



New South Wales

# NSW Self Insurance Corporation Amendment (Special Liability Insurance) Act 2024 No 54

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New South Wales

# **NSW Self Insurance Corporation Amendment (Special Liability Insurance) Act 2024 No 54**

Act No 54, 2024

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An Act to amend the *NSW Self Insurance Corporation Act 2004* to establish a scheme of insurance for certain persons providing out-of-home care services and youth homelessness services to cover liabilities arising from physical or sexual abuse of a person; and for other purposes. [Assented to 20 August 2024]

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

**1 Name of Act**

This Act is the *NSW Self Insurance Corporation Amendment (Special Liability Insurance) Act 2024*.

**2 Commencement**

This Act commences on the date of assent to this Act.

## Schedule 1 Amendment of NSW Self Insurance Corporation Act 2004 No 106

### [1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—

*out-of-home care* has the same meaning as in the *Children and Young Persons (Care and Protection) Act 1998*.

*special liability insurance* means insurance against liabilities arising from physical or sexual abuse of a person—

- (a) in out-of-home care, or
- (b) receiving youth homelessness services.

*Special Liability Insurance Fund* means the fund established under section 12DB.

### [2] Section 8D

Insert after section 8C—

#### 8D Specific functions relating to special liability insurance

- (1) The Self Insurance Corporation has the following functions—
  - (a) to carry on the business of providing special liability insurance to persons who provide the following services under contract with the Crown—
    - (i) the provision of out-of-home care,
    - (ii) youth homelessness services,
  - (b) to manage the Special Liability Insurance Fund,
  - (c) to enter into arrangements with other persons, including re-insurers, for services relating to the exercise of the Corporation's functions under paragraphs (a) and (b).
- (2) In this section—
  - arrangements* includes contracts and agreements.
  - under contract with the Crown* includes subcontracts under the contract with the Crown.

### [3] Section 11 Self Insurance Fund

Omit “(except its functions in relation to the provision of insurance under the Home Building Compensation Fund or principal arranged construction insurance or the management of the Home Building Compensation Fund or Construction Risks Insurance Fund)” from section 11(2).

Insert instead “, other than an excluded function”.

### [4] Section 11(3)

Omit “(except expenditures incurred in connection with the provision of insurance under the Home Building Compensation Fund or principal arranged construction insurance or the operation of the Home Building Compensation Fund or Construction Risks Insurance Fund)”.

Insert instead “, other than expenditure incurred in connection with an excluded function”.

**[5] Section 11(6)**

Insert after section 11(5)—

(6) In this section—

*excluded function* means a function of the Self Insurance Corporation relating to the following—

- (a) the Home Building Compensation Fund,
- (b) insurance under the *Home Building Act 1989*,
- (c) the Construction Risks Insurance Fund,
- (d) principal arranged construction insurance,
- (e) the Special Liability Insurance Fund,
- (f) special liability insurance.

**[6] Sections 12B and 12D**

Omit the sections.

**[7] Part 4, Division 3A**

Insert after Division 3—

**Division 3A Special Liability Insurance Fund**

**12DA Definition**

In this division—

*Fund*—see section 12DB.

**12DB Special Liability Insurance Fund**

There must be established in the Special Deposits Account a Special Liability Insurance Fund (the *Fund*).

**12DC Payments to Fund**

The following must be paid into the Fund—

- (a) all money received by the Self Insurance Corporation—
  - (i) as premiums for special liability insurance, or
  - (ii) from re-insurers in connection with special liability insurance, or
  - (iii) by the exercise of any right of subrogation or other right of recovery in connection with special liability insurance, or
  - (iv) under any security, guarantee or recourse held by the Self Insurance Corporation in connection with special liability insurance,
- (b) all money—
  - (i) advanced to the Fund by the Minister, or
  - (ii) appropriated by Parliament for the purposes of the Fund, or
  - (iii) directed or authorised to be paid into the Fund by or under this or another Act,
- (c) the proceeds of the investment of money in the Fund.

**12DD Payments from Fund**

- (1) Money may be paid from the Fund for the following—

- (a) claims made under special liability insurance,
  - (b) costs, including disbursements and commissions, of services provided in connection with the administration of the Corporation's business,  
**Example—** risk management, actuarial, agency, brokerage and legal services
  - (c) costs incurred by or on behalf of a NSW Government agency in providing services in connection with the Corporation's business,
  - (d) administrative expenses in connection with the Fund,
  - (e) repayments to the Consolidated Fund for payments made under section 12DC(b)(i) or (ii),
  - (f) amounts directed or authorised to be paid from the Fund by or under this or another Act.
- (2) A repayment under subsection (1)(e) may be made if the Treasurer—
- (a) considers the amount to be repaid is surplus to the requirements of the Fund, and
  - (b) in assessing whether the amount is surplus, has applied an appropriate prudential margin.
- (3) In this section—
- Corporation's business** means the special liability insurance business of the Self Insurance Corporation.

**[8] Section 12E**

Omit the section. Insert instead—

**12E Investment of money in funds**

- (1) The Self Insurance Corporation may invest money in a fund in accordance with the *Government Sector Finance Act 2018*, Part 6.
- (2) The Treasurer may determine investment strategies for the investment of money in the funds.
- (3) In this section—  
**fund** means a fund established under this part.

**[9] Section 18**

Omit the section. Insert instead—

**18 Review of special liability insurance provisions**

- (1) The Minister must review the reviewable provisions of this Act to decide whether—
  - (a) the policy objectives of the reviewable provisions remain valid, and
  - (b) the terms of this Act remain appropriate for securing the policy objectives.
- (2) The review must be undertaken as soon as possible after the period of 2 years from the commencement of the *NSW Self Insurance Corporation Amendment (Special Liability Insurance) Act 2024*.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 12 months after the end of the period of 2 years.
- (4) In this section—

*reviewable provisions* means the provisions of this Act about special liability insurance and the Special Liability Insurance Fund.

**[10] Schedule 1 Savings, transitional and other provisions**

Insert at the end of the schedule, with appropriate part and clause numbering—

**Part Provisions consequent on enactment of NSW Self Insurance Corporation Amendment (Special Liability Insurance) Act 2024**

**Special liability insurance**

Special liability insurance does not cover a liability if—

- (a) the liability arises from physical or sexual abuse of a person occurring before 30 June 2007, or
- (b) the liability is covered by other insurance issued before the commencement of Part 4, Division 3A.

[Second reading speech made in—

Legislative Assembly on 6 August 2024

Legislative Council on 13 August 2024]