carrying out—
    - (A) a bush fire preventive operation;
    - (B) preparatory work;
    - (C) work of a prescribed kind (which may, but need not, be related to bush fire fighting, bush fire preventive operations or preparatory work); or
    - (D) work which, in the opinion of the Board having regard to all the circumstances and the advice of the Minister administering the State Emergency Services and Civil Defence Act 1972, should be deemed to be work of a kind to which this paragraph applies; or
  - (b) From paragraph (ii), omit “bush fire preventive operations were or are to be carried out or preparatory work was or is to be carried out”, insert instead “the operation or work was or is to be carried out”.
  - (c) From paragraph (ii), omit “such preventive operations or preparatory work”, insert instead “the operation or work”.
  - (d) Omit “or carrying out bush fire preventive operations or preparatory work”, insert instead “or carrying out any such operation or work”.
  - (e) Omit “such fighting or the carrying out of such preventive operations or preparatory work or such journeying” wherever occurring, insert instead “the fighting, operation, work or journeying”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BUSH  
FIRE FIGHTING AND OTHER EMERGENCY SERVICES  
COMPENSATION—*continued*

(2) Section 17c (Compensation payable to fire fighters for injury received)—

(a) Section 17c (2) (a), (b)—

Omit the paragraphs, insert instead:

(a) where death results from the injury—the compensation payments prescribed by paragraphs (a) and (b) of section 8 (1) (which shall be payable whether or not the fire fighter left any dependants wholly dependent for support upon the fire fighter), plus an additional amount of \$20,000;

(b) where total or partial incapacity for work results from the injury—subject to subsection (2A), the weekly compensation payments prescribed by section 9 or 11; and

(b) Section 17c (2A)—

After section 17c (2), insert:

(2A) If any compensation payable in respect of a fire fighter includes, pursuant to section 9 (1) (a), the fire fighter's current weekly wage rate and that rate is less than the fire fighter's average weekly earnings, the amount so included shall be increased by the amount of the difference.

(c) Section 17c (3)—

Omit "8-10", insert instead "8 (1), (1A) and (4A), 9, 9A, 10".

*Workers' Compensation (Further Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BUSH  
FIRE FIGHTING AND OTHER EMERGENCY SERVICES  
COMPENSATION—*continued*

## (3) Section 17F—

After section 17E, insert:

**Transfer of certain amounts from Consolidated Fund**

17F. There shall be transferred from the Consolidated Fund (which is appropriated accordingly) to the Bush Fire Fighters Compensation Fund such amounts as are necessary for the payment of—

- (a) any additional amount of \$20,000 payable under section 17C (2) (a); and
- (b) any additional amount payable by virtue of section 17C (2A).

## (4) Part II B—

After section 17I, insert:

## PART II B

## EMERGENCY AND RESCUE WORKERS COMPENSATION

**Interpretation**

17J. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“authorised activity” means—

- (a) in relation to an emergency service worker—an activity prescribed for the purposes of this paragraph; and
- (b) in relation to a rescue association worker—an activity prescribed for the purposes of this paragraph;

“emergency service worker” means—

- (a) a person—
  - (i) who is duly appointed under section 8 (1) of the State Emergency Services and Civil Defence Act 1972; or

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BUSH  
FIRE FIGHTING AND OTHER EMERGENCY SERVICES  
COMPENSATION—*continued*

- (ii) who is duly appointed as a volunteer member of the State Emergency Services and Civil Defence Organisation,

(other than any such person who may be prescribed as not being an emergency service worker for the purposes of this Part);

- (b) a person—

- (i) who is prescribed as being an emergency service worker; or

- (ii) who is a member of a class of persons prescribed as being emergency service workers,

for the purposes of this Part; or

- (c) a person who, in the opinion of the Board having regard to all the circumstances, should be deemed to be an emergency service worker for the purposes of this Part;

“injury” means personal injury resulting in incapacity or death received by an emergency service worker or a rescue association worker—

- (a) arising out of or in the course of carrying out an authorised activity; or

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BUSH  
FIRE FIGHTING AND OTHER EMERGENCY SERVICES  
COMPENSATION—*continued*

- (b) arising out of or in the course of journeying between the place of abode or place of employment of the worker, or place from which the worker was called, and the place of carrying out the authorised activity, when that journeying was made exclusively and bona fide for the purpose of carrying out that activity,

and includes a disease which is contracted in the course of carrying out that activity or journeying to which the carrying out of the activity or the journeying was a contributing factor and also includes the aggravation, acceleration, exacerbation or deterioration of any disease where the carrying out of the activity or the journeying was a contributing factor;

“rescue association worker” means—

- (a) a person who is an executive member of the New South Wales Volunteer Rescue Association (other than any such member who may be prescribed as not being a rescue association worker for the purposes of this Part);
- (b) a person—
- (i) who is prescribed as being a rescue association worker; or
  - (ii) who is a member of a class of persons prescribed as being rescue association workers,

for the purposes of this Part; or

- (c) a person who, in the opinion of the Board having regard to all the circumstances, should be deemed to be a rescue association worker for the purposes of this Part.

(2) Any reference in this Part to an emergency service worker or a rescue association worker who has been injured shall, if the worker is dead, include a reference to the worker's legal personal representative or to the worker's dependants, or other person to whom or for whose benefit compensation is payable.



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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BUSH  
FIRE FIGHTING AND OTHER EMERGENCY SERVICES  
COMPENSATION—*continued*

**Application of Part**

17K. This Part shall extend and apply to and in respect of injury sustained within the Commonwealth and its Territories but outside New South Wales by any emergency service worker or rescue association worker, or member of a class of emergency service workers or rescue association workers, prescribed for the purposes of this section, in such circumstances (if any) as may be so prescribed.

**Making of claims**

17L. (1) Claims for compensation under this Part shall be made in the manner prescribed by the Board.

(2) The requirements of sections 10 and 53 as to notices and claims apply to notices and claims for compensation under this Part, except that notices are to be given to, and claims made on, the Board instead of to or on the employer.

**Hearing of claims**

17M. (1) Claims for compensation under this Part shall be decided by the Board.

(2) A claimant dissatisfied with a decision of the Board may apply to the Court for a determination of the claim and the Board shall give effect to the determination of the Court.

(3) At the hearing of an application to the Court, the Board or its representative may appear before the Court and exercise in respect of any matters and questions arising out of the application the like powers, rights and authorities as an employer may exercise in respect of a claim between a worker and employer under this Act.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BUSH  
FIRE FIGHTING AND OTHER EMERGENCY SERVICES  
COMPENSATION—*continued***Medical examination**

17N. (1) The provisions of this Act as to medical examination of a worker apply to and in respect of an emergency service worker and a rescue association worker in the same way as those provisions apply to and in respect of a worker.

(2) The powers exercisable by an employer under such a provision, in its application to and in respect of an emergency service worker or a rescue association worker, shall be exercisable by the Board.

**Compensation payable**

17O. (1) An emergency service worker or a rescue association worker who has received an injury, and in the case of the death of the worker, the worker's dependants, shall be entitled to receive compensation as follows:

- (a) where death results from the injury—the compensation payments prescribed by paragraphs (a) and (b) of section 8 (1) (which shall be payable whether or not the worker left any dependants wholly dependent for support upon the worker), plus an additional amount of \$20,000;
- (b) where total or partial incapacity for work results from the injury—subject to subsection (2), the weekly compensation payments prescribed by section 9 or 11; and
- (c) where medical or hospital treatment, or ambulance service, becomes necessary as a result of the injury—the benefits prescribed by section 10.

(2) If any compensation payable in respect of an emergency service worker or a rescue association worker includes, pursuant to section 9 (1) (a), the worker's current weekly wage rate and that rate is less than the worker's average weekly earnings, the amount so included shall be increased by the amount of the difference.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BUSH  
FIRE FIGHTING AND OTHER EMERGENCY SERVICES  
COMPENSATION—*continued*

(3) With such modifications as may be necessary, the provisions of sections 7 (2B), (2c) and (3), 8 (1), (1A) and (4A), 10A, 10B, 11–16, 55 and 57–62 have effect as if included in this Part and so have effect as if, in those provisions—

- (a) a reference to a worker were a reference to an emergency service worker or a rescue association worker;
- (b) a reference to compensation, or an amount of money, paid or payable, or paid or payable by an employer, or for which an employer is liable or which an employer agrees to pay, or which a person is entitled to receive, were a reference to compensation, or an amount of money, paid or payable by, or receivable from, the Board; and
- (c) a reference to recovery of an amount of money from an employer were a reference to entitlement to receive that amount from the Board.

(4) Where an emergency service worker or a rescue association worker was not working under a contract of service immediately prior to carrying out the authorised activity at which the worker has received the injury, the worker's "average weekly earnings" or "current weekly wage rate" for the purposes of this Part shall be such amount as is fair and reasonable in the circumstances.

(5) Compensation payable to an emergency service worker or a rescue association worker under this Part shall be reduced by such amount as the worker is entitled to or has received as compensation in respect of the same injury under any other Part of this Act, or under any Act or ordinance relating to workers' compensation of any State or Territory of the Commonwealth.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BUSH  
FIRE FIGHTING AND OTHER EMERGENCY SERVICES  
COMPENSATION—*continued*

(6) In any case where the injury for which compensation is payable under this Part was caused under circumstances creating a legal liability in some person to pay damages in respect of the injury—

- (a) the provisions of section 64 apply to and in respect of an emergency service worker or a rescue association worker in the same way as those provisions apply to and in respect of a worker; and
- (b) for the purposes of that application, a reference to an employer shall be deemed to be a reference to the Board.

**Emergency and Rescue Workers Compensation Fund**

17P. (1) There shall be established in the Special Deposits Account in the Treasury an account to be called the Emergency and Rescue Workers Compensation Fund, which shall be kept jointly in an account with the Bush Fire Fighters Compensation Fund.

(2) There shall be paid from the Emergency and Rescue Workers Compensation Fund—

- (a) compensation payable under this Part;
- (b) the costs of administration of this Part; and
- (c) all expenses incurred by the Board in the exercise of its powers, authorities or functions under this Part.

(3) There shall be transferred from the Consolidated Fund, which is appropriated accordingly, such amounts as are necessary for the expenditure authorised by this Part.

*Workers' Compensation (Further Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BUSH  
FIRE FIGHTING AND OTHER EMERGENCY SERVICES  
COMPENSATION—*continued*(5) Section 53G (**Jurisdiction of Court under Act**)—

Section 53G (2) (a)—

Omit “or a fire fighter within the meaning of Part II A,”, insert instead “a fire fighter within the meaning of Part II A or an emergency service worker or a rescue association worker within the meaning of Part II B”.

## SCHEDULE 2

(Sec. 4)

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 30G (**Interpretation**)—

(a) Section 30G (1), definition of “assessable premium income” —

Before the definition of “compensation”, insert:

“assessable premium income”, in relation to the contribution payable by an insurer under section 30J for a financial year, means the amount the insurer receives, whether during or after that financial year, as premiums in respect of policies (other than policies issued by the Government Insurance Office in respect of Government workers) issued or renewed by the insurer during that financial year and—

(a) includes any amount calculated in such manner as may be prescribed for the purposes of this paragraph in relation to that financial year; and

(b) does not include any amount calculated in such manner as may be prescribed for the purposes of this paragraph in relation to that financial year;

SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

## (b) Section 30G (1), definition of “deemed premium income”—

Omit the definition, insert instead:

“deemed assessable premium income”, in relation to the contribution payable by a self-insurer under section 30J for any period during a financial year, means the amount that the self-insurer would have been liable to pay (in such circumstances as may be prescribed) to a licensed insurer as premiums on policies that would otherwise be required under this Act if the person were not a self-insurer, and—

- (a) includes any amount calculated in such manner as may be prescribed for the purposes of this paragraph in relation to that financial year; and
- (b) does not include any amount calculated in such manner as may be prescribed for the purposes of this paragraph in relation to that financial year;

(2) Section 30J (**Contributions to Contribution Fund**)—

## (a) Section 30J (2), (2A), (3)—

Omit the subsections, insert instead:

(2) The prescribed contribution to be paid by an insurer, in respect of the financial year commencing on 1 July 1986 or any subsequent financial year, is an amount equal to a prescribed percentage of the assessable premium income of the insurer for that financial year.

(2A) The prescribed contribution to be paid by a self-insurer, in respect of the financial year commencing on 1 July 1986 or any subsequent financial year (being a financial year during the whole or part of which the person was a self-insurer), is an amount equal to a prescribed percentage of the deemed assessable premium income of the self-insurer during the relevant period that the person was a self-insurer.

*Workers' Compensation (Further Amendment) 1986*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

(3) A prescribed contribution in relation to a financial year shall be paid at such times and in respect of such periods as may be prescribed.

(b) Section 30J (6) (a)—

Omit “deemed premium income”, insert instead “assessable premium income”.

(c) Section 30J (7)—

Omit the subsection, insert instead:

(7) More than one percentage may be prescribed for different portions of a financial year for the purpose of subsection (2) or (2A).

(3) Section 30N (**Miscellaneous provisions**)—

Section 30N (1)—

Omit “deemed premium income”, insert instead “assessable premium income”.

(4) Section 30O (**Interpretation**)—

Section 30O (1), definition of “insolvent insurer” —

Omit “an insurer”, insert instead “a licensed insurer or former licensed insurer”.

(5) Section 30P (**Insolvent insurers**)—

After “licensed insurer” wherever occurring, insert “or former licensed insurer”.

(6) Section 30U (**Appointment of GIO as agent and attorney of employer**)—

(a) Section 30U (2)—

After “insurer” where firstly and secondly occurring, insert “or a former insurer”.

*Workers' Compensation (Further Amendment) 1986*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

## (b) Section 30U (3) (a)—

After “an insurer” wherever occurring, insert “or a former insurer”.

(7) Section 42J (**Appointment of Commissioners**)—

Section 42J (2)—

Omit “60 years”, insert instead “65 years”.

## (8) Section 56A—

After section 56, insert:

**Registration of certain persons providing interpreting, etc., services**

56A. (1) A person who—

(a) for fee or reward, acts as interpreter for a worker in connection with a claim for compensation under this Act, whether or not the claim is eventually made and whether or not the person also provides a related service; or

(b) holds himself or herself out as being available to do so, is guilty of an offence against this Act and liable to a penalty not exceeding \$1,000 if the person is not registered under this section.

(2) A person who acts as interpreter for a worker shall be deemed to act for fee or reward if the fee or reward—

(a) is payable or given by some person on behalf of the worker;

(b) is payable or given to some person who employs, or is nominated by, the person acting as interpreter; or

(c) is payable or given for any related service provided to the worker by the person acting as interpreter.

(3) This section does not apply to a person who acts as interpreter—

(a) if the person is a solicitor, barrister, medical practitioner or other person prescribed by the regulations; or



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SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

- (b) if the person is engaged by, and the person's services are paid for by—
  - (i) the Board;
  - (ii) the Ethnic Affairs Commission;
  - (iii) an employer or insurer;
  - (iv) an industrial union of employees or employers; or
  - (v) any other person or body prescribed by the regulations.
- (4) The regulations may make provision for or with respect to—
  - (a) applications for registration under this section and the disposal of any such applications;
  - (b) the fees to be paid by applicants for registration;
  - (c) the qualifications, experience, fitness and character of applicants for registration;
  - (d) the duration of registration;
  - (e) the conditions to which any registration is subject (including conditions regulating any related service provided by the registered person);
  - (f) the cancellation or suspension of registration; and
  - (g) any other matter in connection with registration under this section.
- (5) The regulations under this section shall provide for a right of appeal to the Compensation Court against a decision of the Board—
  - (a) to refuse to register a person under this section;
  - (b) to cancel or suspend any such registration; or
  - (c) to attach any condition to any such registration.

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SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

(6) The regulations may make provision for or with respect to the maximum amount that may be charged by a person who is registered or required to be registered under this section—

- (a) for acting as interpreter as referred to in subsection (1); and
- (b) for any related service provided to the worker concerned.

(7) A person who acts as interpreter in contravention of subsection (1) is not entitled to charge or recover any fee for so acting or for any related service provided to the worker concerned.

(8) A reference in this section—

- (a) to a person acting as interpreter includes a reference to a person who translates documents into another language; or
- (b) to a related service includes a reference to the services of an agent or advisor.

(9) Schedule 3 (**Commissioners**)—

Clause 1 (1)—

Omit the subclause, insert instead:

- (1) A commissioner shall, subject to this Schedule, hold office—
    - (a) if the commissioner was appointed before attaining the age of 59 years—until the commissioner attains the age of 60 years; or
    - (b) in any other case—for a period (not exceeding 12 months) specified in the instrument of appointment.
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## SCHEDULE 3

(Sec. 5)

## SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

**Termination of insurance policies, etc.**

1. (1) The following endorsement attached to a workers' compensation policy taken out with the Government Insurance Office of New South Wales and the following accident pay policy taken out with that Office are terminated with effect from the date of commencement of this clause:

- (a) Endorsement No. 21646RC, which is attached to the Workers' Compensation Policy in the name of the Police Department (Policy No. WO13626PO) and which provides benefits to voluntary workers of the State Emergency Services and executive members of the Volunteer Rescue Association of New South Wales or bona fide members of any affiliated squad;
- (b) Accident Pay Policy No. EA0003849PO held in the name of the Police Department for and on behalf of the Bush Fire Council, the State Emergency Services and the Volunteer Rescue Association of New South Wales and affiliated squads.

(2) A termination effected by subclause (1) does not affect any right, obligation or liability acquired, accrued or incurred under the endorsement or policy.

**Validation of payments**

2. (1) In this clause—

“the prescribed period” means the period commencing on 23 December 1985 and ending on the date of commencement of this clause.

(2) Any payment of a benefit in respect of the death during the prescribed period of a person insured under a policy referred to in clause 1, in circumstances where the insured person did not leave any dependants wholly or partially dependent upon the insured person, is validated.

(3) Any payment of a benefit of \$10,000 in respect of the death during the prescribed period of a person insured under the accident pay policy referred to in clause 1 (1) (b), being a payment in addition to a benefit provided for in that policy, is validated.

**Liability to contribute to Insurers' Contribution Fund**

3. The amendments made by Schedule 2 (1)–(3) do not affect any liability of a person to make a contribution to the Insurers' Contribution Fund constituted under the Principal Act, being a liability that arose before the commencement of those amendments.

**Savings and transitional provisions**

4. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may, if the regulations under this clause so provide, take effect as from the date of assent to this Act or a later day.

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SCHEDULE 3—*continued*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued*

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

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