



New South Wales

NSW Self Insurance Corporation Act 2004 No 106

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New South Wales

NSW Self Insurance Corporation Act 2004 No 106

Act No 106, 2004

An Act to reconstitute the NSW Insurance Ministerial Corporation as the NSW Self Insurance Corporation and to clarify its functions; and for related purposes.
[Assented to 15 December 2004]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *NSW Self Insurance Corporation Act 2004*.

2 Commencement

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

3 Definitions

In this Act:

exercise a function includes perform a duty.

function includes a power, authority or duty.

Government managed fund scheme means an arrangement under which workers compensation, motor vehicle accident, public and other liabilities of the State or an authority of the State:

- (a) are managed as a self insurance scheme (including the collection of contributions from the State or an authority of the State towards the cost of claims), and
- (b) are paid, or otherwise settled, by the State or by the Self Insurance Corporation on behalf of the State or an authority of the State.

Self Insurance Corporation means the corporation constituted under section 4.

Part 2 Establishment of Self Insurance Corporation

4 Constitution of NSW Self Insurance Corporation

- (1) There is constituted by this Act a corporation with the corporate name of NSW Self Insurance Corporation.
- (2) The Self Insurance Corporation is, for the purposes of any Act, a statutory body representing the Crown.

5 Management of Self Insurance Corporation

- (1) The affairs of the Self Insurance Corporation are to be managed by the Minister.
- (2) Any act, matter or thing done in the name of, or on behalf of, the Self Insurance Corporation by the Minister, or with the authority of the Minister, is taken to have been done by the Self Insurance Corporation.

6 Staff of Self Insurance Corporation

- (1) The Self Insurance Corporation may arrange for the use of the services of any staff or facilities of any government department or public or local authority.
- (2) For the purpose of this Act, any such staff are taken to be staff of the Self Insurance Corporation.

Part 3 Functions of Self Insurance Corporation

7 General functions

- (1) The Self Insurance Corporation has the functions conferred or imposed on it by or under this or any other Act or law.
- (2) Without limiting subsection (1), the Self Insurance Corporation has the functions imposed on it under section 211B of the *Workers Compensation Act 1987* and sections 26 and 27 of the *Government Insurance Office (Privatisation) Act 1991*.

8 Specific functions in relation to Government managed fund schemes

The Self Insurance Corporation has the following functions with respect to Government managed fund schemes:

- (a) to operate one or more Government managed fund schemes (including the function of establishing, reorganising, amalgamating, dividing or winding up such schemes),
- (b) to enter into agreements or arrangements with other persons to provide services (as agents or otherwise) in relation to the operation of any Government managed fund scheme,
- (c) to enter into insurance or other agreements or arrangements to cover the liabilities to which a Government managed fund scheme applies,
- (d) to act for the State or an authority of the State in dealing with claims under a Government managed fund scheme (including the recovery of amounts payable to the State or an authority of the State in connection with such claims).

9 Delegation of functions

The Self Insurance Corporation may delegate to any person the exercise of any of its functions, other than this power of delegation.

10 Ownership and control of records

- (1) Subject to the regulations, all records (within the meaning of the *State Records Act 1998*) made and kept, or received and kept, by an agent or other person in the exercise of functions on behalf of the Self Insurance Corporation are the property of the Self Insurance Corporation.
- (2) The Self Insurance Corporation may give directions to such an agent or other person with respect to the possession, custody and control of, and the granting of access to, those records.

- (3) A person must not, without reasonable excuse, fail to comply with any such direction given by the Self Insurance Corporation to the agent or person.

Maximum penalty: 100 penalty units.

Part 4 Finance

11 Self Insurance Fund

- (1) There is to be established in the Special Deposits Account a Self Insurance Fund (the **Fund**) into which is to be paid:
 - (a) all money received by the Self Insurance Corporation as contributions from the State or an authority of the State towards the cost of claims, and
 - (b) all money recovered by the Self Insurance Corporation from insurers, third parties or other persons in connection with claims to which a Government managed fund scheme applies, and
 - (c) all money advanced to the Self Insurance Corporation by the Minister or appropriated by Parliament for the purposes of the Self Insurance Corporation, and
 - (d) all money directed or authorised to be paid into the Fund by or under this or any other Act, and
 - (e) the proceeds of the investment of money in the Fund, and
 - (f) all money received by the Self Insurance Corporation from any other source.
- (2) The Fund is to be applied for the purpose of enabling the Self Insurance Corporation to exercise its functions, including but not limited to the following:
 - (a) payment of claims to which a Government managed fund scheme applies,
 - (b) payment of Government managed fund scheme administration expenses,
 - (c) payment of the costs (including disbursements) of risk management, actuarial and legal services provided in connection with Government managed fund schemes,
 - (d) payments to provide incentives to authorities of the State to enhance the management of liabilities,
 - (e) payment of contributions by the Self Insurance Corporation made in accordance with an arrangement entered into under section 211B (3) of the *Workers Compensation Act 1987*.
- (3) All expenditure incurred by the Self Insurance Corporation is to be paid from the Fund.

12 Investment of money in Fund

The Self Insurance Corporation may invest money in the Self Insurance Fund:

- (a) in the manner authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Self Insurance Corporation to invest the money, in any other manner approved by the Minister.

Part 5 Miscellaneous

13 Regulations

- (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 offences with a maximum penalty not exceeding 50 penalty units.

14 Nature of proceedings for offences

Proceedings for an offence under this Act or the regulations may be dealt with summarily before a Local Court.

15 Seal of Corporation

The seal of the Self Insurance Corporation is to be kept by the Minister and may be affixed to a document only:

- (a) in the presence of the Minister or a member of the staff of the Corporation authorised in that behalf by the Minister, and
- (b) with an attestation by the signature of the Minister or that member of staff of the fact of the affixing of the seal.

16 Savings, transitional and other provisions

Schedule 1 has effect.

17 Amendment of Acts and Regulations

The Acts and Regulations specified in Schedule 2 are amended as set out in that Schedule.

18 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Savings, transitional and other provisions

(Section 16)

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision 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.

Part 2 Provisions consequent on enactment of this Act

2 Continuation of NSW Insurance Ministerial Corporation

The NSW Self Insurance Corporation is a continuation of, and the same legal entity as, the NSW Insurance Ministerial Corporation that was constituted by the *Government Insurance Office (Privatisation) Act 1991*.

3 Continuation of NSW Treasury Managed Fund

Nothing in this Act affects the continuation of the NSW Treasury Managed Fund, except that the NSW Treasury Managed Fund is taken to be a Government managed fund scheme subject to this Act.

Schedule 2 Amendment of Acts and Regulations

(Section 17)

2.1 Government Insurance Office (Privatisation) Act 1991 No 38

[1] Section 4 Definitions

Omit the definition of *Ministerial Corporation* from section 4 (1).

[2] Section 4 (1)

Insert in alphabetical order:

Self Insurance Corporation means the NSW Self Insurance Corporation constituted by the *NSW Self Insurance Corporation Act 2004*.

[3] Sections 16 (2) (b), 24 (1), 27 and 38 (1) (b) and (c)

Omit “Ministerial Corporation” wherever occurring.

Insert instead “Self Insurance Corporation”.

[4] Section 26 Self Insurance Corporation etc may sell excluded undertaking or retain it

Omit “Ministerial Corporation” from section 26 (1).

Insert instead “Self Insurance Corporation”.

[5] Section 28 Constitution, management and functions of NSW Insurance Ministerial Corporation

Omit the section.

2.2 Motor Accidents Act 1988 No 102

[1] Section 3 Definitions

Omit the definition of *Ministerial Corporation* from section 3 (1).

[2] Section 3 (1)

Insert in alphabetical order:

Self Insurance Corporation means the NSW Self Insurance Corporation constituted by the *NSW Self Insurance Corporation Act 2004*.

[3] Sections 66A (7) (a), 139 (2), 140 (1) (a) and (b1), 141 (1) (a1) and (b), 142, 144 (1), 145B (1), 146A (1), 147A and 147B (1) and the Table to section 145A (2)

Omit “Ministerial Corporation” wherever occurring.

Insert instead “Self Insurance Corporation”.

[4] Section 149 Payment of short-fall levies to Self Insurance Corporation

Omit “Ministerial Corporation” wherever occurring.

Insert instead “Self Insurance Corporation”.

2.3 Motor Accidents Compensation Act 1999 No 41

Section 120 Claims register

Omit “NSW Insurance Ministerial Corporation constituted under Part 5 of the *Government Insurance Office (Privatisation) Act 1991*” from section 120 (4).

Insert instead “NSW Self Insurance Corporation constituted under the *NSW Self Insurance Corporation Act 2004*”.

2.4 Public Authorities (Financial Arrangements) Regulation 2000

[1] Schedule 3 Authorities having Part 4 investment powers

Omit “NSW Insurance Ministerial Corporation”.

Insert instead “NSW Self Insurance Corporation”.

[2] Schedule 4 Authorities specifically included

Omit “NSW Insurance Ministerial Corporation”.

Insert instead “NSW Self Insurance Corporation”.

2.5 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Insert in alphabetical order:

NSW Self Insurance Corporation

2.6 Public Finance and Audit Regulation 2000

[1] Clause 20 Prescribed statutory bodies under Division 4 of Part 3 of the Act

Omit clause 20 (1) (l).

[2] Clause 21 Particular audit of the NSW Treasury Managed Fund

Omit the clause.

2.7 Workers Compensation Act 1987 No 70

Sections 151Y (9), 176 (3A), 211B (2) and (3) and 221 (10) (b)

Omit “Insurance Ministerial Corporation” wherever occurring.

Insert instead “Self Insurance Corporation”.

2.8 Workplace Injury Management and Workers Compensation Act 1998 No 86

[1] Section 4 Definitions

Omit the definition of *Insurance Ministerial Corporation* from section 4 (1).

[2] Section 4 (1)

Insert in alphabetical order:

Self Insurance Corporation means the NSW Self Insurance Corporation constituted by the *NSW Self Insurance Corporation Act 2004*.

[3] Section 72 Inspection of relevant claims information

Omit “Insurance Ministerial Corporation” from the definition of *insurer* in section 72 (3).

Insert instead “Self Insurance Corporation”.

2.9 Workplace Injury Management and Workers Compensation Regulation 2002

Clauses 5 and 7

Omit “Insurance Ministerial Corporation” wherever occurring.

Insert instead “Self Insurance Corporation”.

[Second reading speech made in—
Legislative Assembly on 19 November 2004
Legislative Council on 9 December 2004]

BY AUTHORITY