

WORKCOVER ADMINISTRATION ACT 1989 No. 120

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1 - PRELIMINARY

1. Short title
2. Commencement
3. Definitions

PART 2 - THE WORKCOVER AUTHORITY OF NEW SOUTH WALES

Division 1 - Constitution of Authority

4. Constitution of Authority

Division 2 - Management of Authority

5. Board of Directors
6. Board of Directors to determine policies of Authority
7. General Manager
8. General Manager to manage affairs of Authority
9. Ministerial control
10. Staff of Authority
11. Delegation of functions

Division 3 - Functions of Authority

12. General functions
13. Miscellaneous functions

PART 3 - THE OCCUPATIONAL HEALTH, SAFETY AND
REHABILITATION COUNCIL OF NEW SOUTH WALES

14. Constitution of Council
15. Membership and procedure of Council
16. Functions of Council
17. Committees of Council

PART 4 - FINANCIAL PROVISIONS

18. WorkCover Authority Fund
19. Payments into and from Fund
20. Investment
21. Financial year

PART 5 - MISCELLANEOUS

22. Authority may obtain Court Registry documents etc.
23. Personal liability of directors etc.
24. Seal of Authority
25. Service of documents on Authority
26. Recovery of charges etc. by Authority
27. Proceedings for offences
28. Regulations
29. Savings, transitional and other provisions

SCHEDULE 1 - PROVISIONS RELATING TO DIRECTORS AND
PROCEDURE OF BOARD OF DIRECTORS OF THE AUTHORITY

SCHEDULE 2 - PROVISIONS RELATING TO GENERAL MANAGER OF
THE AUTHORITY

SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND PROCEDURE
OF COUNCIL

SCHEDULE 4 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

WORKCOVER ADMINISTRATION ACT 1989 No. 120

NEW SOUTH WALES



Act No. 120, 1989

An Act to constitute the WorkCover Authority and the Occupational Health, Safety and Rehabilitation Council; to define their functions; and for other purposes. [Assented to 24 August 1989]

See also WorkCover Legislation (Amendment) Act 1989.

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the WorkCover Administration Act 1989.

Commencement

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

Definitions

3. (1) In this Act:

"**Authority**" means the WorkCover Authority of New South Wales constituted under this Act;

"**Board of Directors**" means the Board of Directors of the Authority;

"**Council**" means the Occupational Health, Safety and Rehabilitation Council of New South Wales constituted under this Act;

"**occupational health and safety legislation**" means:

- (a) the Occupational Health and Safety Act 1983 and the instruments under that Act; or
- (b) the associated occupational health and safety legislation within the meaning of that Act; or
- (c) any other Act or instrument (or part) prescribed by the regulations;

"**WorkCover Authority Fund**" means the fund established under section 18;

"**workers compensation legislation**" means:

- (a) the Workers Compensation Act 1987 and the instruments under that Act; or
- (b) the Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987 and the instruments under that Act; or

WorkCover Administration 1989

- (c) the Workers' Compensation (Dust Diseases) Act 1942 and the instruments under that Act; or
 - (d) the Workmen's Compensation (Broken Hill) Act 1920 and the instruments under that Act; or
 - (e) any other Act or instrument (or part) prescribed by the regulations.
- (2) In this Act:
- (a) a reference to a function includes a reference to a power, authority and duty; and
 - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART 2 - THE WORKCOVER AUTHORITY OF NEW SOUTH WALES

Division 1 - Constitution of Authority

Constitution of Authority

4. (1) There is constituted by this Act a corporation with the corporate name of the WorkCover Authority of New South Wales.
- (2) The Authority is, for the purposes of any Act, a statutory body representing the Crown.

Division 2 - Management of Authority

Board of Directors

5. (1) There shall be a Board of Directors of the Authority.
- (2) The Board is to consist of 7 directors, being:
- (a) the General Manager of the Authority; and
 - (b) 6 part-time directors appointed by the Governor on the recommendation of the Minister.
- (3) The persons recommended for appointment 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 1 has effect with respect to the directors and procedure of the Board.

Board of Directors to determine policies of Authority

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

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

General Manager

7. (1) The Governor may appoint a General Manager of the Authority.

(2) Schedule 2 has effect with respect to the General Manager.

General Manager to manage affairs of Authority

8. (1) The affairs of the Authority are to be managed and controlled by the General Manager of the Authority in accordance with the policies of the Board of Directors.

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

Ministerial control

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

Staff of Authority

10. (1) Such staff as may be necessary to enable the Authority to exercise its functions may be employed under Part 2 of the Public Sector Management Act 1988.

(2) The Authority may 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.

WorkCover Administration 1989

- (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) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the employment of casual staff under subsection (3).
- (5) The Authority may engage such consultants as the Authority requires to exercise its functions.
- (6) For the purposes of this Act, the workers compensation legislation and the occupational health and safety legislation, 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.

Delegation of functions

11. (1) The Authority may delegate to an authorised person any of the functions of the Authority, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Authority if the delegate is authorised in writing to do so by the Authority.
- (3) In this section, "**authorised person**" means:
- (a) an officer of the Authority; or
 - (b) a person of a class prescribed by the regulations or of a class approved by the Board of Directors.

Division 3 - Functions of Authority

General functions

12. (1) The Authority has such functions as are conferred or imposed on it by or under:
- (a) this Act; or
 - (b) the workers compensation legislation; or
 - (c) the occupational health and safety legislation; or
 - (d) any other legislation.

- (2) In exercising its functions, the Authority must:
- (a) promote the prevention of injuries and diseases at the workplace and the development of healthy and safe workplaces; and
 - (b) ensure the efficient, effective and equitable rehabilitation and compensation of persons injured at work; and
 - (c) ensure the financial viability and efficient operation of the workers compensation insurance arrangements; and
 - (d) ensure the co-ordination of the administration of occupational health and safety, rehabilitation and workers compensation arrangements.

Miscellaneous functions

13. The Authority has the following functions:
- (a) to initiate and encourage research to identify efficient and effective strategies for the prevention of occupational injury and disease and for the rehabilitation of persons who suffer any such injury or disease;
 - (b) to ensure the availability of high quality education and training in such prevention and rehabilitation;
 - (c) to develop equitable and effective programs to identify areas of unnecessarily high cost to the workers compensation system and, as far as practicable, to reduce those costs;
 - (d) to foster a co-operative consultative relationship between management and labour in relation to the health, safety and welfare of persons at work;
 - (e) to encourage liaison between employers, insurers, accredited rehabilitation providers, medical practitioners and other health professionals in the interests of early and effective rehabilitation of injured workers;
 - (f) to identify (and as far as practicable minimise or remove) disincentives for injured workers to return to work or for employers to employ injured workers;
 - (g) to assist in the provision of measures to deter and detect fraudulent workers compensation claims;
 - (h) to develop programs to meet the special needs of target groups, including workers who suffer severe injuries, injured workers who are unable to return to their pre-injury occupation, injured

WorkCover Administration 1989

workers who are unemployed, persons who live in remote areas, women, persons of non-English speaking background and handicapped persons;

- (i) to provide assistance in relation to the establishment and operation of:
 - (i) occupational health and safety committees at places of work; and
 - (ii) general rehabilitation programs of employers;
- (j) to investigate workplace accidents;
- (k) to facilitate the development of rehabilitation plans and facilities to assist injured workers;
- (l) to monitor the operation of occupational health and safety, rehabilitation and workers compensation arrangements;
- (m) to collect and publish statistics;
- (n) to conduct statistical analysis of occupational injuries and diseases;
- (o) to report and make recommendations to the Minister on such matters as the Minister requests or the Authority considers appropriate;
- (p) to provide advisory services to workers, employers, insurers and the general community (including information in languages other than English);
- (q) to provide funds for or in relation to:
 - (i) measures for the prevention or minimisation of occupational injuries or diseases; and
 - (ii) occupational health and safety education;
- (r) to arrange, or facilitate the provision of, interpreter services to assist injured workers;
- (s) to provide and administer (subject to the regulations) a legal aid service for persons who are parties to proceedings relating to workers compensation.

**PART 3 - THE OCCUPATIONAL HEALTH, SAFETY AND
REHABILITATION COUNCIL OF NEW SOUTH WALES**

Constitution of Council

14. There is constituted by this Act an Occupational Health, Safety and Rehabilitation Council of New South Wales.

Membership and procedure of Council

15. (1) The Council is to consist of 9 members, being:

- (a) 2 persons appointed by the Minister, 1 of whom is to be appointed as Chairperson of the Council; and
- (b) a person appointed by the Minister on the nomination of the Minister for Health; and
- (c) 3 persons appointed by the Minister from a panel of at least 6 persons nominated by the Labor Council of New South Wales; and
- (d) 3 persons appointed by the Minister from a panel of at least 6 persons nominated by such bodies or organisations representing employers as are approved by the Minister.

(2) Schedule 3 has effect with respect to the members and procedure of the Council.

Functions of Council

16. (1) The function of the Council is to advise the Authority on any matter relating to occupational health, safety and rehabilitation that the Authority refers to the Council for advice.

(2) The Authority must refer to the Council for advice any matter requested by the Minister and report to the Minister on the advice furnished by the Council on the matter.

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

(4) For the purposes of the Council exercising its functions, a member of the Council may at any reasonable time enter and inspect any premises which are a place of work (except premises occupied as a private dwelling).

WorkCover Administration 1989

Committees of Council

17. (1) The Council may, with the approval of the Authority, 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 members of the Council.

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

PART 4 - FINANCIAL PROVISIONS

WorkCover Authority Fund

18. The Authority is required to establish a WorkCover Authority Fund.

Payments into and from Fund

19. (1) The following is to be paid into the WorkCover Authority Fund:

- (a) money contributed by insurers and self-insurers under Part 9 of the Workers Compensation Act 1987;
- (b) money required to be paid into the Fund by or under this or any other Act;
- (c) all other money received by the Authority and not otherwise appropriated.

(2) The following is to be paid from the WorkCover Authority Fund:

- (a) the remuneration (including allowances) of the Board of Directors and staff of the Authority;
- (b) the remuneration (including allowances) of members of the Council and any other costs of operation of the Council;
- (c) the costs of operation of the Compensation Court, including:
 - (i) the remuneration and allowances of Judges, commissioners, officers and staff of the Compensation Court; and

- (ii) court accommodation;
- (d) all payments required to meet expenditure incurred in relation to the functions of the Authority;
- (e) all other money required by or under this or any other Act to be paid from the Fund.

Investment

20. The Authority may invest money held by it:
- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
 - (b) if that Act does not confer power to invest money held by the Authority:
 - (i) in any manner authorised for the time being for the investment of trust funds; and
 - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

Financial year

21. (1) The financial year of the Authority is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

PART 5 - MISCELLANEOUS

Authority may obtain Court Registry documents etc.

22. (1) The Authority is entitled, for the purposes of exercising its functions:
- (a) to take away, inspect or copy documents or extracts of documents; or
 - (b) to obtain from the Compensation Court Registry copies of, or extracts from, documents,
- maintained or available at the Compensation Court Registry.
- (2) The Registrar of the Compensation Court is required to give all necessary assistance to the Authority to enable it to exercise its powers under this section.

WorkCover Administration 1989

(3) The Compensation Court may, in respect of any information obtained by the Authority from that Court under this section, order that the information is not to be used in any proceedings, or any specified proceedings, before that Court.

(4) The regulations may make provision for or with respect to the keeping of statistics or other information at the Compensation Court Registry and the supply of the statistics or information to the Authority.

Personal liability of directors etc.

23. A matter or thing done by the Authority, the Council, a director of the Board of Directors of the Authority, a member of the Council or any person acting under the direction of the Authority does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject the director, member or a person so acting personally to any action, liability, claim or demand.

Seal of Authority

24. The seal of the Authority is to be kept by the General Manager of the Authority and may be affixed to a document only:

- (a) in the presence of the General Manager or an officer of the Authority authorised in that behalf by the General Manager, and
- (b) with an attestation by the signature of the General Manager or that officer of the fact of the affixing of the seal.

Service of documents on Authority

25. (1) A document may be served on the Authority by leaving it at, or by sending it by post to:

- (a) the office of the Authority, or
- (b) if it has more than one office - any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Authority in any other manner.

Recovery of charges etc. by Authority

26. Any charge, fee or money due to the Authority, or to the Crown in respect of the activities of the Authority, may be recovered by the

Authority as a debt in a court of competent jurisdiction if no express provision is otherwise made for its recovery.

Proceedings for offences

27. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Regulations

28. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

Savings, transitional and other provisions

29. Schedule 4 has effect.

WorkCover Administration 1989

**SCHEDULE 1 - PROVISIONS RELATING TO DIRECTORS
AND PROCEDURE OF BOARD OF DIRECTORS OF
THE AUTHORITY**

(Sec. 5 (4))

Definitions

1. In this Schedule:

"**appointed director**" means a director of the Board other than the General Manager;

"**Board**" means the Board of Directors;

"**director**" means any director of the Board;

"**General Manager**" means the General Manager of the Authority.

Chairperson and Deputy Chairperson of Board of Directors

2. (1) Of the appointed directors, 2 are (in and by their respective instruments of appointment or in and by other instruments executed by the Governor) to be appointed as Chairperson and Deputy Chairperson of the Board respectively.

(2) The Governor may at any time remove an appointed director from the office of Chairperson or Deputy Chairperson.

(3) A person who is a director and Chairperson or Deputy Chairperson of the Board 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 be a director.

Deputies

3. (1) The Minister may, from time to time, appoint a person to be the deputy of an appointed director, and the Minister may revoke any such appointment.

(2) In the absence of a director, the director's deputy:

- (a) may, if available, act in the place of the director; and
- (b) while so acting, has all the functions of the director and is to be taken to be a director.

SCHEDULE 1 - PROVISIONS RELATING TO DIRECTORS
AND PROCEDURE OF BOARD OF DIRECTORS OF THE
AUTHORITY - *continued*

(3) The deputy of a director who is Chairperson or Deputy Chairperson of the Board does not (because of this clause) have the director's functions as Chairperson or Deputy Chairperson.

(4) A person while acting in the place of a 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.

Terms of office of appointed directors

4. Subject to this Schedule, an appointed director holds office for such period (not exceeding 3 years) as is specified in the director's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

5. An appointed 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 director.

Vacancy in office of appointed director

6. (1) The office of an appointed 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

WorkCover Administration 1989

SCHEDULE 1 - PROVISIONS RELATING TO DIRECTORS
AND PROCEDURE OF BOARD OF DIRECTORS OF THE
AUTHORITY - *continued*

- (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.

(2) The Governor may remove an appointed director from office at any time.

Disclosure of pecuniary interests

7. (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 must, 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,
- (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,

SCHEDULE 1 - PROVISIONS RELATING TO DIRECTORS
AND PROCEDURE OF BOARD OF DIRECTORS OF THE
AUTHORITY - *continued*

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 subclause (1).

(3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.

(4) After a director has disclosed the nature of an interest in any matter, the director must 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 must 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.

Filling of vacancy in office of appointed director

8. If the office of any appointed director becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

9. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of an appointed director.

WorkCover Administration 1989

SCHEDULE 1 - PROVISIONS RELATING TO DIRECTORS
AND PROCEDURE OF BOARD OF DIRECTORS OF THE
AUTHORITY - *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 an appointed director or from accepting and retaining any remuneration payable to the person under this Act as such a director.

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

General procedure

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

Quorum

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

Presiding member

12. (1) The Chairperson of the Board or, in the absence of the Chairperson, the Deputy Chairperson (or, in the absence of both, another director elected to chair the meeting by the directors present) is to 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

13. 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.

SCHEDULE 1 - PROVISIONS RELATING TO DIRECTORS
AND PROCEDURE OF BOARD OF DIRECTORS OF THE
AUTHORITY - *continued*

Transaction of business outside meetings or by telephone etc.

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

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which directors (or some directors) 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) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.

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

Committees of Board

15. (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 is to be as determined by the Board or (subject to any determination of the Board) by the committee.

WorkCover Administration 1989

SCHEDULE 1 - PROVISIONS RELATING TO DIRECTORS
AND PROCEDURE OF BOARD OF DIRECTORS OF THE
AUTHORITY - *continued*

First meeting

16. The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

SCHEDULE 2 - PROVISIONS RELATING TO GENERAL
MANAGER OF THE AUTHORITY

(Sec. 7 (2))

Definition

1. In this Schedule:

"General Manager" means the General Manager of the Authority.

Acting General Manager

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

(2) The Minister may, at any time, remove any person from an office to which the person was appointed under this clause.

(3) A person while acting in the office of the 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 vacancy in the office of the General Manager is to be regarded as an absence from office of the General Manager.

Term of office

3. Subject to this Schedule, the General Manager holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment of the General Manager, but is eligible (if otherwise qualified) for re-appointment.

SCHEDULE 2 - PROVISIONS RELATING TO GENERAL
MANAGER OF THE AUTHORITY - *continued*

General Manager to be full-time

4. The General Manager must devote the whole of his or her time to the duties of his or her office, except to the extent permitted by this Act or by the Minister.

Remuneration

5. The General Manager 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 General Manager.

Vacancy in office

6. (1) The office of the General Manager becomes vacant if the General Manager:
- (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
 - (g) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months

WorkCover Administration 1989

SCHEDULE 2 - PROVISIONS RELATING TO GENERAL
MANAGER OF THE AUTHORITY - *continued*

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.

(2) The General Manager 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

7. If the office of the General Manager becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Part 2 of Public Sector Management Act 1988 not to apply

8. Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of the General Manager.

Preservation of rights of General Manager previously public servant etc.

9. (1) This clause applies to a General Manager who, immediately before being appointed as General Manager, was:

- (a) an officer of the Authority; or
- (b) an officer of the Public Service; or
- (c) a contributor to a superannuation scheme; or
- (d) an officer employed by a proclaimed statutory body; or
- (e) 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 General Manager's appointment, the General Manager:

SCHEDULE 2 - PROVISIONS RELATING TO GENERAL
MANAGER OF THE AUTHORITY - *continued*

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

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

(3) Service as General Manager is to 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.

(4) The General Manager is to be regarded as an officer or employee, and the Authority is to 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 the General Manager 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 is not so entitled on becoming (whether on appointment as General Manager or at any later time while holding office as General Manager) 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 the General Manager (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.

WorkCover Administration 1989

SCHEDULE 2 - PROVISIONS RELATING TO GENERAL
MANAGER OF THE AUTHORITY - *continued*

(7) The General Manager 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.

General Manager entitled to re-appointment to former employment in certain cases

10. (1) A person who:

(a) ceases to be General Manager by reason of the expiration of the period for which the person was appointed or by reason of resignation; and

(b) was, immediately before being appointed as General Manager:

(i) an officer of the Authority; or

(ii) an officer of the Public Service; or

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

(c) has not reached the age of 60 years,

is entitled to be appointed to some position in the Authority, the Public Service or the service of that statutory body, as the case may be, not lower in salary than the current salary for the position which the person held immediately before being appointed as General Manager (or 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

**SCHEDULE 2 - PROVISIONS RELATING TO GENERAL
MANAGER OF THE AUTHORITY - *continued***

(b) is after that appointment appointed as General Manager, the person has such rights (if any) to appointment as such an officer or employee, in the event of ceasing to be General Manager, as are specified in the instrument of appointment as General Manager 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.

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS
AND PROCEDURE OF COUNCIL**

(Sec. 15 (2))

Nomination of panels for appointments as members

1. (1) If nominations to constitute a panel are not made within the time and in the manner directed by the Minister, the Minister may appoint a person to be a member instead of the person required to be appointed from the panel.

(2) A person so appointed is to be taken to have been duly nominated for appointment.

Deputies of members

2. (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.

(2) The deputy of a member appointed from a panel is to be appointed from the same or a further panel.

(3) In the absence of a member, the member's deputy:

(a) may, if available, act in the place of the member; and

(b) while so acting, has all the functions of the member and is to be taken to be a member.

WorkCover Administration 1989

SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF COUNCIL - *continued*

(4) The deputy of a member who is Chairperson of the Council does not (because of this clause) have the member's functions as Chairperson.

(5) A person while acting in the place of a member is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person.

Terms of office

3. Subject to this Schedule, a member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Allowances

4. A member is entitled to be paid such allowances as the Minister from time to time determines in respect of the member.

Vacancy in office of member

5. (1) The office of a member becomes vacant if the member:
- (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 Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
 - (e) is absent from 4 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Council or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Council 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

SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF COUNCIL - *continued*

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.

(2) The Minister may remove a member from office at any time.

Filling of vacancy in office of member

6. If the office of a member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

7. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member.

(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 member or from accepting and retaining any remuneration payable to the person under this Act as a member.

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

WorkCover Administration 1989

SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF COUNCIL - *continued*

General procedure

8. The procedure for the calling of meetings of the Council and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Council.

Quorum

9. The quorum for a meeting of the Council is 5 members.

Presiding member

10. (1) The Chairperson of the Council or, in the absence of the Chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the Council.

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

Voting

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

Attendance by non-members

12. A person authorised by the Council or the Chairperson of the Council may attend a meeting of the Council for the purpose of assisting the Council to exercise its functions.

First meeting

13. The Minister is to call the first meeting of the Council in such manner as the Minister thinks fit.

**SCHEDULE 4 - SAVINGS, TRANSITIONAL AND
OTHER PROVISIONS**

(Sec. 29)

Part 1 - General

Savings and transitional regulations

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

this Act;

WorkCover Legislation (Amendment) Act 1989.

(2) Any such provision may, if the regulations so provide, take effect on the date of assent to the Act concerned or a later date.

(3) To the extent to which any such provision takes effect on 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 any thing done or omitted to be done before the date of its publication.

Part 2 - Provisions consequent on this Act

Continuity of Authority

2. The WorkCover Authority of New South Wales constituted under this Act is a continuation of, and the same legal entity as:

- (a) the Workers Compensation and Rehabilitation Authority constituted under the Workers Compensation Act 1987; and
- (b) the State Compensation Board constituted under that Act before the constitution of the Workers Compensation and Rehabilitation Authority.

WorkCover Administration 1989

SCHEDULE 4 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

Existing executive officers and directors of Authority

3. (1) In this clause, "the repeal" means the repeal of Division 1 of Part 9 of the Workers Compensation Act 1987.

(2) A person who, immediately before the repeal, held office as a part-time director of the Board of Directors of the Workers Compensation and Rehabilitation Authority is to be taken to have been duly appointed under this Act as a part-time director of the Board of Directors of the WorkCover Authority for the balance of the person's term of office.

(3) A person who, immediately before the repeal, held office as the General Manager of the Workers Compensation and Rehabilitation Authority (or as the acting General Manager of that Authority) is to be taken to have been duly appointed under this Act as the General Manager of the WorkCover Authority (or as the acting General Manager of that Authority) for the balance of the person's term of office.

(4) A person who, immediately before the repeal, held office as a Deputy General Manager of the Workers Compensation and Rehabilitation Authority is to be taken to have been appointed as an officer of the Public Service and to the relevant position of Deputy General Manager of the WorkCover Authority.

Construction of certain references

4. In any other Act, in any instrument made under any Act or in any document of any kind:

- (a) a reference to the State Compensation Board or to the Workers Compensation and Rehabilitation Authority is to be read as a reference to the WorkCover Authority; and
- (b) a reference to the Chief Executive Officer of the State Compensation Board or the General Manager of the Workers Compensation and Rehabilitation Authority is to be read as a reference to the General Manager of the WorkCover Authority; and
- (c) a reference to a Deputy General Manager of the Workers Compensation and Rehabilitation Authority is to be read as a

SCHEDULE 4 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

reference to a Deputy General Manager of the WorkCover Authority; and

- (d) a reference to the State Compensation Board Fund or the Workers Compensation and Rehabilitation Authority Fund is to be read as a reference to the WorkCover Authority Fund.

WorkCover Authority Fund

5. (1) The WorkCover Authority Fund is a continuation of, and is to be taken to be the same fund as, the Workers Compensation and Rehabilitation Fund established by the Workers Compensation Act 1987 before the repeal of section 259 of that Act.

(2) Nothing in this Act or the Workers Compensation Act 1987 affects any contribution required to be made to the fund established under section 41 of the Workers' Compensation Act 1926 immediately before the commencement of Division 3 of Part 9 of the Workers Compensation Act 1987 and that section continues to apply in respect of any such contribution.

Existing delegations

6. A delegation in force under section 262 of the Workers Compensation Act 1987 immediately before the repeal of that section is, on that repeal, to be taken to be a delegation under section 11 of this Act.

The Occupational Health, Safety and Rehabilitation Council

7. (1) In this clause:

"**former Council**" means the Occupational Health, Safety and Rehabilitation Council constituted under Part 2 of the Occupational Health and Safety Act 1983;

WorkCover Administration 1989

SCHEDULE 4 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

"**new Council**" means the Occupational Health, Safety and Rehabilitation Council constituted under Part 3 of this Act.

(2) The former Council is dissolved.

(3) A person who, immediately before the repeal of Part 2 of the Occupational Health and Safety Act 1983, held office as a member of the former Council:

- (a) ceases to hold that office; and
- (b) is eligible (if otherwise qualified) to be appointed as a member of the new Council.

(4) A person who ceases to hold office as a member of the former Council is not entitled to any remuneration or compensation because of the loss of that office.

(5) On the dissolution of the former Council, the assets, rights, liabilities and obligations of the former Council become the assets, rights, liabilities and obligations of the Authority.

(6) On and from the dissolution of the Council:

- (a) a reference in any other Act, in any instrument made under any Act or in any document of any kind to the former Council is to be read as a reference to the Authority; and
- (b) anything done by or in relation to the former Council is to be taken to have been done by or in relation to the Authority.

Insurance Premiums Committee

8. (1) The Insurance Premiums Committee constituted under section 165 of the Workers Compensation Act 1987 is dissolved.

(2) A person who, immediately before the repeal of section 165 of the Workers Compensation Act 1987, held office as a member of the Insurance Premiums Committee:

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

(3) On and from the dissolution of the Insurance Premiums Committee:

SCHEDULE 4 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

- (a) a reference in any other Act, in any instrument made under any Act or in any document of any kind to the Insurance Premiums Committee is to be read as a reference to the Authority; and
 - (b) anything done by or in relation to the Insurance Premiums Committee is to be taken to have been done by or in relation to the Authority.
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[*Minister's second reading speech made in -
Legislative Assembly on 1 August 1989
Legislative Council on 3 August 1989 a.m.*]